44.M.15A

START

FIRST

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CENTRAL REGISTRY MICROFILMING UNIT

H.Q.C. 55-M-1593 CONFIDENTIAL

M.F.R. 1918
DM-4-41 (1939)
H.Q. 101-1-46

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MONPETIT. HONORE D-472282 GNR.

CONFIDENTIAL
H.Q.C. 55-M-1593

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and "Refer with Minute")		
MAR 9 1945	[illegible]			J.A.G.	NEW FILE C.R. MAR 7 - 1945		
				JAG	With Report C.R. MAR 14 1945		
MAR 19 1945	[illegible]	[illegible]	[illegible]	I.C.M.	To note	EKM	15-3-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC.55-M-1593 (JAG/D)

15 Mar 45

District Officer Commanding,
Military District No. 5,
QUEBEC, Que.

Standing Court-Martial

D-472282, Gnr. Honore MONTPETIT,
R.C.A., CA(Att. No. 5 D.D., CA).

Receipt is acknowledged of your Q.39-M-4631 (JA) dated 12th March, 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.L.M.
Capt

/AB

for (R.J. Orde), Brigadier,
Judge Advocate-General.

Noted
L. H. CLAYTON
Lieut.-Colonel,
Director of Courts-Martial
MAR 17 1945

IN REPLY PLEASE QUOTE No. Q.39-M-4631 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

QUEBEC, P.Q., 12th March, 1945.

298920

THE SECRETARY,
Department of National Defence,
OTTAWA, Ontario.

GENERAL REGISTRY Army
MAR 13 1945
File C55-M-1593
Chg(d). to
Referred to JAG

STANDING COURT-MARTIAL
D-472262, Gnr. Honoré MONTPETIT,
R.C.A., CA(Att. No.5 D.D., CA).

1. Reference your HQC. 55-M-1593 (JAG/D-9) dated 8th March, 1945.

2. It is noted Pte. Montpetit was sentenced to 40 days detention after an absence without leave of nearly three months. In view of the above no revision of sentence is recommended.

3. The proceedings of the marginally noted Standing Court-Martial are returned herewith for custody.

JAC/C.

(Edmond BLAIS) - Brigadier,
District Officer Commanding
Military District No.5.

NAT. DEF. B. 449

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue au Dépôt Régional No. 5, A.C., Lauzon, P. Q.,

le deuxième - - jour de mars, - - - - - - - - - 1945, à 1015 - - - - - heures,

pour le procès de D-472282, - Artilleur Honoré MONTPETIT,
Matricule Grade Nom et prénoms

A. R. C., A.C., attaché au Dépôt Régional No. 5, A.C.
Unité Détachement, le cas échéant

PRÉSIDENT: Major Armand SYLVESTRE, Président Permanent, C.M.P., Q. G., R. M. No. 5.

PROCUREUR: Capt. Pierre TASCHEREAU, Procureur Permanent, Q. G., R. M. No. 5.
Grade Nom et prénoms Unité Détachement, le cas échéant

XXXXXX
XXX OFFICIER DÉFENSEUR: Capt. M. PARISEAULT, R.22e.R., A.C., att. Dépôt Rég. No. 5, AC.
Grade Nom et prénoms Unité Détachement, le cas échéant

VERDICT: " LA COUR DECLARE LE PREVENU:

Mat. D-472282, - Artilleur Honoré MONTPETIT, A.R.C., A.C., att. au Dépôt Régional No. 5, A.C.,

innocent de l'accusation de désertion, mais coupable d'absence sans permission sous le chef d'accusation. "

SENTENCE: " LA COUR CONDAMNE LE PREVENU :

Mat. D-472282, - Artilleur Honoré MONTPETIT, A.R.C., A.C., att. au Dépôt Régional No. 5, A.C.,

à la détention pendant quarante (40) jours, et à une suppression de solde jusqu'à ce qu'il ait remboursé les frais de son appréhension et de retour à l'unité, savoir: $11.47 ".

-o-o-o-o-o-

Signé à LAUZON, P. Q., - - - - - ce 28me - - - - jour de mars, - - - - - - 194 5.

Major,
Président de la cour martiale permanente
Q. G., R. M. No. 5. -

M.F.B. 1486A
SM-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 36046 in the Extract Book kept in the Judge Advocate General's Office this 5 day of March 1945

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. Vous opposez-vous à E-21035, S.M. A/M.O. I, Gaston VIDAL, comme sténographe ?

Réponse: Non, monsieur. (Le mat. E-21035, S.M. A/M.O. I, Gaston Vidal, 5ème Détachement, C.C.M.E.M., A.C., 5ème Région Militaire, A.C., est

Le sténographe dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: " NON COUPABLE. "

~~*Question à l'accusé.* Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le chef ~~d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.~~

ACTE D'ACCUSATION

L'Accuse D-472282 Artilleur Honore MONTPETIT A.H.C. ; AC attache au Depot Regional No. 5 A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

ACCUSATION
Art. 12 (1)(a)
Army Act.

D'AVOIR EN ACTIVITE DE SERVICE, DESERTE
LE SERVICE DE SA MAJESTE

en ce que,

a Lauzon, P.Q. a 0800 heures le 30 decembre 1944, il s'est absente sans permission du Depot Regional No. 5 A.C., jusqu'au ce qu'il soit apprehende par les autorites militaires, a Montreal, P.Q. a 2245 heures le 21 fevrier 1945, en tenue civile, le cout de son apprehension et de son retour a l'unite etant de $11.47.

(PIERRE TASCHEREAU) Capit.
Procureur Permanent District Militaire No. 5 A.C.

Date

Procédure sur une dénégation de culpabilité

Question à l'accusé. Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

[redacted]

[redacted] - LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE : -

[redacted]

[redacted]

1o. Extrait certifié des Ordres du Jour, Partie II, No. 3, émis par le Dépôt Régional No. 5, A.C., à Lauzon, Que., le 4 janvier, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " F ", signé par le Président et versé au dossier.)

2o. M.F.M. 216, certificat d'appréhension signé à Montréal, Que., le 22 février, 1945, par le Capt. J. B. Martineau, T/C. O., Composite Provost Coys, M. D. 4, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " G ", signé par le Président et versé au dossier.)

3o. M.F.B. 1481A, certificat du coût de transport, au montant de $11.47, signé à Québec, P. Q., le 24 février, 1945, par le Lieut. Roland Drapeau, Off. i.c. transport, D.S. & T.O., M. D. 5, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " H ", signé par le Président et versé au dossier.)

-o-o-o-o-o-o-

" LE PROCUREUR N'A PAS DE TEMOINS A APPELER. "

-o-o-o-o-o-

D

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: L'accusé désire rendre témoignage sous serment, monsieur.

(Voir page D-3 et suivantes.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense ?

Réponse: Non, monsieur.

~~Questions à l'accusé~~ ~~Relativement au témoin à l'appui de votre déposition~~

~~Réponses~~

D - 3

Témoin de la Défense :- L'accusé, mat. D-472282, - Artilleur Honoré MONTPETIT, A.R.C., A.C., attaché au Dépôt Régional No. 5, A.C.,

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR :-

Q. Soldat Montpetit, voulez-vous dire à la Cour vos raisons pour lesquelles vous vous êtes absenté et, si vous voulez bien, commencez par votre enrôlement pour en venir à date ?

R. J'ai été enrôlé le 9 janvier, 1942, comme recrue. J'ai fait l'entraînement, "advanced et basic", puis j'ai été envoyé à Arvida comme corps de défense. Là, j'ai demandé un "reboard" mais il ne m'a jamais été accordé. J'ai demandé au Major Paquet et il ne m'a pas été accordé. J'ai passé un examen seulement en entrant dans l'armée.

Q. Combien de temps avez-vous été dans l'Atlantic Command ?

R. 2½ ans. J'ai 3 ans de service et je n'ai eu qu'un "furlough". C'est un moment de découragement qui m'a pris.

Q. Quelle a été votre conduite durant ce temps de service, durant le temps que vous étiez à l'Atlantic Command ?

R. Pas mal, monsieur.

Q. De quoi souffrez-vous ?

R. J'ai des crampes, j'ai mal aux jambes.

Q. Pouvez-vous définir ce mal ?

R. Si je reste cinq minutes debout, je suis obligé de me tenir sur une jambe.

Q. Est-ce que ce serait dû à ce manque d'attention médical que vous vous seriez absenté ?

R. Oui, monsieur. Quand j'ai parti d'ici, j'ai demandé pour passer un examen. J'ai été pas-

ser une examen tout habillé et, si un homme a du mal, ce n'est pas comme ça qu'ils vont le voir. J'ai dit que j'avais mal aux jambes et ils n'ont pas regardé.

- INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR : -

Q. Montpetit, dans l'acte d'accusation, on dit que vous vous êtes absenté sans permission du 30 décembre, 1944, au 21 février, 1945; est-ce exact, ça ?

R. Oui, monsieur.

Q. Où demeurez-vous ?

R. A Valleyfield, monsieur.

Q. Qu'est-ce que vous faisiez à Montréal quand vous avez été arrêté ?

R. J'étais là par affaires; des commissions pour chez nous.

Q. Pendant votre absence, est-ce que vous avez travaillé ?

R. Non, monsieur.

Q. Au mois d'août, 1944, où étiez-vous ?

R. Au mois d'août, 1944, je crois que c'est dans ce mois d'août là qu'on a été draftés pour aller dans le Manitoba. Je ne pourrais pas dire.

Q. Est-ce que vous avez été examiné au point de vue de votre Pulhems ?

R. J'ai eu un reboard. J'ai demandé à être examiné pour les jambes.

Q. Vous souvenez-vous avoir eu un examen au mois d'août, pour votre Pulhems ?

R. Oui, monsieur.

Q. Savez-vous ce que c'est qu'un Pulhems ?

R. Un examen complet, sans rayons-x.

D - 7

Q. Au mois de décembre, cette année, vous avez subi un autre examen; c'est cet examen que vous dites avoir subi tout habillé ?

R. Oui, monsieur.

Q. Pendant votre absence, avez-vous vu un médecin civil ?

R. Non. Je n'en ai pas eu le temps.

Q. A Lauzon, qu'est-ce que vous faisiez ?

R. J'ai été transféré de mon régiment pour m'en venir ici, et là, on faisait rien dans le moment. On venait aux parades et on était pas draftés dans d'autres régiments. J'étais transféré ici en attendant.

- L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU. -

- De l'avis de la Cour, il n'est pas nécessaire de se conformer à R. P. 83 (b). -

- L'ACCUSE REPREND SON SIEGE. -

-o-o-o-o-o-o-

" LE PROCUREUR ET L'OFFICIER DEFENSEUR SOUMETTENT LA CAUSE TELLE QUE PROUVEE. "

-o-o-o-o-o-o-

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Non, monsieur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

E X T R A C T

DAILY ORDERS PART II

by

Colonel JEAN LA FONTAINE, M.C.,
Officer Commanding,
No.5 District Depot.

No. 3 d/4 Jan 45.
Lauzon, Que.

page 11

22 ABSENT WITHOUT LEAVE

a) D-472282 Pte. MONTPETIT H. 0800 hrs 30 Dec 44.

(Signed) (G.BONHOMME) Capt. Adjt.
No.5 District Depot. C.A.

G. LAROCHE, ~~Lieut~~ Capt.
Officer i/c RECORDS,
No.5 District Depot.

CERTIFIED TRUE EXTRACT

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Capt. J.B. MARTINEAU, T/Commanding Officer Composite Provost Coys., M.D. 4
(Number) (Rank) (Name) (Unit)

hereby certify that D-472282 Private MONTPETIT, Honore
(Number) (Rank) (Name in full)

of the R.C.A.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrendered to~~) D-125444 Corporal
(Number) (Rank)

JOYCE, W. of the Composite Provost Companies M.D. 4
(Name) (Unit or appointment)

at Montreal, Que. at 2245
(Place) (Hour)

on the 21st day of February 19 45

Strike out words not applicable } as a ~~deserter or~~ absentee without leave), and that at the time of his arrest he was ~~wearing military clothing~~ ~~uniform~~ (dressed in civilian clothes).

Dated at Montreal, Que. this 22nd day of February 19 45

J.B. MARTINEAU Capt.
(Signature, Number, Rank, Unit or appointment)

T/Commanding Officer Composite Provost Coys., M.D. 4

JPG....

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3750)
H.Q. 1772-39-1936

An ~~NR~~ Recruit called under N.R.M.A.

ABSENTS IRRÉGULIERS ET DÉSERTEURS

CERTIFICAT EN CONFORMITÉ DE L'ARRÊTÉ EN CONSEIL C. P. 58/4015 DU 5 JUIN 1941, TEL QUE PUBLIÉ DANS L'ORDRE DE SERVICE COURANT DE L'ARMÉE CANADIENNE 1877 DE 1942

(TRANSPORT SEULEMENT)

Signalement complet — Je, soussigné, Lieutenant (Grade) R. Drapeau (Nom), Off. i/c Transport, D.S. & T.O., MD 5 (Unité)

Rayer les mots inutiles — certifie, par les présentes, avoir (délivré) ~~(autorisé)~~ les moyens de transport ci-dessous énumérés pour permettre à une escorte de se rendre de Quebec, P.Q. (Endroit) à Montreal, P.Q. (Endroit) et retourner à Quebec, P.Q. (Endroit) afin d'escorter

Signalement complet du militaire escorté — D-472282 (Matricule) Montpetit, H. (Grade) (Nom et prénoms)

No. 5 D.D. (Unité) (Détachement, s'il y a lieu)

Rayer l'expression inutile — qui est censé être déserteur ou absent sans permission, et que les faits, la date et les détails (des mandats de transport émis) (du ~~transport requis~~) ainsi que les frais en découlant pour ledit militaire et l'escorte sont les suivants:

DÉTAILS	FRAIS
Transport Warrant No. C-864067-8 issued	
on 23-Feb-45 covering transportation	7.28
of D-46061 CSM. Cote, and three (3) other escorts	1.06
No. 5 D.D.	
escorts from Quebec, P.Q.	
to Montreal, P.Q. and return Quebec	
Transport Warrant No. C-864067-8 issued	
on 23-Feb-45 covering transportation	2.73
for the absentee from Montreal, P.Q.	.40
to Quebec, P.Q.	
TOTAL	$ 11.47

Donné à Quebec, P.Q. ce 24th jour de February A.D. 1945

Lieut., Off. i/c of Transport, D.S. & T.O., M.D. No. 5.

Signature, grade, unité, détachement (s'il y a lieu) et emploi de l'officier (émettant les mandats de transport) ~~(ou autorisant le transport)~~

Le certificat doit être établi par l'officier qui a délivré ou autorisé les mandats de transport ou le transport d'un militaire censé être déserteur ou absent sans permission, pour qu'il soit reconduit à son corps, unité ou garnison, et de l'escorte pour ledit militaire. *Transport seulement.*

M.F.B. 1481A
20M-4-43 (9773)
Q.G. 1772-39-1851

Les dates des mandats ou du transport délivrés doivent être indiquées.
Le coût des repas et des faux frais doit être inscrit sur le modèle M.F.B. 1482.

M.F.R. 355
30M—11-41 (3273)
H.Q. 1773-39-630
A.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

J. H. McIntyre
Lieutenant Colonel

Number	Rank	Name	Regiment (or unit)
D472282	Pte.	MOUTPETIT. Honore.	NRMA.

1. The following is a fair and true summary of the entries in the field. ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment		
For A.A.Sec.40(1)	2.	times	A.A.Sec.15(1) AWL	(4)	times
For ~~XXXXXXXXXX~~		times	A.A.Sec.19	1.	times
For		times	A.Asec.40(1)	2.	times
For		times			times

Number of instances of gallantry or distinguished conduct

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for ..... days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which ..... days were spent in hospital.

5. The present age of the accused according to his record ~~of service is~~ attestation paper is 26years 2months.

6. The date of his ~~commission specified in his record of service is~~ attestation attestation paper 8jan42.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no military decoration, or military reward (or is in possession of or entitled to). ~~State any military decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2nd day of March 1945.

G. La Roche Capt.
Officer i-c Records.
S.D.D.Lauzon. P.Q.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. D-47228 Name MONTPETIT, Honoré | Sqn., Battery, or Company | Corps R.C.A. | Date of enlistment 8 Jan 42 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.S. 122) Sect. A-30 (1942) H.Q. 1772-40-15

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period yet remaining towards freedom from extra fine | Sheet No. two | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY					
A				Sheet No. one destroyed 8 Jul 42 after six months service.			Entries nil.		
Arvida, P.Q.	23 Oct 42	Gnr.	nil	Absent from place of parade appointed by his O.C. (when detailed as L/Gun Look Out)	Lt. McIsaac Sgt. Benoit, M.	10 days Detention	26 Oct 42	Major L.R. Talbot	
Arvida, P.Q.	30 Nov 42	Gnr.	nil	AWL from 2300 h. 30 Nov 42 until 0100 h. 1 Dec 42 (3 hours)	Gnr. Francoeur F.	5 days C.B.	3 Dec 42	Lieut. R. Biasonnette	
Arvida, P.Q.	19 Dec 42	Gnr.	nil	AWL from 2200 h. 19 Dec 42 until 2350 h. 20 Dec 42 (1d. 1h. 50m.)	Sgt. Benoit, M. Bdr. St. Amour	7 days Detention	21 Dec 42	Capt. R. Paquet	Forf. 2d. pay FR&I. 149(1)a)
Arvida, P.Q.	27 Feb 43	Gnr.	1st 43	Drunkenness (at 2300 h. 27 Feb on return from leave)	Gnr. Boisvert, B. Gnr. Sénécal, L.	Admonished	4 Mar 43	Major L.R. Talbot	

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Arvida, PQ.	2 May 43	Gnr.	nil	AWL from 0800 h. 2 May 43 until 0945 h. 4 May 43 (2d. 1h. 45m.)	Sgt. Lonc, S. L/Bdr. Laporte	7 days C.B.	4 May 43	Lieut. R. Bissonnette	Forf. 3 dys pay FR&I.149(1)a)
Chûte-à-Caron, PQ. 19 May 44		Gnr.	nil	Conduct prej. etc. (striking police & making trouble on train) In close arrest 7 days.	Doc. Evid.	28 days Detention	26 May 44	Lt.-Col. J.R. Samson	Forf. of 35 dys pay under AA46
Shilo Camp, Man.	25 Nov 44	Gnr.	nil	Cond. prej. good order etc. Used rifle in a provocative manner towards ord. sgt. and neglected to obey order, using injurious language.	L/Sgt. DION, A. Gnr. BRUNELLE, L.	10 days Detention	27 Nov 44	Major R. Paquet	

CERTIFIED TRUE COPY.

G. La Roche Capt.
Officer i-c Records.
5.D.D. Lauzon. P.Q.

RESUME DE LA PREUVE

Proces de D-472262 artilleur Honore MONTPETIT, R.C.A. , attache au Depot Regional No.5 A.C.,

ACCUSATION: 1. DESERTION

pour confirmer l'accusation la preuve ci-apres est disponible:

DOCUMENTAIRE:

1.- Extrait certifie des O.P. II, No. 3 date a Lauzon, P.Q. le 4 janvier 1945.

2.- M.F.M. 216.

3.- M.F.B. 14/1A

Lauzon, P.Q.

(JEAN LA FOMAINE) Colonel, M.C.
Commanding No.5 District Depot, CA

MEDICAL OFFICER'S REPORT

I certify that No. D 472 477 26 Monthetti A.

of DD 5 is in a good state of health,

and fit to undergo Trial by Court martial.

Medical Officer

Medical Inspection Room
D.D. M.D. No. 5
MAR 2 1945
LAUZON, P.Q.

Station Guardroom Lauzon

Date Mars 1945

M. F. B. 246

35M—2-45 (8625)
H.Q. 1772-30-450

H.Q.C.55-M-1593 (JAG/D-9)
Your Q. 39-M-4631

March 8th, 1945.

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

D. 472282 Gnr. Honore Montpetit,
R.C.A., Att. No. 5 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde), Brigadier
Judge Advocate-General.

LYV/MM

THIS COPY FORM H.Q.C.55-M-1593
M.D.5.59-M-4631

N.R.M.A. MEMORANDUM ~~DISTRICT~~ STANDING COURT MARTIAL

No. D.472282 Name MONTPETIT. Honore

Rank Gnr Unit R.C.A. att No. 5 D.D. C.A.

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 30-12-44 Charge. Signed

Date of Arrest 21-2-45

Orders for D.C.M.

Place and Date of Trial No. 5D.D. C.A. Leuzon Que 2-3-45

Sentence Det 40 days; stoppages $11.47

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36046

Date 8-3-45

MEMO Guilty A.W.L.

M.D. 5 - No. 5 D.D.

Absent Sentence

1¼ mos Det. 40 days

for Judge Advocate General

SM-11-44 (M-4511)

IN REPLY PLEASE QUOTE
No. Q:39-M-4631

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Quebec, P.Q., March 3rd. 194 5.

C.55-M-1593

THE JUDGE ADVOCATE GENERAL,
Dept. of National Defence,
Ottawa, Ont.

STANDING COURT-MARTIAL
D/472282, Gnr. Honore MONTPETIT,
R.C.A., C.A.,
(Att. to No.5 D.D., C.A.)

Enclosed herewith please find the proceedings of the m/n Standing Court-Martial, which are forwarded to you pursuant to C.A.R.O. 4565 (11)(a).

(ARMAND SYLVESTRE) - Major,
Permanent President S.C.M.

36.46

N.D. 22
1500M-2-42 (3466)
H.Q. 1771-101-22

COUNTER NUMBER 10175

HOUR 10:21

OPERATOR'S INITIALS GU

RELIEVING OPERATOR Ale

H.Q.C. 55-M-1594

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

DISTRICT COURT-MARTIAL

MODAFIEL. P.H.P. M-16438 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1594

CENTRAL REGISTRY	DATE	P.A. CH. D.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and quote here "With Minute")		
				J. A. G.	NEW FILE	C.R.	MAR 7-1945
MAR 12 1945	12 3/45			JCM	To note please		12 Mar 45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1894(JAG/D-1)

March 10, 1945.

Commander,
Petawawa Military Camp,
Petawawa, Ontario.

District Court-Martial
M.16438, Pte. McDaniel, P.H.P.
A.37 C.I.T.C., C.A.

Receipt is acknowledged of your P.6-0-Mc-1177(JAG), dated the 6th March, 1945, under cover of which you forwarded for registration and custody, the proceedings of the ~~m/m~~ District Court-Martial.

2. It is noted that the accused was found Guilty of the First Charge and Not Guilty of the Second and Third Charges and sentenced to be reprimanded.

3. The Finding and Sentence would appear to be legal and supported by the evidence and accordingly the proceedings are retained for custody.

(R.J.Orde), Brigadier,
Judge Advocate-General.

ALT/MR

Noted
L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
MAR 12 1945

Case Convened H.Q.C.55-M-1594
M.D.P.6-O-Mc-1177

MEMORANDUM - DISTRICT COURT-MARTIAL

G.S.

No. M.16438 Name McDANIEL, Patrick Hugh Pierce

Rank Pte (A/Cpl) Unit A. 37 C.I.T.C. CA

Charge (1st) A.A. 40 - Conduct to the prejudice ...

(2nd) A.A. 8 (2) - Using insubordinate language ...

(3rd) A.A. 40 (alt) - Conduct to the prejudice ...

Date of Crime All 15-2-45 Charge, Signed 16-2-45

Date of Arrest Omar Petawawa Mil Camp

Orders for D.C.M. Petawawa Mil Camp Ont 22-2-45

Place and Date of Trial

Sentence Reprimand

Date of Confirmation 2-3-45

Date of Promulgation 3-3-45

Entered in Records of J.A.G. as No. 36061

Date 8-3-45

MEMO Guilty on 1st Charge only

R. Thurlow Capt
for Judge Advocate-General

SM-11-44(M-4511)

THIS COPY FOR: H.Q. C.55-M-1594
M.D. P.6-O-Mc-1177

MEMORANDUM - DISTRICT COURT-MARTIAL

G.S.

No. M.16438 Name McDANIEL, Patrick Hugh Pierce

Rank Pte (A/Cpl) Unit A. 37 C.I.T.C. CA

Charge (1st) A.A. 40 - Conduct to the prejudice ...

(2nd) A.A. 8 (2) - Using insubordinate language ...

(3rd) A.A. 40 (alt) - Conduct to the prejudice ...

Date of Crime All 15-2-45 Charge. Signed 16-2-45

Date of Arrest

Orders for D.C.M. Cmdr Petawawa Mil Camp

Place and Date of Trial Petawawa Mil Camp Ont 22-2-45

Sentence Reprimand

Date of Confirmation 2-3-45

Date of Promulgation 3-3-45

Entered in Records of J.A.G. as No. 36061

Date 8-3-45

MEMO Guilty on 1st Charge only

H S Thurlow Capt
for Judge Advocate-General

5M-11-44 (M-4511)

IN REPLY PLEASE QUOTE

No. P. 6-0-Mc-1127 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Petawawa Military Camp, 6 Mar. 1945.

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ont.

Secretary,
Department of National Defence,
OTTAWA, Ont.

DISTRICT COURT-MARTIAL
M.16438, Pte. McDANIEL, P.H.P.

Herewith proceedings of the m/n District Court-Martial.

2. The finding and sentence have been promulgated by the Commander, Petawawa Military Camp 2 Mar 45. The sentence was duly promulgated and extracts taken thereof on 3 Mar 45.

(W. C. Theckey) Brigadier,
Commander,
Petawawa Military Camp.

ABS/BC

N.D. 23
Mil.—11-43 (2979)
Q. 1772-101-23

IN REPLY PLEASE QUOTE

No. P.6-D-Mc-1177 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Petawawa Military Camp, 6 Mar. 1945.

C.55-M-1594

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ont.

Secretary,
Department of National Defence,
OTTAWA, Ont.

DISTRICT COURT-MARTIAL
M.16438, Pte. McDANIEL, P.M.P.

Herewith proceedings of the m/n District Court-Martial.

2. The finding and sentence have been promulgated by the Commander, Petawawa Military Camp 2 Mar 45. The sentence was duly promulgated and extracts taken thereof on 3 Mar 45.

(W. C. Thackray) Brigadier,
Commander,
Petawawa Military Camp.

ABS/BC

36061

N.D. 23
(II.—11-43 (2979)
), 1772-101-23

A

FORM OF PROCEEDINGS FOR DISTRICT COURT-MARTIAL

Proceedings of a District Court-Martial held at Petawawa Military Camp, Ontario, on the 22nd day of February, 1945, by order of Brigadier W.C. Theckray, Commander, Petawawa Military Camp, Ontario, dated the 20th day of February, 1945.

President

Major G. Longman, Camp Headquarters, Petawawa Military Camp

Members

Capt. G.M. Grassby, R.C.A., A.1 C.A.T.C., C.A.
Lieut. P.E. Shorey, R.C.A., A.1 C.A.T.C., C.A.

Alt Cpt

Trial of M.16438 Pte (A/Cpl) Patrick Hugh Pierce McDaniel A.37 Canadian Infantry Training Centre, C.A.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

The Court satisfy themselves that Capt. W.J. Murray, R.C.E., A.5 C.E.T.C., C.A. is not available to serve due to other duties within the Camp area. Lieut. P.E. Shorey, R.C.A., A.1 C.A.T.C.,C.A. waiting member, takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.*

For Minute of Adjournment and re-assembling, see document marked "G", para 1.

The accused is brought before the Court.

Prosecutor: Capt. J.R. McMullen, R.C.A., Camp Headquarters, Petawawa Military Camp.

Defending Officer: Capt. G.D. Corry, A.37 C.I.T.C., C.A.

At 1400 hours the Trial commences.

The order convening the Court is read, and is marked "X", signed by the President and attached to proceedings.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q.1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over?

A.1 No, sir.

I have satisfied myself that none of the officers detailed as members of this Court has previously served upon any Court of Inquiry respecting the matters forming the subject of the charge before this Court-Martial.

President, D.C.M.

The President and members are duly sworn.

Q.2 Do you object to Miss Hope Finney, Civil Servant, Petawawa Military Camp, acting as Shorthand Writer during your trial?

A.2 No, sir.

Miss Hope Finney is duly sworn as Shorthand Writer.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

At 1415 hours the accused is arraigned upon each charge in the above-mentioned charge-sheet.

Q.3 Is that your number, rank, name and Unit?

A.3 Yes, sir.

Q.4 Are you guilty or not guilty of the first charge against you, which you have heard read?

A.4 Not Guilty, sir.

Q.5 Are you guilty or not guilty of the second charge against you, which you have heard read?

A.5 Not Guilty, sir.

Q.6 Are you guilty or not guilty of the third (alternative) charge against you, which you have heard read?

A.6 Not Guilty, sir.

Q.7 (Spare).

A.7 (Spare).

Gh.

Br Elmer Mayr
Pres. D.C.M.

5

The Accused, M.16438, Private (Acting Corporal) Patrick Hugh Pierce McDaniel, A-37, C.I.T.C., C.A., a GS soldier of the Canadian Army placed on Active Service, is charged with:-

First Charge
Sec. 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,
at Petawawa Military Camp, Ontario, at about 2130 hours on the 15th day of February 1945 attempted to take malted liquor out of A-37 Canadian Infantry Training Centre Men's Wet Canteen, contrary to Camp Standing Order Number 42 Sub-section (d) directing all persons from removing malt liquor from the Men's Canteen.

Second Charge
Sec. 8 (2)
Army Act

WHEN ON ACTIVE SERVICE, USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

in that he,
at Petawawa Military Camp, Ontario, at about 2130 hours on the 15th day of February 1945 at the A-37 Canadian Infantry Training Centre Men's Wet Canteen on being questioned by B.18000, Regimental Sergeant Major (Warrant Officer I) Charles Joseph Rouse said "Oh fuck you" to the said Regimental Sergeant Major.

Third Charge
Sec. 40
Army Act
(Alternative)

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,
At Petawawa Military Camp, Ontario, at about 2130 hours on the 15th day of February 1945 at the A-37 Canadian Infantry Training Centre Men's Wet Canteen on being questioned by B.18000, Regimental Sergeant Major (Warrant Officer I) Charles Joseph Rouse said "Oh fuck you".

Petawawa Military Camp
16th day of February 1945

(F.L. Nicholls) Colonel,
Commandant,
A-37, C.I.T.C.

TO BE TRIED BY A DISTRICT COURT-MARTIAL.

Petawawa Military Camp,
20th., February, 1945.

(G.T.A. McNeill) Lt.-Col.,
A.A. & Q.M.G.,
for COMMANDER,
Petawawa Military Camp.

PROCEEDING ON PLEA OF NOT GUILTY

Q.8 Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

A.8 Yes, sir. (For motion to adjourn, see document marked "G", para 2.)

THE PROSECUTOR DECLINES TO MAKE AN OPENING ADDRESS

The prosecutor proceeds to call witnesses.

First witness for the Prosecution

Capt. W.W. Ralph, Adjutant, A.37 C.I.T.C., C.A., having been duly sworn, is examined by the Prosecutor.

Q.9 Capt Ralph, you are the Adjutant of A.37 C.I.T.C.?

A.9 That is right.

Q.10 How long has this Centre been operating?

A.10 It was authorized actually 15th December.

Q.11 Have you always been Adjutant?

A.11 I have, sir.

Q.12 I suppose you have a copy of Camp Standing Orders at A.37 C.I.T.C.?

A.12 That is right.

Q.13 Where are they kept?

A.13 They are in all sub-unit Headquarters and a copy in the wet and dry canteens, all sub-unit offices, M.T., Q.M. Stores, a full distribution of 25 copies throughout the Centre.

Q.14 Are you able to tell the Court where the Orders are in the Wet Canteen?

A.14 They are hanging on the wall ordinarily and on a hook outside the bar.

Q.15 Are you able to tell the Court what this document is?

A.15 This is a certified true extract of Camp Standing Order No.42, sub-section "D".

Prosecutor: I ask the Court to accept this document as evidence.

Defending Officer: I have no objections, sir.

(Document received is read, marked Exhibit "H", signed by the President and attached to proceedings).

DEFENDING OFFICER DECLINES TO CROSS-EXAMINE

In the opinion of the Court it is not necessary to comply with R.P. 83(b).

The witness withdrews.

Second witness for the Prosecution

B.18181 Sgt Roach, F.J., A.37 C.I.T.C., having been duly sworn, is examined by the Prosecutor.

Q.16 Sgt Roach, you are on the strength of A.37 CITC?

A.16 Yes, sir.

Q.17 How long have you been on the strength of A.37 CITC?

A.17 May 15th, 1941. It was A.2 until January 15th.

Q.18 1945?

A.18 Yes, sir.

Q.19 What is your present appointment there?

A.19 Provost Sergeant, sir.

Q.20 Do you know the accused in this case, Cpl McDaniel?

A.20 Yes, sir.

Q.21 Are you able to identify him in the Court-room?

A.21 Yes, sir.

Q.22 Which is he?

A.22 In the centre, sir (Indicating the accused).

Q.23 Would you tell the Court the circumstances under which you saw him recently in the Wet Canteen, if at all?

A.23 Yes, sir. I was on duty on the 15th February at the Wet Canteen and at about 2130 hours the accused made an attempt to leave the Canteen with a jug of beer under his overcoat. I ordered Bdr Crone to take him by the exit down towards the door about 15 feet from the door, where the beer was taken from him. RSM Rouse asked him if he knew it was against orders. RSM Rouse questioned the accused if he knew it was against Orders to take the beer out of the canteen. He said he didn't know anything about Orders. He asked him if he had purchased the beer in the Canteen and he replied "yes". He asked him what he intended doing with it and he replied "I'm taking it to my hut to drink it." His answers to the questions of the RSM were very insolent.

Q.24 Did he say anything else?

A.24 The RSM said, sir, "I don't like your attitude."

Q.25 And then what happened?

A.25 Then there was a mouth of filth.

Q.26 What were the words?

A.26 "Oh fuck you".

Q.27 Who said that?

A.27 The accused, sir.

Q.28 Do you know to whom he said it?

A.28 RSM Rouse.

Q.29 Where were you standing, Sgt?

A.29 At the door of the exit, sir.

Q.30 How far were you from the accused and RSM Rouse?

A.30 About six or seven feet.

Q.31 Where were the accused and S/M Rouse standing in relation to you - were they facing you?

A.31 At the time of the confiscation of the beer?

Q.32 No, at the time of the conversation.

A.32 About two or three feet apart, sir.

Q.33 Which one of them was facing you, if either?

A.33 I would say RSM Rouse.

Q.34 Was there anyone else there with the S/M and the accused?

A.34 Bdr Crone.

Q.35 Where was he standing?

A.35 About the same distance as me.

Q.36 Was he standing beside you?

A.36 Yes, sir.

Q.37 Were there any personnel on the other side of the S/M and the accused?

A.37 I don't remember that, sir.

Q.38 Now, did you have any conversation with the accused that night?

A.38 No, sir.

Q.39 Did you notice his actions?

A.39 Yes, sir.

Q.40 What have you got to say as to his condition?

A.40 He wasn't drunk. He had been drinking, but he wasn't drunk.

Q.41 Did you see him walking?

A.41 Yes, sir.

Q.42 Describe his mannerisms while you saw him speaking with the S/M.

A.42 He was very insolent, sir.

Q.43 In what way?

A.43 When the question was put to him he would snarl it out, until it came to the climax and he was placed under arrest.

Q.44 Have you any knowledge, Sgt, as to the posting of Camp Standing Orders in A.37 Training Centre?

A.44 Yes, sir.

Q.45 What do you know about that?

A.45 They were posted in both the wet and dry canteens.

Q.46 Do you know where?

A.46 Yes, sir. In the wet canteen, about five feet from the counter on the west side of the wall on a board.

Q.47 Have personnel using the canteen access to them?

A.47 Yes, sir.

Q.48 How long, to your knowledge, have these Orders been there?

A.48 I couldn't say for sure how long they have been there. As far back as I can remember they have always been there.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q.49 Sgt Roach, had you ever seen the accused before - up to the time that the RSM had him placed under arrest?

A.49 I saw him sitting at a table previous to that.

Q.50 That same evening?

A.50 Yes, sir.

Q.51 But you had never seen him before?

A.51 No, sir.

Q.52 You cannot remember having seen him?

A.52 I have never seen him before, sir.

Q.53 Had the accused been drinking?

A.53 Yes, sir.

Q.54 Was his speech thick?

A.54 No, sir.

Q.55 Was he steady on his feet?

A.55 Yes, sir.

Q.56 Was the accused actually heading towards the door of the canteen, the door of exit, when you saw him?

A.56 Yes, that is right, he was, sir.

Q.57 He wasn't just crossing the floor?

A.57 No, it was the only door they were going out.

Q.58 Did the accused place the pitcher of beer on the table?

A.58 No, it was taken off him.

Q.59 Taken off him?

A.59 Yes, sir.

Q.60 Did the accused look surprised when it was taken off him?

A.60 No, sir.

Q.61 Was the accused looking at Mr Rouse when he swore at him?

A.61 Yes, sir.

Q.62 He was actually looking at him?

A.62 They were in direct conversation with each other.

PROSECUTOR DECLINES TO RE-EXAMINE

QUESTIONED BY THE COURT

Q.63 You saw the accused previously in the evening. How long had he been in the canteen?

A.63 I got there at 1945 hours. He was there then, sitting with four or five others.

Q.64 Did you make any estimate as to how much beer he had ?

A.64 No, I couldn't say, I just noticed him there.

Q.65 What was the S/M's attitude when he approached the accused?

A.65 He was just questioning him on the Orders, that he wasn't allowed to take beer out. He was very fair about it.

Q.66 How did you come to notice the accused during the evening, if you had never seen him before?

A.66 I was standing at the end of the counter and the accused was sitting at the first table near the counter, near the Orders, and I saw him two or three times going to get more beer and bringing it to the table.

Q.67 What was the conduct of the accused up to the time that he started to leave the canteen?

A.67 Very orderly, sir.

Q.68 What type of containers is the beer sold in in the wet canteen?

A.68 In glasses, sir.

Q.69 What size pitcher was this you refer to?

A.69 It's a pitcher used in the kitchen for pouring tea, approximately a gallon.

Q.70 How far did the accused get on his way out of the canteen before he was stopped?

A.70 Approximately 25 feet.

Q.71 What other doors are there into the canteen beside the exit?

A.71 Two more, sir, but they are not used when clearing the canteen out.

Q.72 Where do the other doors lead?

A.72 It is a long building. There would be one at that end (pointing) and another around the corner in an L shape. The other exit is near the centre.

Q.73 Are the other two exit doors not used for clearing the canteen?

A.73 No, sir.

Q.74 Are they exit doors?

A.74 Yes, sir.

Q.75 They are kept closed when the canteen is being cleared?

A.75 Yes, sir.

Q.76 These Camp Standing Orders that are on the west wall - are they quite accessible, or is there a table in front of them near the wall?

A.76 There is nothing at all, sir.

Q.77 Are they printed or typewritten?

A.77 Typewritten, sir.

In the opinion of the Court it is not necessary to comply with R.P. 83(b).

The witness withdraws.

At 1445 hours the 22nd day of February, 1945 the Court adjourns until 0900 hours the 24th day of February, 1945.

At 0900 hours the 24th day of February, 1945 the Court re-assembles pursuant to adjournment. Present the same members as when adjourned.

Third Witness for the Prosecution

B.18000 RSM (WOI) C.J. Rouse, A.37 C.I.T.C., having been duly sworn, is examined by the Prosecutor.

Q.78 You are the Regimental Sergeant-Major at A.37 Training Centre?

A.78 Yes, sir.

Q.79 How long have you held the rank of Warrant Officer I?

A.79 Since about Christmas 1941.

Q.80 Prior to A.37 CITC, what Unit were you with?

A.80 A.2 C.A.T.C., sir.

Q.81 Were you the R.S.M. there?

A.81 That is correct, sir.

Q.82 Do you know A/Cpl Patrick Hugh Pierce McDaniel?

A.82 I do now, by sight, sir.

Q.83 Which is he?

A.83 The chap in the centre, the Cpl with the red patch (indicating accused).

Q.84 When have you seen him previously?

A.84 I have spoken to him on one or two occasions. The last time I had any contact with him was when this trouble occurred at the canteen.

Q.85 Do you remember when that was?

A.85 On last pay night. I believe it would be the 15th February.

Q.86 Will you relate to the Court what you saw and what you did on that occasion?

A.86 Yes, sir. On pay nights, in particular, I invariably attend the closing of the mens' canteen. Usually there is a crowd, and in order to give support to the Police and N.C.O's detailed for duty there, I put in an appearance. On this particular night I was there, sir, there was quite a large crowd. I removed my sheep-skin coat which I was wearing because it was snowing. I was there for a considerable time before the canteen actually closed. As we were getting the men out of the main exit side door of the hut, I was walking around getting the various men to move along, when there was still a group of 20 or 30 in the canteen slowly drifting out, when the Provost Sgt, Sgt Roach, informed me that he had detected a man in the act of trying to take from the canteen, some beer in a jug, so I went further up into the canteen where Sgt Roach had steered this chap to get him away from the crowd near the door. This chap was wearing a greatcoat. The greatcoat was open. He wore two chevrons on it, sir, and on the table alongside was a one gallon jug filled to the top with beer. Sgt Roach indicated the beer and said this was the chap that was attempting to take it out.

Q.87 Was the accused present?

A.87 The accused was standing right by the table the beer was resting on.

Q.88 He would be in a position to hear what Sgt Roach said to you?

A.88 Sgt Roach didn't speak to me until I was about a couple of feet from the accused. I noticed the accused's overcoat buttons were not done up and he, I believe it was his right blouse was swollen up as if he had something inside, and as he moved I could hear the clink of some glasses and I connected that at once in my own mind with this beer, so I asked him what he had and he said glasses. That is quite legitimate, because they pay a 10¢ deposit

on these glasses and if they break them, or lose them, they lose their deposit. I then asked him was he the one that had this beer. He said yes. I said "You were attempting to take it from the canteen?" and he admitted such was the case. I said words to this effect, "You are going to take this beer out of the canteen", and he said yes. I said "Do you not realize it is against Camp Standing Orders to take beer, malted liquors from a mens' canteen" and he said "No, I never heard of any such order" - in much that tone. His tone was insolent, very loud and he sort of snapped it out. So I continued to question him "Where did you get this beer" and in the same loud insolent tone he told me sarcastically that he had purchased it and was going to take it to his sleeping hut and drink it. I pointed out again, sir, that this too was against Camp Standing Orders. He became very very hostile at this point, and then in the same tone, loud enough I estimate, for people who were still in the doorway to hear, he said beligerently as he possibly could "Oh fuck you". Now, as I recall it, sir, standing with me were Sgt Rosch, Sgt Moen, and Bdr Crone. They were within a few feet of me at the time. We were about 15 feet I would say, up the canteen away from the door. I put this man under arrest and as we walked up to take him out of the canteen, men were still congregated in the doorway.

Q.89 Did you examine the jug you speak of?

A.89 Yes, sir, I had intended bringing it down for evidence, but Mr White said he didn't think it was necessary.

Q.90 How did you determine that it contained beer?

A.90 By taste and smell of it.

Q.91 What have you got to say as to the condition of the accused at the time of this conversation?

A.91 Well, sir, he had undoubtedly been drinking, but he was able to stand steadily on his feet and walk quite steadily. I saw him walk when we took him out. His speech was clear and he gave no physical indication that he was drunk. I reason it this way, sir, that any man that can take a full gallon, that is 16 pints, a full gallon of beer in an open topped jug under his coat without spilling it, was not drunk, sir. The jug was filled to the brim when I saw it on the table.

Q.92 Now, on this particular occasion you have told us you took off your sheepskin coat. How were you dressed?

A.92 Exactly as I am now, sir. I take the coat off as a means of identification.

Q.93 Would you describe your dress?

A.93 Battle dress showing my rank badges, wearing a khaki tie and wearing a fur hat. That's exactly how I was dressed, sir, with anklets. When I am in the canteen I usually take the coat off so people will know who I am and I insist on the other Orderly people on duty doing the same thing.

Q.94 You have told the Court that you had seen the accused on how many occasions prior to this?

A.94 Well, I spoke to him a day or so before that when he was in the Quartermaster Stores. On this particular night I wouldn't like to swear I had seen him in the canteen before, but I have seen him around the Centre. We have so many new chaps, but this chap had a sheepskin coat in the Q.M. Stores a day or so previous to this business.

Q.95 When you spoke to him in the Q.M. Stores, what were you doing there?

A.95 I dropped in to get some red chevrons or badges. It was not official business as far as he was concerned.

Q.96 How were you dressed on the occasion you were in the Q.M. Stores?

A.96 I had my sheepskin coat on with no rank badge on.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q.97 Mr. Rouse, how far away was the table that pitcher of beer was set on from the canteen door, would you say?

A.97 I would say about 15 feet, sir.

Q.98 Going into the canteen was the table on the right or left hand side? That is, the main door.

A.98 The exit door - it would be on the left, about the second or third table on the left.

Q.99 In the canteen, where are Camp Standing Orders hung, or placed?

A.99 In this case they are always kept hung on the wall near the bar, there is a notice board right there.

Q.100 Are they on the notice board?

A.100 Right alongside, accessible to anyone walking past to get beer.

Q.101 Could you describe how these Camp Orders are put up?

A.101 They are hanging by a string as provided byCamp.

Q.102 Are the actual Orders paper?

A.102 Absolutely, sir.

Q.103 Could you give a description of how the Orders are put up - in book form, or ordinary form?

A.103 They are loose-leaf and wire clip to hold the leaves together and there is a cover on outside saying "Camp Standing Orders."

Q.104 You say that the beer was not spilled at all. Can you say definitely it was not spilled?

A.104 I can say definitely the jug was filled to the brim. It couldn't hold any more. I am assuming none was actually spilled. This lad, I understand, was sitting at a table near the bar and he walked on his way out to the door and was steered at least 15 feet up the canteen by the Sgt.

Defending Officer: President and members of the Court. I have here a copy of Camp Standing Orders taken from the mens' wet canteen in question, which I intend to file as an exhibit when presenting my defence. I ask the Courts' permission to cross examine the present witness on this document, which I undertake to subsequently file as an exhibit.

Prosecutor: I have no objections, sir.

Q.105 Mr. Rouse, I show you a copy of Camp Standing Orders. Will you describe to the Court the way this copy is made up, or bound?

A.105 I describe this as a loose-leaf book, made up so amendments can be added or subtracted by means of this clip. Orders generally are the same. All Camp Standing Orders have this type of facing.

Q.106 Does it not look to you very similar to an ordinary telephone book?

A.106 The Camp telephone directory, the last time I saw it, had a pink cover, sir, and there was no telephone available for the use of the men in the canteen. There is one in the sleeping quarters at the back for the staff only.

PROSECUTOR DECLINES TO RE-EXAMINE

QUESTIONED BY THE COURT

Q.107 In your statement you say that, or you intimated as much, that it was an unheard of thing for anybody to take beer and malted liquors out of the mens' canteen. Has it not become common practice for N.C.O's, I would rather not mention rank, to take malted liquors and beer out of the mens' canteen?

A.108 It is absolutely forbidden, sir.

Q.109 That does not answer the question. I asked if it had not become custom to do this. Have you ever known of anybody else doing that?

A.109 Yes, sir, but the man I detected was charged.

In the opinion of the Court it is not necessary to comply with R.P. 83(b).

The witness withdrews.

Fourth witness for the Prosecution.

D.132074 Bdr Crone, A.J., A.37 C.I.T.C., having been duly sworn, is examined by the Prosecutor.

Q.110 You are on the strength of A.37 C.I.T.C.?

A.110 Yes, sir.

Q.111 What is your appointment there?

A.111 Regimental Police, sir.

Q.112 Are you the senior N.C.O. of the Regimental Police?

A.112 No, sir.

Q.113 How long have you been in Petawawa Military Camp?

A.113 Since June 9th, 1942.

Q.114 You were at A.2 CATC prior to the forming of A.37 CITC?

A.114 Yes, sir.

Q.115 Do you know Cpl McDaniel?

A.115 Not until the other night when I saw him for the first time, sir.

Q.116 Where was that?

A.116 In the wet canteen.

Q.117 Do you recall the date?

A.117 15th February, 1945.

Q.118 About what time did you see him?

A.118 About 1845 hours, sir.

Q.119 What was he doing?

A.119 He had just come into the canteen, sir.

Q.120 What did he do?

A.120 He proceeded to the bar, sir, purchased some beer and then he sat down at the table.

Q.121 Where were you in relation to him at that time?

A.121 I was standing by the stove.

Q.122 How far is that away from him?

A.122 About 25 feet, sir.

Q.123 Did you see him again after that?

A.123 I noticed him, sir, when I was walking around the canteen.

Q.124 How often?

A.124 About three or four times.

Q.125 What time does the canteen close?

A.125 2130 hours, sir.

Q.126 Did you see the accused at that time?

A.126 Yes, sir.

Q.127 Under what circumstances?

A.127 He was leaving the canteen.

Q.128 Now, will you tell the Court what you saw and what you did?

A.128 Cpl McDaniel came down from his table. He had a jug of beer hid under his coat and attempted to leave, going out the door, and I stopped him at the door of exit and I took him down about 15 feet past the door of exit as instructed by Sgt Roach.

Q.129 You say you stopped him at the door. Just where was he in relation to the door when you stopped him?

A.129 He was about 5 feet from the door.

Q.130 How did you stop him?

A.130 I just took him by the arm.

Q.131 What did he say?

A.131 As far as I know he said nothing, just went with me where I took him, down about 15 feet from the door of exit.

Q.132 Would you explain to the Court the character of the canteen, that is, the position of the door as regards the bar and where the tables are and then where you took the accused?

A.132 I would say the door was about 25 or 30 feet from the bar, the door of exit, and I took this man about 15 feet farther down into the back of the canteen away from the door.

Q.133 When you saw him sitting , where had he been sitting in relation to the door?

A.133 About 25 feet, sir, just beside the bar. The table was just outside the bar.

Q.134 What happened then, Bdr?

A.134 Cpl McDaniel put the jug of beer down on a table and Sgt Roach called the R.S.M. The R.S.M. proceeded to speak to Cpl McDaniel.

Q.135 What did the R.S.M. say to Cpl McDaniel?

A.135 I didn't hear all the conversation, sir. I just heard the R.S.M. say he didn't like the Cpl's attitude.

Q.136 What did the accused say to the R.S.M.?

A.136 "Oh fuck you".

Q.137 What happened then?

A.137 Then Sgt Roach called me and told me to take this man to the Guard Room under close arrest.

Q.138 What have you to say, Bdr, as to the condition of the accused during the conversation with the R.S.M.?

A.138 I believe he was under the influence of liquor, sir.

Q.139 On what facts do you base the opinion he was under the influence of liquor. What were your observations?

A.139 The man's actions, sir, the way he spoke.

Q.140 Could you describe it further. How did he speak? Was his conversation in a loud voice?

A.140 The conversation between the R.S.M. and the Cpl. didn't seem to be very loud to me, sir.

Q.141 What were his actions that lead you to believe that he was under the influence of liquor?

A.141 Well, the man seemed very excited and by the way he spoke.

Q.142 You told us that you saw the accused come into the canteen.

A.142 Yes, sir.

Q.143 What time was that?

A.143 About 1845 hours, sir.

Q.144 Do you know whether or not he was there from then until closing time?

A.144 As far as I know he was, sir.

Q.145 You are not sure?

A.145 I didn't see him leave at all.

Q.146 Did you see the accused during the evening from time to time?

A.146 I would say about four or five times.

Q.147 Describe to the Court his condition on these occasions.

A.147 It seemed to be very orderly conduct to me, sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q.148 Bdr Crone, was the accused standing steadily on his feet when you saw him, or was he swaying and weaving?

A.148 He was none too steady, sir.

Q.149 You think he was definitely under the influence of liquor?

A.149 I do, sir.

Q.150 Who put the beer on the table?

A.150 The accused.

PROSECUTION DECLINES TO RE-EXAMINE

QUESTIONED BY THE COURT

Q.151 How often have you been Regimental Police down in the wet canteen?

A.151 I just go down on pay nights.

Q.152 You are only there on pay nights?

A.152 Yes, sir.

Q.153 Have you ever seen anyone taking beer in a container from the wet canteen?

A.153 No, sir.

Q.154 Any N.C.O's?

A.154 No, sir.

In the opinion of the Court it is not necessary to comply with R.P. 83(b).

The witness withdraws.

Fifth witness for the Prosecution.

L.8749 Sgt Moan, J.J., A.37 C.I.T.C., having been duly sworn, is examined by the Prosecutor.

Q.155 You are on the strength of A.37 CITC?

A.155 Yes, sir.

Q.156 How long have you been in Petawawa Military Camp?

A.156 Since about 9th January, or somewhere around there.

Q.157 Have you never been here before?

A.157 No, sir.

Q.158 Do you know Cpl McDaniel?

A.158 Not until the night of the 15th. I know him to see him, and I recognize him now.

Q.159 Where did you see him on the 15th?

A.159 In the mens' wet canteen, sir.

Q.160 What were the circumstances?

A.160 I was Centre Orderly Sgt for that night and it was my duty to be there. I was there about 8 o'clock. Cpl McDaniel was there drinking beer at that time.

Q.161 What time does the canteen close?

A.161 The canteen closes at 9:30, sir.

Q.162 Did you see Cpl McDaniel at that time?

A.162 Yes, sir.

Q.163 What was he doing?

A.163 He was finishing up his beer and when he finished he got up from the table and he was carrying a jug with him when he left the table.

Q.164 Do you know what was in the jug?

A.164 At the time I didn't, sir.

Q.165 Then what happened. What did you see?

A.165 He walked to the far end of the canteen and set the jug on the table.

Q.166 Who did?

A.166 Cpl McDaniel, sir.

Q.167 Was anyone with him?

A.167 There was a couple of fellows leaving with him.

Q.168 Then what happened?

A.168 The R.S.M. went and started talking to him,

Q.169 What did the R.S.M. say to him?

A.169 I couldn't say, sir.

Q.170 What did he say to the R.S.M.?

A.170 They were talking for quite some time and I couldn't hear, but Cpl McDaniel raised his voice at the end and came out with "Oh fuck you" or something like that.

Q.171 What have you got to say as to the condition of Cpl McDaniel on this particular night?

A.171 I believe he was under the influence of liquor but I am no judge of what one man can drink and another one can drink. One acts differently with different quantities. I know he was under the influence of liquor.

Q.172 What are the reasons? Why do you pass the opinion he was under the influence of liquor?

A.172 Well, just the way he acted.

Q.173 What did he do?

A.173 He was very cantankerous and argumentative, and on the way to the Guard Room you could tell he was under the influence of liquor.

Q.174 Did you notice the conduct of the accused prior to the conversation with the R.S.M.?

A.174 No, he was sitting at his table and had a bunch of men around him and he seemed alright to me.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q.175 Have you ever read Camp Standing Orders in the mens' canteen?

A.175 I have glanced over them, sir.

Q.176 Could you describe where they are hung?

A.176 There is an order board down where the men get their beer, down by the serving counter on the right hand side, with the Camp Standing Orders and the Centre Part I and Part II Orders.

Q.177 Are the Orders on the board?

A.177 Yes, sir.

Q.178 What do they look like?

A.178 They are run off on a skin, manila paper and stencilled.

Q.179 Are they made up similar and clipped as Part I and Part II Orders?

A.179 I didn't take much notice of them, sir.

PROSECUTOR DECLINES TO RE-EXAMINE

QUESTIONED BY THE COURT

Q.180 You stated you saw the accused sitting at the table and he got up and had a jug of beer under his coat and walked down to the other end of the canteen and put it on the table.

A.180 I didn't say he had it under his coat, sir.

Q.181 Would you mind repeating what you said?

A.181 I noticed he had a jug in his hand and he set it on the table.

Q.182 Did he make any attempt to go out the door?

A.182 No, sir.

Q.183 Can you describe just how his path was in relation to the door when he was walking down the canteen. Was he getting closer to the door?

A.183 Yes, he had to go past the door to get to the R.S.M.

Q.184 You were watching him all the time?

A.184 More or less, sir.

Q.185 You say he made no attempt to go out the door?

A.185 The R.S.M. was on the other side of the door and he went past the door.

Q.186 Was there another door down at that end?

A.186 I believe there was, down at the other end by the piano, but it is locked.

Q.187 Referring to the conversation between the Sgt Major and the accused. You didn't actually hear the conversation at all?

A.187 No, sir.

Q.188 What you said was merely supposition on your part, or what you heard afterwards, that this was said.

A.188 No, I definitely heard him say that. He raised his voice.

In the opinion of the Court it is not necessary to comply with R.P. 83(b).

The witness withdraws.

The prosecution has no further witnesses.

D

The prosecution is closed.

DEFENCE

Q.189 Do you apply to give evidence yourself as a witness?

A.189 Yes, sir.

Q.190 Do you intend to call any other witness in your defence?

A.190 Yes, sir.

Q.191 Is he a witness as to character only?

A.191 No, sir.

The evidence of the accused is recorded on a seperate page (see overleaf).

First witness for the Defence

The accused, M.16438 A/Cpl Patrick Hugh Pierce McDaniel, A.37 Canadian Infantry Training Centre, C.A., having been duly sworn, is examined by the Defending Officer.

Q.192 How long have you been at A.37 C.I.T.C.?

A.192 I left Calgary on the 8th February I think, and I think, as near as I can remember I got here on the 11th February.

Q.193 Could you tell in your own words as much as you can remember of what happened on the night of the 15th February?

A.193 Yes, sir. It was pay night and I went over at 10 past 6 to get paid, and it didn't take me very long, I would judge about 15 minutes or so. We got paid at W.12, I believe, about 5 minutes walk from the wet canteen. I came right from there where I got paid to the wet canteen, and went to the wet canteen and I went up to the bar and bought two beers and sat down at the table. A L/Cpl came and sat beside me and then three other Cpls came in and sat down and they all bought some beer. I went in there to wait for a Sgt, a Sgt from the Royal 22nd who I came back on the boat with. I don't know his name, I think it is Sgt Wheaton. We were going down to Petawawa to see what it looked like as we hadn't been down there. We just sat around the table and talked and drank. The Sgt came in to get me and by that time I was feeling much better than when I went in the canteen and decided I wouldn't go, and stayed on there. A Cpl sitting directly across from me was a pretty good singer so we started to sing. I don't know how the passage of time went, I assume it was 7:30 when he came in. We went on drinking anyway, and singing and I believe I got up to sing a song myself, and I don't remember if I actually finished it, I know I started, and after things got pretty hazy for me.

Well, I believe somebody, I am not quite sure, but somebody went and got a jug. We decided to take some beer. I don't know what time during the night this happened, but the next thing I can remember clearly after that, I was in the Guard Room, and the only person I can remember seeing, to actually see,- I guess there must have been other people in the Guard Room - I know I was taken there - was the M.O. As clearly as I can remember about the M.O. he was trying to examine me and told me to go to bed. I believeI was arguing with him, I don't remember what it was about, and the next thing I remember I woke up in a cell and I tried to wake somebody up to get some attention. It was awfully warm in there.

Q.194 Cpl McDaniel, was that the first time that you had seen the M.O. that day?

A.194 No, sir. I was on sick parade that morning and it was the same M.O. I don't remember if that is why I remember him, but I remember seeing him clearly.

Q.195 Why did you go on sick parade?

A.195 I was feeling very down hearted and had been that way for quite a few days and ever since I got here, and I was getting sick and throwing up and I wanted to see him as I didn't know what was wrong.

Q.196 Could you give the Court a reason why you were feeling that way?

A.196 Well, I felt very disappointed at getting sent here. I was told before I left England I would be stationed at the west coast and when I came back from my leave they had an order to send me to Petawawa. I was told when I was in England I would be kept as close and as near home as possible, and I couldn't stay in Currie because I was an L.4 and would have to do drill, battle drill and I couldn't do battle drill.

Q.197 Where is your home?

A.197 Edmonton, but I have a sister in Vancouver so I didn't mind the west coast because I had a home there too. We even told them in England that we would rather be in England than stationed away from home, and the Col in charge of the Army Overseas, and the Col in charge of C.I.S. said we had to be definite before we left, as they didn't want us to be moved once we got there.

Q.198 What job did you come home to?

A.198 As instructor in infantry weapons.

Q.199 When did you go overseas?

A.199 December 15th, 1939.

Q.200 When did you arrive in Halifax?

A.200 I landed back in Halifax December 15th, 1944.

Q.201 Your category is L.4?

A.201 Yes, sir.

Q.202 Would you mind telling the Court what physical disability you have?

A.202 My right leg is shorter than my left and twisted my hips, and I have a lot of trouble with my hips. I was lying in hospital about six months prior to leaving England. I went to hospital last June. The doctor said so much marching with one leg shorter than the other hurt my hips and caused this.

Q.203 Just before you came home you said you had been in hospital. Is that your only time in hospital for that particular ailment?

A.203 No, I went to hospital in 1941 in England with my right hip that time, and I went back in 1944 with my left hip.

Q.204 Have you ever been charged before with insubordination?

A.204 No, sir.

Q.205 Have you ever been charged before with drunkenness?

A.205 No, sir.

Q.206 How long have you held the acting rank of Cpl?

A.206 Well, I was made L/Cpl in December 1943 and I was made an Acting Cpl three months later and have been an acting Cpl since.

Q.207 On the evening of the 15th February, do you remember the Regimental Sergeant Major in the canteen at all?

A.207 To the best of my knowledge I never knew the R.S.M. was in the canteen.

Q.208 Or the Orderly Sergeant?

A.208 I remember noticing the Orderly Sergeant when I first came in. He was leaning against the wall, although I didn't know he was Orderly Sergeant then. I saw he had a maple leaf on his CVSM and I wondered if he came back on the same boat with me.

Q.209 You don't remember him when you left?

A.209 No, I don't remember him at all, sir.

Q.210 Do you remember Sgt Roach of the Regimental Police?

A.210 No, I don't remember seeing him.

Q.211 Or Bdr Crone of the Regimental Police?

A.211 I cannot remember him either, sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q.212 Cpl, when you went into the wet canteen on the night of the 15th February, do you remember what time it was approximately?

A.212 I couldn't say. I tried to establish the time by the fact I went at 10 past 6 to get paid and I don't think it took more than 15 or 20 minutes to get paid and it is only 5 minutes walk from where we get paid to the canteen. It was after 6.30.

Q.213 You say you bought two beers and sat down?

A.213 Yes, sir.

Q.214 Who were you with?

A.214 I was all alone then, sir.

Q.215 Some other N.C.O's came and sat with you?

A.215 Yes, 3 Cpls and a L/Cpl. The L/Cpl came first.

Q.216 What was his name?

A.216 I don't know his name off hand, sir. He is a L/Cpl of the Police. He was sitting down over from my table by the wall, practically at my table.

Q.217 Who were the three Cpls?

A.217 The three Cpls I don't know by name. I came on the train with them. I met them on the train. I cannot tell you their names. I went to see them

after I got out of detention and I have never seen them since as they were drafted.

Q.218 Who was the Sgt you were waiting for?

A.218 He is in the Royal 22nd, he belongs to the Royal 22nd, and came back on the same boat with me.

Q.219 What is His name?

A.219 I believe it is Sgt Wheaton.

Q.220 About what time did he come in?

A.220 He was supposed to come at 7:30 and I have no reason to believe it wasn't 7:30. Maybe I should have put in that we had heard there was nothing down at Petawawa so Idecided there wasn't much use of going down. That is part of the reason why I didn't go down.

Q.221 Do you have any knowledge that any members of the Regimental Police were present in the wet canteen?

A.221 Yes, sir. This L/Cpl who was sitting there was a Regimental Police. He was sitting there and he wasn't drinking with us.

Q.222 Do you know why they were there?

A.222 To keep order, sir.

Q.223 Do you recall the circumstances under which this jug that you speak of was filled?

A.223 Well, I believe that I sent somebody for the jug, but I don't actually remember it getting filled up. I believe it was my idea to take the jug, I admit that.

Q.224 But you don't remember who bought the beer to put in it?

A.224 I cannot actually say. I mean, everybody was buying beer.

Q.225 Was it done at the table you were sitting at?

A.225 I wouldn't be sure, but I imagine it was.

Q.226 You don't remember?

A.226 No, sir.

Q.227 Do you know what happened to the jug?

A.227 No, sir, I don't. I have seen it since.

Q.228 After this you mean?

A.228 I saw it in the Orderly Room when they brought me for trial and I saw it on the Col's desk when I was being tried by the Col.

Q.229 You wouldn't know it was the same jug?

A.229 I was told it was, sir.

Q.230 How many times have you been in the wet canteen at A.37?

A.230 As near as I remember, I was there once before.

Q.231 Did you take any beer out on that occasion?

A.231 I did, as a matter of fact. I don't know if I am supposed to answer that.

Q.232 In what manner?

A.232 In a jug, sir.

Q.233 How did you carry it out? In what manner? Did you walk out with the jug in your hand?

A.233 No, sir.

Q.234 How did you do it?

A.234 I had a fleece-lined coat and I brought it out under that.

Q.235 What time was that?

A.235 I couldn't say. I don't remember.

Q.236 Was it early in the evening?

A.236 No, I don't think it would be early. I don't remember.

Q.237 How long had you been in the canteen on that occasion?

A.237 I have never thought about it, sir, I don't really know. It is quite a while ago. I had never any occasion to think about it.

Q.238 Did you, on the 15th day of February, 1945, attempt to take malted liquor out of the A.37 CITC mens' wet canteen?

A.238 I don't remember doing it, sir. I have been told I did.

Q.239 Did you, on the 15th day of February, 1945, have any conversation with R.S.M. Rouse in the wet canteen?

A.239 To the best of my knowledge, no, sir.

Q.240 Did you have any conversation with any army personnel on the way out of the wet canteen on the night of 15th February, 1945?

A.240 I don't remember.

RE-EXAMINED BY THE DEFENDING OFFICER

Q.241 The previous occasion on which you took the beer out - was it the same evening on which you were charged?

A.241 No, sir.

QUESTIONED BY THE COURT

Q.242 Were Standing Orders ever read to you since you have been in this Unit?

A.242 No, sir.

Q.243 What was your understanding as to the taking out of beer?

A.243 I didn't think there was much wrong. I have done practically all my soldiering in England and noone thinks anything of walking out with a jug of beer there.

In the opinion of the Court it is not necessary to comply with R.I. 83(b).

The witness resumes his seat.

Second witness for the Defence

Capt R. Gourdeau, RCAMC, attached A.37 C.I.T.C., having been duly sworn, is examined by the Defending Officer.

Q.244 Capt Gourdeau, you are at A.37 CITC?

A.244 Yes, sir.

Q.245 What position do you hold there - what job?

A.245 I am Medical Officer at the M.I.R., assistant to the Senior Medical Officer.

Q.246 How long have you been at A.37 CITC?

A.246 A month and a week.

Q.247 Previous to that?

A.247 Previous to that I was at the hospital, assistant in surgery.

Q.248 What hospital?

A.248 Petawawa Military Hospital.

Q.249 Of the three men sitting here, do you recognize any of them?

A.249 I do recognize Cpl McDaniel, I saw him a few times.

Q.250 When was the first occasion that you saw him?

A.250 I saw him first on sick parade. I cannot remember the exact date, I think the 15th of this month. He came on sick parade complaining of gastric trouble - stomach trouble. I checked him all over and to my own judgment he had no organic basis for his gastric trouble. I thought it was due mostly to nervous condition. He seemed to me to be anxious, worried and distrait, so as a treatment, apart from gastric powder, I gave him some sedatives.

Q.251 Can you remember any of the conversation that was carried on between yourself and the accused on that occasion?

A.251 Not particular details, no. I can remember that I questioned him what he had been doing before. He said he was overseas for a few years and he didn't seem to like his posting up here very much, and from what I remember, he seemed to me to be a little unstable, that is all I can remember. That is only the impression I got, not the words of the conversation.

Q.252 When was the next occasion that you saw him?

A.252 I had a phone call to go to the Guard House that same night and when I arrived there I recognized McDaniel that I had seen in the morning. He was not the same man. He was excited. His face was flushed. His eyes were bright and he was talking very quickly and in a different way then in the morning. I was told, and he told me that he had taken some beer. I talked to him and tried to convince him to get examined and I had a little trouble, he was not in the depressive phase of drunkenness, but as far as I could see, he was in the excitation phase of it. He had lost power of his judgment. He even asked me for a gun to kill himself that night. He was disgusted he said. I checked him all over and there was no impressionable disease except from the fact that he was not in a normal state of mind. To my knowledge, he was in the excitation phase of drunkenness. There are two phases - first the excitation phase where a chap loses the power of his judgment, gets very talkative and flushed and then the depressive phase where he doesn't have the co-ordination of his movements, because the alcohol gets in his system. He was in the first phase of it.

Q.253 You definitely don't think he was normal?

A.253 No, to my judgment he was not normal.

Q.254 Did you see him later, after that occasion?

A.254 I saw him, I think, the morning after. I didn't examine him, Capt Goldberg did. I talked to him because I had seen him the night before so I went and asked him how he felt, so he said he felt very sorry for what he did, and I asked him if he remembered what he told me the previous night, I was thinking about the gun, and all that, and he said he remembered seeing my face, but he didn't remember the conversation he had with me. That was all, I didn't examine him this morning, Capt Goldberg did.

CROSS-EXAMINED BY THE PROSECUTOR

Q.255 When you examined the accused on the night of the 15th February, what time was it?

A.255 I couldn't tell, sir, it was, I think, around 10 or 10:30, I am not sure, though, I was getting ready to go to bed when the call came in.

Q.256 When you saw the accused in the Guard Room, did he know who you were?

A.256 I think so. He did know I was the M.O. as far as I can say.

Q.257 Did he address you at all?

A.257 Yes, he said "You are the M.O. and I went to know what charge is made against me". So I told him it is not my duty, I didn't make any charge against you, it isn't my duty to make charges against you, I just went to examine you and see if anything is wrong with you.

Q.258 This stage of drunkenness that you describe as being in your mind, the state of the accused. Would a person in that stage recognize people they were talking to?

A.258 Yes, they can. It is very variable. If you call their attention, or if they are shocked by something then they come to a more lucid state of mind and can recognize people, but usually in that phase they are supposed to recognize people and even to remember what they have said, but there is no definite limit between all these stages.

Q.259 But you have told us that the accused was, I think you called it, the first stage?

A.259 He was more in that stage than the other one, because to me, I saw him walk from the room where he was to the office where I examined him, and he walked alright, so he - I didn't see him walk very long, he seemed to have the co-ordination of his movements. That is why I say he was not in the last phase of drunkenness.

Q.260 You say that any, I believe you said, any shock has the effect of bringing more lucidness?

A.260 Yes, sir. What I mean - suppose you are in front of a drunken man, and you tell him he can have $10.00 if he walks this line, but maybe for a minute he can, but if he has no reason to try to walk straight, he is going to walk zig-zag.

Q.261 What about the conversation - was that intelligent?

A.261 No, definitely not. First he was very aggressive and he wasn't talking to me politely. He was asking for everything, he was very imperative, more commanding me to do this and that. If I can express myself more clearly, I saw the man in the morning and I saw him in the night, and he was definitely not the same type of man, so seeing that, I asked him what happened, if he had drank, and he said yes, so that confirmed my opinion, and I saw him again the morning after and he was not the same man he was at night, so I thought surely something had happened to him.

Q.262 There is not any doubt in your mind but what he recognized you, is there?

A.262 No, sir.

Q.263 You had seen him on how many previous occasions?

A.263 One that I know of when he came on sick parade that same morning.

RE-EXAMINED BY THE DEFENDING OFFICER

Q.264 Would you say ten minutes in the open, in the cold sir, would be sufficient time for a drunken man to sober up sufficiently to recognize a person?

A.264 Well, I am not an authority on the matter, but as far as I know, he could, if the man is not too drunk. It depends on what is the depth or degree of drunkeness.

Q.265 You mentioned that you prescribed sedatives for the accused. What were they?

A.265 They were Phenoearbital, half a grain, and I asked him when I saw him in the Guard House and he told me he took two.

Q.266 Is that what you prescribed?

A.266 I prescribed some more at the Guard House. I gave them to the Cpl there.

Q.267 How many was he supposed to take - every day, or what exactly?

A.267 Two or three a day, but the effect of these tablets are to apease him and I gave him some more that night because he was in that phase.

Q.268 What would be the effect of an overdose of those tablets, say six in number?

A.268 Sleep - dead coma if too much.

Q.269 How would liquor and those tablets, if taken within a short time together, what would the effect be, can you answer that question?

A.269 From what I know, the effect of the sedative would go against the effect of the alcohol, that is why I gave him some more that night, to cool him off, to help him sleep.

Q.270 Only a matter of two tablets would not make very much effect?

A.270 No, we take sometimes, a grain and a half for a tooth-ache, a serious one though, but that is an ordinary dose, a grain and a half, and he had one grain according to him.

In the opinion of the Court it is not necessary to comply with R.P. 83(b).

The witness withdrews.

Third witness for the Defence

B.119828 Cpl Dillick, S., A.37 C.I.T.C., having been duly sworn, is examined by the Defending Officer.

Q.271 How long have you been at A.37 CITC?

A.271 Since 31st January.

Q.272 Before then, where were you?

A.272 At Canadian Signal Training Centre, at Vimy Barracks.

Q.273 Do you recognize Cpl McDaniel?

A.273 Yes, sir.

Q.274 Which one is he?

A.274 The man in the centre (indicating accused).

Q.275 Would you mind telling the Court just how you came in contact with Cpl McDaniel first of all?

A.275 I have been attached to "A" Company, which has been a reception Company. Cpl McDaniel came into the Company with one of the drafts. I saw him casually and recognized him on the night of Feb 15th when I was in the canteen in the company of the R.S.M. just after coming off duty on pay parade about a quarter to nine, it was definitely way after 8:30, and not quite nine o'clock. After entering the canteen with R.S.M. House, we stood there for a few moments and talked, and I went to the bar and got a glass of beer and noticed a large group of men from "A" Company, men who had been warned for draft, sitting around the table. Some of them recognized me and asked me to come and sit down, which I did. There was a great deal of slap-happy noise and singing - I remember Cpl McDaniel was singing and another lad who was also singing solo pieces. The table was full of glasses of beer, everyone seemed to be feeling quite good. I was sitting to the right of Cpl McDaniel and he seemed to be feeling extraordinarily good.- when he sang he sang very loud in a raucous voice and during the conversation an argument would start and none of the boys would take him up on it, if he was at the other end of it. I recall myself moving my chair away during the conversation and singing, etc. I recall too, that while sitting there, the boys were very free with their beer and one asked me if I would have a glass of beer, and after a little coaxing from him I took it as a bit of courtesy to him, and I noticed Cpl McDaniel was drinking from any or every glass from the table. At one point he left the table, presumably to go to the lavatory, because I saw him walking in that direction, and he had a hard time maintaining his balance. I left the canteen between five minutes after nine and 9:30. The table just broke up and I left with a couple of the lads. It was before Cpl McDaniel left, I recall that.

Q.276 Were you sitting at the same table with Cpl McDaniel?

A.276 Yes, sir.

Q.277 Could you describe more fully the condition of Cpl McDaniel at the time you left?

A.277 In a word I would say he was drunk. I don't know what the technical definition of drunkenness would be, but the behaviour of the man first, his behaviour at the table, I was immediately impressed that he was handling more beer than the others at the table. The fact that he would just pick up anyone's glass and drink, I thought it wouldn't be tolerated at all if he wasn't being tolerated by the other members at the table. And his singing particularly, when not more than one or two people would be listening to him, I did tolerate it, but I moved away from him at one time.

Cross-EXAMINED BY THE PROSECUTOR

Q.278 You are in the same Company, Cpl. as the accused?

A.278 No, sir.

Q.279 How well have you known him, and for how long?

A.279 I knew him only quite casually when he came into "A" Company.

Q.280 When was that?

A.280 A few days after I came to "A" Company 31 Jan.

Q.281 How often had you seen him prior to this night you mention?

A.281 I had seen him around the dry canteen. I don't know if I saw him in the wet canteen, and around the Camp on several occasions, just casually from the first time I saw him.

Q.282 Did Cpl McDaniel know you in the canteen on this perticular night?

A.282 I couldn't say, sir.

Q.283 Did he call you by name?

A.283 No, sir.

Q.284 Did he call you by rank?

A.284 No, sir.

Q.285 Just spoke to you?

A.285 Yes, sir, he just regarded me as one of those around him.

Q.286 What was the rank of the soldiers around the table that the accused was at?

A.286 I noticed that there was at least one other Cpl and in fact I think there were two, and I can remember specifically the others were Privates, formerly Gunners.

Q.287 When you came into the canteen you were with the Sgt Major, Sgt Major Rouse?

A.287 I was, sir.

Q.288 While you were at the table where was S/M Rouse?

A.288 S/M Rouse was not very far away, in fact before I sat down at the table I pointed out the other lad who was singing solo numbers and remarked to the S/M that he was quite a good Irish tenor, and he listened to this other lad awhile, and just nodded agreement on it and he moved down to the other end of the canteen. I saw him talking to one of the R.P's on duty.

Q.289 He wasn't at the table you were at?

A.289 No, just for that brief moment when I drew his attention to this man singing. By the way, that man was a Cpl. I would say three others were Cpls beside myself and McDaniel.

Q.290 Were there any Privates?

A.290 Yes, sir.

Q.291 How many sat at this table?

A.291 I would say at least six, quite a few more I would think.

DEFENDING OFFICER DECLINES TO RE-EXAMINE

In the opinion of the Court it is not necessary to comply with R.P. 83(b).

The witness withdraws.

Fourth witness for the Defence

K.5439 Private Cox, R.D., "F" Company, A.37 C.I.T.C., having been duly sworn, is examined by the Defending Officer.

Q.292 Pte Cox, how long have you been at A.37 CITC?

A.292 Approximately four weeks, sir.

Q.293 In what Company are you?

A.293 I was in "E" Coy for two weeks and then I was transferred to "F" Coy.

Q.294 Do you recognize Cpl McDaniel here?

A.294 Yes, sir.

Q.295 Which one is he?

A.295 The centre man (indicating accused.)

Q.296 How is it that you do know him?

A.296 I sleep right near the cubicle and I would ask him a few questions concerning the Company, and that.

Q.297 Do you mean that he is in the same Company as you?

A.297 Yes, sir.

Q.298 Is he in the same Platoon?

A.298 Yes, sir.

Q.299 What time did you go into the canteen on the night of the 15th Feb?

A.299 Approximately 10 to 9.

Q.300 Did you see Cpl McDaniel in there?

A.300 Yes, sir.

Q.301 What brought your attention to the fact that he was there?

A.301 I noticed him right away. He was trying to get to the lavatory . I was sitting down and he came and spoke to me for a minute.

Q.302 Were you sitting at the same table as he?

A.302 No, I was sitting right near the door and he was near the bar.

Q.303 What was Cpl McDaniel's condition when you saw him?

A.303 He couldn't stand on his feet very well when I saw him. He was staggering to get to the lavatory and couldn't make sense of what he was saying.

Q.304 Have you ever seen him in that condition before?

A.304 No, sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q.305 On this particular night, Pte Cox, what conversation did you have with Cpl McDaniel in the canteen?

A.305 He wanted me to go to Petawawa with him that night and I said I couldn't go out of Camp as I didn't have any pass. Then he asked me where the lavatory was and I showed it to him.

Q.306 Did he say anything else to you?

A.306 No, sir.

Q.307 Did you tell him where the lavatory was?

A.307 Yes, sir, I pointed it out.

Q.308 Did he go?

A.308 Yes, he went over there.

DEFENDING OFFICER DECLINES TO RE-EXAMINE

QUESTIONED BY THE COURT

Q.309 Did Cpl McDaniel recognize you and address you by name? Did he know who you were?

A.309 He knew I was in his platoon but he didn't mention my name.

In the opinion of the Court it is not necessary to comply with R.P. 83(b).

The witness withdraws.

Fifth witness for the Defence

Captain C.E.C. MacNeill, A.37 C.I.T.C., having been duly sworn, is examined by the Defending Officer.

Q.310 How long have you been at A.37 CITC?

A.310 Approximately 18 days.

Q.311 What position do you hold at A.37?

A.311 I am acting C.C. of "F" Company.

Q.312 Do you know Cpl McDaniel?

A.312 Yes, I recognize him.

Q.313 Which one is he?

A.313 In the centre (indicating accused).

Q.314 How is it that you know him?

A.314 He is an instructor with "F" Company.

Q.315 How have you found him as an instructor and as an N.C.O. generally?

A.315 He is a very good instructor, very conscientious, works hard with no complaints against him at all. He is well liked by the men and does a good job and what he is told to do.

Q.316 Has he ever been brought before you on any charge?

A.316 No, not at all.

CROSS-EXAMINED BY THE PROSECUTOR

Q.317 How long have you known Cpl McDaniel?

A.317 He came on the same train as I came across Canada on and I met him on the train. He has been with the Company ever since. We arrived here on the 8th Feb.

Q.318 You didn't know him prior to that?

A.318 No, I just met him on the train.

DEFENDING OFFICER DECLINES TO RE-EXAMINE

In the opinion of the Court it is not necessary to comply with R.P. 83(b).

The witness withdraws.

Sixth witness for the Defence

B.143814 Sgt Hood, D.L., A.37 C.I.T.C., having been duly sworn, is examined by the Defending Officer.

Q.319 Sgt Hood, do you know Cpl McDaniel?

A.319 Yes, sir.

Q.320 Do you recognize him here?

A.320 Yes, sir.

Q.321 Which is he?

A.321 He is the man in the centre (indicating accused).

Q.322 How is it that you do know him?

A.322 He has been working with me in my platoon.

Q.323 What position do you occupy in that platoon?

A.323 Acting Platoon Sergeant, I have no Platoon Officer.

Q.324 Cpl McDaniel is in the same platoon?

A.324 Yes, he is an instructor.

Q.325 How have you found him as an N.C.O. and instructor?

A.325 He has not been with me very long, but as long as he has been there, he has been very efficient and any job has been well done.

Q.326 Have you had any complaints from the men?

A.326 No, the men like him.

THE PROSECUTOR DECLINES TO CROSS-EXAMINE.

In the opinion of the Court it is not necessary to comply with R.P. 83 (b).

The witness withdraws.

Defending Officer: In view of the answers given by Sgt Major Rouse concerning the copy of Camp Standing Orders which I said I would file as an exhibit, I feel it is not necessary to so file same unless the prosecutor requests it.

Prosecutor: As far as the prosecution is concerned it is not necessary that the document referred to is filed.

Court: Agreed.

The Defence has no further witnesses.

The Defence is closed.

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS (See document attached marked "I").

THE PROSECUTOR MAKES A CLOSING ADDRESS (See document attached marked "J").

E
FINDING

The Court is closed for the consideration of the finding.

The Court find that the accused, M.16438, Acting Corporal Patrick Hugh Pierce McDaniel, A.37 Canadian Infantry Training Centre, C.A. is Not Guilty of the Second charge and the Third (alternative) charge, but is Guilty of the First charge.

The findings of Not Guilty are read in open Court.

The finding of the Court on the First charge, being subject to confirmation, will be promulgated later.

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

The Court being re-opened, the accused is again brought before it.

Lieut. R.T. Moore, Acting Officer in charge of Records, A.37 C.I.T.C., C.A. having been duly sworn, is examined by the Court.

Q.327 Have you any evidence to produce as to the character and particulars of service of the accused?

A.327 I produce M.F.B.355 and certified true copy of M.F.M.6.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y", signed by the President and attached to the proceedings. Certified true copy of M.F.M. 6 is read, marked "Z", signed by the President and attached to the proceedings.

Q.328 Is the accused the person named in the statement which you have heard read?

A.328 Yes, sir.

Q.329 Have you compared the contents of the above statement with the regimental books?

A.329 Yes, sir.

Q.330 Are they true extracts from the regimental books and is the statement of entries in the conduct sheet a fair and true summary of those entries?

A.330 Yes, sir.

DEFENDING OFFICER DECLINES TO CROSS-EXAMINE

In the opinion of the Court it is not necessary to comply with R.P. 83(b).

The witness withdrews.

Q.331 Do you wish to address the Court?

A.331 Yes, sir, my defending officer will speak for me. (See document attached marked "X").

The Court is closed for the consideration of the sentence. The sentence to be awarded by the Court being subject to confirmation will not be announced but will be promulgated later and the proceedings in open Court are accordingly terminated.

F

SENTENCE

Sentence

Reprimand.

The Court sentence the accused, M.16438 Private (Acting Corporal) Patrick Hugh Pierce McDaniel, A.37 Canadian Infantry Training Centre, C.A. to be reprimanded.

Signed at Petawawa Military Camp, Ontario, this 24th day of February, A.D. 1945.

(G. Longman) Major,
Camp Headquarters,
Petawawa Military Camp,
President, D.C.M.

Confirmed

Signed at Petawawa Military Camp this second day of March 1945.

Brigadier
COMMANDER
Petawawa Military Camp

Promulgation and extracts taken at Petawawa Military Camp this 3rd day of March 1945

Asst. Adj.
A37 C.I.T.C.

Extracts entered as No. 36061 in the Record of Court-Martial kept in the office of the Judge Advocate-General this 8 day of Mar 1945

X Elizabeth Maj Pres. D.C.M.

75

P.6-O-Mc-1177(JAG)

ORDER BY
BRIGADIER W.C. THACKRAY
COMMANDER PETAWAWA MILITARY CAMP
PETAWAWA ONTARIO

Petawawa Military Camp, Ont
20th., February, 1945.

DISTRICT COURT -MARTIAL

M.16438 Pte (A/Cpl) Patrick Hugh Pierce McDANIEL,
A-37, C. I. T. C., C.A.

1. The Detail of Officers as mentioned below will assemble at Petawawa Military Camp, Ontario at 1000 hours, Thursday, 22nd February, 1945 for the purpose of trying by District Court - Martial the accused person named in the margin (and such other persons as may be brought before them).

PRESIDENT

Major G. Longman, Camp Headquarters, Petawawa Military Camp

MEMBERS

Capt. G.M. Grassby, R.C.A., A-1, C.A.T.C., C.A.
Capt. W.J. Murray, R.C.E., A-5, C.E.T.C., C.A.

WAITING MEMBER

Lieut. P.E. Shorey, R.C.A., A-1, C.A.T.C., C.A.

JUDGE ADVOCATE

PROSECUTOR

Capt. J.R. McMullen, R.C.A., Camp Headquarters, Petawawa Military Camp

DEFENDING OFFICER

Capt. G.D. Corry, A-37, C.I.T.C., C.A.

OFFICER UNDER INSTRUCTION

2. The accused person will be warned and all witnesses duly required to attend at Room 43, ground floor, Administration Bldg.

3. The A.A. & Q.M.G., Petawawa Military Camp, Ontario, will arrange for necessary accommodation and stationery.

4. The Proceedings of the Court will be forwarded to the Commander, Petawawa Military Camp, Ontario.

Signed this 20th day of February, 1945.

(G.T.A. McNeill) Lt.-Col.,
A.A. & Q.M.G.,
for COMMANDER
Petawawa Military Camp.

G. [illegible] Pres. Def.

MINUTE OF ADJOURNMENT

1. The Defending Officer, being unable to attend until 1400 hours, 22nd day of February, 1945, the Court, at 1030 hours, 22nd day of February, 1945 adjourns until 1400 hours, 22nd day of February, 1945.

On 22nd day of February, 1945 at 1400 hours, the Court re-assembles pursuant to adjournment. Present the same members as at 1030 hours, 22nd day of February, 1945.

.....

MOTION TO ADJOURN

2. Defending Officer: Mr. President and members of the Court. I request an adjournment until Saturday, morning, February 24th, as I have not had sufficient time to prepare my case, and a necessary witness for the Defence will not be available until Saturday morning.

Prosecutor: I have no objection, except practical objections. All the four witnesses for the Prosecution are in the building and available. One of them happens to be the Adjutant of the Training Centre and I would like if possible, to have his evidence taken now that he is here. One of the other witnesses, Sgt Roach, is due to go on a six day leave. He was supposed to leave to-day at noon, and waited for the Trial, and is hoping to get away to-morrow. However, other than that, I have no objections to the adjournment. It means holding Sgt Roach at least Sunday, although he might get through Saturday morning, and I would suggest that if there is no objection, the Court could proceed to-day and hear the evidence of at least Capt Ralph and possibly also Sgt Roach.

Court: With the Defending Officer's consent, the case could proceed, and the witnesses for the Prosecution, Capt Ralph and Sgt Roach be heard now, and the motion for adjournment of the Defending Officer could then be granted until 0900 hours, Saturday, 24th February, 1945.

Defending Officer: I consent, sir.

Exhibit H.

STANDING ORDERS

BY

BRIGADIER W.C. THACKRAY

COMMANDER - PETAWAWA MILITARY CAMP
(issued 1 July 1944)

42. CANTEENS AND AUXILLIARY SERVICES

(d) Under no circumstances may malted liquors be taken from Men's Canteen for consumption elsewhere.

Certified true extract from Standing Orders by Brigadier W.C. Thackray, Commander, Petawawa Military Camp.
(issued 1 July 1944)

(W.W. Ralph) Captain,
Adjutant,
A-37, C.I.T.C.

Appendix "A" to the Summary of Evidence in the case of M.16438 Pte (A/Cpl) McDaniel, P.H.P. a-37, C.I.T.C.

(W.E. White) Lieut.,
Asst-Adjutant,
A-37, C.I.T.C.,
Officer detailed to take the Summary of Evidence.

Exh #. 1. Exh Prosec. Maj Prs. Ocm.

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS

Mr. President and members of the Court:

On the first charge, the accused is charged with attempting to take malted liquor out of the wet canteen at A.37 C.I.T.C.

Cpl McDaniel, as you know, returned from overseas and landed in Halifax on the 15th December, and arrived in Edmonton, which is his home, on the 20th. He had his leave and reported here on the 8th February. To-day is the 24th. He has only been here a very short time and since he has taken most of his training overseas, having been there for a period of five years to the day, it is extremely likely that he never had occasion to read Camp Standing Orders to the effect that he was not allowed to take malted liquor out of the canteen. He gave evidence to the effect that he had only been in the canteen on one previous occasion up to the night of the 15th, and although all ranks are supposed to read Camp Standing Orders, very few of them actually do. They are, in a Camp this size, extremely detailed and they make up quite a volume of reading just in themselves. So it is extremely unlikely that he ever had a chance, or ever thought about reading Camp Standing Orders.

Overseas they have the public house system and it is quite different from here and things are much more relaxed. Now, every one of the witnesses for the prosecution have admitted that the accused had been drinking that evening. Bdr Crone, Sgt Moen definitely say that he was under the influence of alcohol. The witnesses for the defence, which include the Medical Officer who examined him, have said that he was under the influence of alcohol. Pte Cox and Bdr Dillick say he was drunk, unable to walk steadily, and very much unlike his usual self. The Medical Officer said that he was not normal in any way. That is brought out by the fact that he asked for a gun to kill himself. Only a man who was just plain drunk would do that.

Also, the accused was depressed, has been depressed since he arrived here, which is quite understandable, having served five years overseas and was promised that he would be stationed as close to his home as possible. Instead, he is sent 2000 miles from it.

He also has a physical ailment from the fact that his one leg is shorter than the other, and which has given him an L.4 category. There is no question in my mind that he was anything but drunk, and consequently not responsible for his actions in any way, shape or form.

The character witnesses have testified that he has been extremely conscientious as an instructor, has been a very good N.C.O., is well liked by his men, has done all the jobs given to him in a soldierly manner and has carried them out, has obeyed orders and has never been brought up on a charge of insubordination or drunkenness in his own Company. The accused's own evidence shows that, while he served five years in the Army, more than that, five and a half now, during that time he has never been charged with drunkenness or insubordination. In summing up that point, I believe that he was definitely under the influence of alcohol.

Regarding the charge of insubordination. No N.C.O. who has served overseas for the length of time that the accused has, under normal conditions would be insubordinate to an R.S.M. in a public place like a wet canteen, and I believe that the evidence brings out the fact that he was intoxicated and shows that he wasn't responsible for any of his actions and consequently a verdict of not guilty should be returned on the charges.

J. Chapman Major, Pros. DCM.

THE PROSECUTOR MAKES A CLOSING ADDRESS

Mr. President and members of the Court:

The defence to all the charges appears to be that, the accused, on the night in question, was intoxicated. I suggest that if the evidence discloses that the accused was so intoxicated, that he didn't know what he was doing, then this would be a defence to the second charge, in that, if the accused did not know what he was doing, he didn't know that he was in conversation with his superior officer, being H.S.M. C.J. Rouse.

Now, as regards the first charge. The accused is charged with attempting to take malted liquor out of the canteen, contrary to Camp Standing Orders. The Court has heard the evidence as to the posting of Camp Standing Orders in the wet canteen. The accused was out-spoken, and in fact, admitted, that on the night in question it was his idea to take beer out of the canteen. The Court has heard the evidence of the accused as regards his actions when he was in the wet canteen at A.37 on a previous occasion, and does, in fact, admit that he did on that occasion, take beer out of the wet canteen under the circumstances described.

In regard to the second charge, I would like to draw the Courts' attention to the evidence of what took place. I think it is fair to say that Bdr Crone led the accused away from the door when he had in his possession a pitcher full of beer. The Sgt Major questioned the accused. The Court has heard the questions and the answers. Whether or not this accused would, under the circumstances, act like he did, had he not known he was being addressed by a superior officer, I leave for the Court to decide.

K Elm Prow Accs: Pres: Dem.

DEFENDING OFFICER ADDRESSES THE COURT IN MITIGATION OF PUNISHMENT

Mr. President and members of the Court:

I wish to make now a very strong plea in mitigation of punishment.

As you know, Cpl McDaniel has been overseas five years. He went over on the 15th Dec 1939 and returned on the 15th December 1944. During that time his conduct sheet has been very good, there has been no serious offences recorded. He was AWL, but times have not exceeded more than four days and his other two charges have been minor in nature. For a man that has soldiered in England and has led a hard life, gone through the blitz of 1940 and 41, has volunteered for active service to be sent overseas, and was sent overseas, and along with that he volunteered to fight anywhere in the world and was only prevented because of a physical disability, I think his crime sheet is amazingly good for a person who has not only been in the Army that long, but has served in England a period of that time.

He has been an N.C.O. since Dec 43 and during that time he has done very well. There have been no charges of insubordination or drunkenness at any time. Since he has been at A.37 CITC his platoon and Company Commander have spoken very highly of him. He is well liked by his men and does his job well. I believe that his punishment should be extremely light when all circumstances are taken into consideration.

El

Y. Elm Pongu Maj.
Pres DCM.

87

M.F.B. 355
75M—5-43 (145)
H.Q. 1772-39-620
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M.16438	Pte(A/Cpl)	McDANIEL, P.H.P.	A-37, C.I.T.C.

1. The following is a fair and true summary of the entries in the Field ~~Regimental or Company~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~or~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For Absence without leave	2 times	Absence without leave	7 times
For	times	Outside of his station areal without a pass.	1 times
For	times	Failing to comply with C.S.O.	1 times
For	times	Failing to comply with C.R.O.	1 times

Number of instances of gallantry or distinguished conduct Nil ~~NE~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted by a court martial or a civil court ~~OR~~ ~~Previous convictions of the accused by a court martial or by a civil court of summary jurisdiction~~ ~~Section 47 of the Army Act sometimes with trial under Section 47 of the Indian Army Act~~

3. The accused is not under sentence at the present time. ~~OR~~ ~~He was under sentence for an offence during service~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and nil days in military custody, making a total of nil days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 28 Years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 18 November 39

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon for the purpose of discharge the period~~

9. ~~The accused is in possession of or entitled to an air force decoration~~ ~~Is in possession of or entitled to a Indian or air force decoration~~

10. ~~(If the accused is an officer) The accused has a Warrant Officer last held~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... dated ....., and in his regiment (or corps) the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24 th day of February 1945 (W.E. White) Lieut.
Asst-Adjutant,
R.C.A.F.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Z. [illegible] Maj.
Pres D.C.M.

M.F.M. 6

Date of Birth 20Nov1916

Reg. No. M.16438 Name McDANIEL, P.H.P. Corps C.I.C. Date of enlistment or enrolment 18Nov39

Sheet No. ____ of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Field	1Nov40	Pte		A.A. 15(1) AWL from 2230 hrs 1Nov40 till 0800hrs 2Nov40 : Absent 9 hrs 30 min.	Sgt. MacDonald C.A.	Forfeits 7 days pay.	6Nov40	Maj. Beaton G.M.	absence.
Field	14May41	Pte		A.A. 15(1) AWL 1 day 14 hrs	L/Cpl. Turner	7 days C.B.	17May41	Maj Henderson	2days pay
Field	30Aug41	Pte		A.A. 15(1) AWL from 0600 hrs 30Aug41 till 2350 hrs 31Aug43. Absent 1 day 17 hrs 50 min.	L/Cpl. O'Brien, I.A.	7 days C.B.	3 Sep41	Maj. Riley, G.W.	2days pay absence.
Field	31Dec41	Pte		A.A. 15(3) Not in possession of pass when outside his station area.	L/Cpl. Hayes. L/Cpl. Samways	3 days C.B.	~~Sept.~~ 2Jan42	Capt. Stein	
Field	12Mar42	Pte		A.A. 15(1) AWL 1 day 23 hrs	A/Cpl. Goring	2 days pay	16Mar42	Capt. Brown	2days pay absence.

(P.T.O.)

M.F.M. 6—500M—8-44 (3388)
H.Q. 1772-39-1632

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Field	31Mar42	Pte		A.A. 15(1) from 2359 hrs 31Mar42 till 0645 hs 3Apr42. Absent 2 days 6 hrs 46 min.	A/Cpl. Golring	10 days C.B.	3 Apr 42	Capt. Brown	3 days pay for absence.
Field	15Apr42	Pte		A.A. Sec 11 Failing to comply with a Camp Standing Order No. 7B in that he at 1415 hrs was gambling in barracks	Cpl. Slaney	5 days C.B.	16Apr42	Capt. Brown	
Field	1Jun43	Pte		A.A.11 Failing to comply with C.R.O. in that he was out of bounds.	Documentary	14 days C.B.	4Jun43	Lt-Col Hewitt	
Field	8Oct44	Cpl.		A.A. Sec. 15 (1):-- AWL 1600 hrs 8Oct44 to 1530 hrs 12Oct44. Absence 3 days 23 hrs 30mins.	Sgt. Marsh, W. Severe	Reprimand.	13Oct44	Col. C.B. Ware, DSO.	
Calgary, Alta	1Feb45	A/Cpl.		A.A. 15(1) AWL 2359 hrs. 1Feb45 to 1130 hrs 3Feb45.	Sgt. O'Neil	Reprimanded	5Feb45.	Maj. M.A. Ellissen	Forf. 2 days pay FR&I 149(1)(a)

CERTIFIED TRUE COPY.

(W. L. White) Lieut.,
Asst-Adjutant,
A-37, C.I.T.C.

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SUMMARY OF EVIDENCE

in the case of

M.16438 Private (Acting Corporal) Patrick Hugh Pierce McDaniel, A-37, Canadian Infantry Training Centre, C.A. A G.S. soldier of the Canadian Army placed on Active service.

CHARGES--

1. Neglecting to obey Camp Standing Orders.
2. Conduct to the prejudice of good order and military discipline (Alternative)
3. When on active service, using insurbodinate language to his superior officer.
4. Conduct to the prejudice of good order and military discipline (Alternative)

The Commanding Officer has not directed nor has the accused demanded that the evidence be taken on oath:

First Witness

B.18000, RSM (WOI) C.J. Rouse, A-37, C.I.T.C., C.A. states:--

I am the Regimental Sergeant Major at A-37, Canadian Infantry Training Centre Petawawa Military Camp. In the evening of 15Feb45 I was at the A-37, CITC Men's Wet Canteen from 2030 hours until 2215 hours for the purpose of seeing that the conduct of the men was proper. At approximately 2130 hours, while I was standing by the door watching the men leave, as it was closing time, B.18181 Sgt. Roach, F.J. of the Regimental Police approached me and informed me that he had caught a man in the act of carrying beer in a jug out of the Canteen. I left the door where the crowd was still crowding out, and walked about fifteen feet into the Canteen where the accused, M.16438 Pte (A/Cpl) P.H.P. McDaniel was standing by a table. On the table was a gallon jug filled to the top with beer. With me at the time were Sgt. Roach, F.J., Sgt. Moan, J.J., A-37, CITC Orderly Sergeant and D.132074 Bdr. Crone, W.J. of the Regimental Police. I asked the accused if he did not know that it was against the orders to take beer from the canteen. He said in a belligerent way that he had never heard of any such order. I asked him if he had bought the beer in the canteen and he said yes. I asked him what he intended doing with it and he replied that he intended to drink it over in his sleeping hut. I pointed out to him that this was also against regulations. I noticed that the right breast of the accused's battle blouse was sticking away out. I touched the blouse and heard the clink of glass. I asked him what it was. He replied that it was beer glasses. His tone of voice was most overbearing and insolent. I told him to moderate the tone of his voice and remarked that I did not like his attitude. To this he replied in a loud voice "Oh fuck you" I immediately placed the accused under arrest. The accused had been drinking but I did not think that he was drunk. There are copies of Camp Standing Orders in both the Wet and Dry Canteens.

Cross-examined by the accused.

Q-1. Did you thin k that I was aware that you were the RSM of the Centre at the time thet this happened.

A-1. I assumed so because I did not have my great coat on and had my rank badge on my battle dress and was wearing fur hat and khaki tie.

B18000 RSM Rouse CJ

Second Witness

B.18181 Sgt. Roach, F.J. A-37, CITC states:--

I am the N.C.O. in charge of the A-37, CITC. Regimental Police. On the evening of 15Feb45 I was present at A-37, CITC Men's Wet Canteen from 1945 hours until 2005 hours for the purpose of supervising the conduct of the men. At approximately 2130 hours while supervising the clearing of the Canteen at closing time, I saw the accused M.16438 Pte (A/Cpl) McDaniel making towards the door of the Canteen. He was holding a pitcher of beer beneath his coat. I told Bdr Crone, of the Regimental Police to take the accused past the door leading out of the canteen which he did. Bdr Crone took the pitcher of beer from the accused and put it on the table. I spoke to RSM Rouse C.J. who was in the Canteen at the time and told him what had happened. He came over to where the accused was and asked the accused i f he knew that it was against orders to do what he was doing. The accused replied that he did not know about orders. The accused on questioning admitted that he had bought the beer in the canteen. He said that he intended to take it to his hut and drink. The accused's manner and tone of voice was most insolent. RSM Rouse told the accused that he did not like his attitude. The accused replied "Oh fuck you". R.S.M. Rouse placed the accused under arrest and had him escorted to the A-37, Guard Room. There are copies of Camp Standing Orders in both the Dry and Wet Canteens at A-37, CITC.

Cross-examined by the accused.

Q-1. In your opinion, was I drunk?
A-1. No I do not think so.

Sgt Roach F.J.

Third Witness

D.132074 Bdr. Crone, W.J. A-37, CITC states :--

I am an NCO on the Regimental Police at A-37, CITC. On the evening of 15Feb45, I was on duty in the A-37, CITC Men's Canteen from 1640 hours until 2145 hours., At approximately 2130 hours while I was helping in closing the canteen, I saw the accused, M.16438 Pte (A/Cpl) McDaniel, heading towards the door of the canteen carrying a jug full of beer under his great coat. Under Sgt. Roach's instructions I took the accused past the door and he put the beer down on a table. Sgt. Roach Called RSM Rouse over. RSM Rouse spoke to the accused. I did not hear every thing that RSM Rouse said to the accused but I did him say to the accused that he did not like his attitude. The accused replied "Oh fuck you" in a clear voice. RSM Rouse placed the accused under arrest and I escorted him to the A-37, CITC guard room.

Cross-examined by the accused.

Q-1. In your opinion, did you think that I was drunk?
A-1. I think that, you were definitely under the influence of liquor.

D-132074

Bdr Crone W.J.

Fourth Witness

L.8749 Sgt. Moan, J.J., A-37, CITC states as follows:--

On 15th Feb45, I was A-37, CITC Centre Orderly Sergeant and was my duty to be at the Wet Canteen. I was there from 2000 hours until 2130 hours. At approx. 2130 hours I saw the accused Pte (A/Cpl) McDaniel get up from where he was sitting and head down the canteen towards the door. He was carrying an enamel pitcher. I did not know what was in it at that time. He walked past RSM Rouse and he went past the door and set the jug on a table. When I looked that way again RSM Rouse was talking to the accused. I could not hear the conversation but I heard the accused say "Fuck you then" or words to that effect to RSM Rouse. He was looking at RSM Rouse at that time.

Cross examined by the accused.

Q-1. Was it just the RSM and I down at the other end of the room?
A-1. At the time of the conversation, yes.

Q-2. Where were the police Sgt at the time of the conversation
A-2. As far as I can recollect he was somewhere between the door & the RSM.

Q-3. In your opinion was I under the influence of liquor?
A-3. Yes, I beleive so.

J.J. Moan, Sgt.

Fifth Witness

Capt. W.W. Ralph, A-37, CITC, C.A. states as follows:--

I am the Adjutant of A-37, CITC, Petawawa Military Camp and as such have custody of Camp Standing Orders issued by Brigadier W.C. Thackray, Commander, Petawawa Military Camp on 1 July 44. I hereby produce an extract from Camp Standing Orders being section 42 (d), which I hereby certify correct. (Marked exhibit A and attached to the Summary of evidence)

The accused declines to cross-examine.

W.W. Ralph Capt

QUESTION TO THE ACCUSED--

Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY THE ACCUSED--

I have nothing to say.

QUESTION TO THE ACCUSED--

Do you wish to call any witnesses on your behalf?

ANSWER BY THE ACCUSED--

No sir.

I certify that the foregoing summary of evidence consisting of 4 pages was taken down by me in the presence of the accused at Petawawa Military Camp, Ontario, this 18th day of February 1945 and that Rules of Procedure 4 (C), (D), (E) and (F) were complied with.

W.E. White

(W.E. White) Lieut.,
A/Adjutant, A-37,CITC.,
Officer detailed to take
this summary of Evidence.

MEDICAL OFFICER'S REPORT

I certify that No. M-16438 Cpl. McDANIELS, P.

of "F" Coy A-37, C.I.T.C. in a good state of health,

and fit to undergo Trial by Court martial.

Medical Officer

Station Petawawa Military Camp

Date 22 Feb 45

M. F. B. 246

MSM—12-43 (3222)

H.Q. 1773-30-460

MEDICAL OFFICER'S REPORT

I certify that No. M-16438 A/Cpl. McDaniel D.H.

of "F" Coy A-37 C.I.T.C.'s in a fair state of health,

and able to undergo Trial by Court martial.

Robert Sandeau Capt
Medical Officer
RCAMC.
A-37, C.I.T.C.C.A.

Station Pelawawa Ont

Date 24 Feb 45

Pres. DCM.
24/2/45

M. F. B. 246
50M—12-43 (2222)
H.Q. 1773-39-480

H.Q.C. 55 -M-1595

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

DISTRICT COURT-MARTIAL

MCLEOD. JAMES. C-100861 SPR.

CONFIDENTIAL
H.Q.C. 55-M-1595

CENTRAL REGISTRY	DATE	P.A. OR S.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on file tab, add minute to file and enter here with initials)		
				J. A. G.	NEW FILE C.R.		MAR 10 1945
MAR 15 1945				Admin	Note minute	MT	14 Mar 45
MAR 19 1945	19 Mar 45	PA	MT	JAG	Do note action per	MG	27 Mar/45
				Admin	For Reconsideration C.R. MAR 20 1945		
MAR 23 1945	21-3-45	PA	MT	JAG	Do note action pla	MG	22 Mar/45
MAR 26 1945	27-3-45	PA	MT	J.A.G.	With Papers C.R. MAR 23 1945		
					With Papers C.R. APR 10 1945		
APR 13 1945				Cancelled			
				J.A.G.	With Papers C.R. MAY 7 1945		
MAY 11 1945				Admin	To note - pass Admin	MD	10-5-45
MAY 12 1945	14/5/45	RG	MT	Admin	Record Alone		MAY 01 1945
MAY 14 1945	16/5/45			JAG	With Papers C.R. MAY 18 1945		
MAY 18 1945					With Papers C.R. AUG 17 1945		
				J.A.G.			
AUG 21 1945	20/8/45		MG	Adm.	To note		18/8/45
AUG 25 1945					For Reconsideration C.R. AUG 26 1945		
SEP 25 1946	25-9-46			Adm.			
JUN 5 1947	4/6/47	PRF		WYR	PER REPOSITION CR APR 8 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to S.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-M-1595

5

18th August

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

Standing Court Martial
C-100861, Ex-Spr. J. McLeod,
No. 2 E.S. & W. Coy., R.C.E. C.A.

Receipt is acknowledged of your T-20-M-15576 (AJAG) dated 14 August 1945, under cover of which you returned to this office for custody MFM 288 and form of remission.

EKM
for (H.J.Orde) Brigadier,
Judge Advocate General.

BWH:MJ

IN REPLY PLEASE QUOTE No. T-20-M-15576 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
14th August, 1945.

CENTRAL REGISTRY Army
AUG 17 1945
File 55-M-1595
Chgd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

336254

Remission of Sentence
C-100861 Spr. James McLEOD,
No. 2 E.S. & W. Coy. RCE., C.A.

Reference H.Q.C. 55-M-1595 (JAG/D) dated 10th May, 1945.

2. Herewith Army Form under C.A.R.O. 3974 being a remission of the balance of the sentence of Imprisonment with Hard Labour awarded the marginally-named soldier, effective 26th July, 1945, together with particulars of Promulgation and Part II Orders.

3. Also returned herewith is M.F.M. 288, and Report on Conduct dated 16th May, 1945 referring to the marginally-named ex-soldier, forwarded to this H.Q. by H.Q.C. 55-M-1595 (JAG) dated 1 Aug. 45

(A.E. Potts)
Major-General
D.O.C. M.D. 2.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

N.D.H.Q. File No.: HQC 55-M-1595
District File No.: T-20-M-15576

PART I

No. C-100861 Rank Sapper Name McLEOD, James
Unit No. 2 M.S. A.M. Coy. R.C.A. C.A.

PART II

Date of Trial 27th March, 1945
Charge(s) 4 -- Stealing Property belonging to person subject to Military Law.
4 -- Conduct to the Prejudice (alternative)
Sentence 7 months imprisonment with hard labour
Date of Sentence 27th March, 1945
Confirmation - (a) Authority : N.A. (S.C.M.)
(b) Date : ---

PART III

REMISSION

I, the undersigned, being the competent military authority under section 57(2) of the Army Act, do hereby remit (~~commutation/mitigation~~)X the balance of the sentence of imprisonment with hard labour awarded the above-named soldier, such remission to be effective the date of discharge, namely, 26 July 45

SIGNED at Toronto, Ontario, this 7th day of July, 1945.

Remission read & in order - 26 July 45 W J Lockhart

Arthur E Potts
(A.E. Potts)
Major-General
D.O.C. M.D. 2.

PART IV

PROMULGATION

Remission (~~commutation/mitigation~~)X promulgated and extracts taken at No.2 District Depot, Toronto, Ont. this 26 day of July 1945.

M Eyles Capt
Officer i/c Documents.

(i) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. C-100861 Rank Sapper Name McLEOD, J.
The sentence of Seven months imprisonment with hard labour awarded by Standing Court-Martial on the 27th March 1945, has been Remitted on the 26 July 1945 by Major-General A.E. Potts District Officer Commanding, Military District No.2

UNIT No.2 District Depot, C.A.

Certified true Extract of Daily Orders Part II of
No. 196 Place No.2 District Depot Date 30 Jul 45.

M Eyles Capt Adjt.
Adjutant (J. J. Eyles)

X Strike out and initial words not applicable.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of C-100661 (Number) Sapper (Rank) Mc Leod, James (Name in full)

No. 270 Gen Pnr Sec. RCE att No. 2 E.S.&.W.Coy., RCE. (Unit) (Attachment (if any))

Sentenced to Seven months Hard Labour

on 27th March 1945 at Toronto, Ontario.

being served at Burwash Reformatory (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 31 years, 28 July 1942

Medical grade or category 1111141

FIRST TRIAL—PART II

To The Adjutant-General (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~not~~ committed to undergo his sentence, which I recommend should (not) be (~~suspended~~) (~~put into execution~~) (reviewed on No review (date)) for reasons given in paragraph X.

Place Toronto, Ontario,

Date 2nd May, 1945.

Archer Potts (Confirming Authority)
(A. E. Potts) Major-General
D. O. C. M. D. 2.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 288
(Army Form A-4104)
1536—5-43 (M1)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

..... (and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
MAY 18 1945	B.F. for Review on 10/8/45	Adjutant-General for Superior Military Authority	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
First Charge Sec.18(4) A.A. Stealing property	27Jan 45	27 Mar45
Second " Sec.40 A.A. Alternative	31Jan 45	27 Mar 45
Third " Sec.18(4) A.A. Stealing property	9 Oct44	27 Mar 45
Fourth " Sec.40 A.A. Alternative	31Jan 45	27 Mar 45
Fifth " Sec. 18(4(A.A. Stealing property	9Oct 44	27 Mar 45
Sixth " Sec.40 A.A. Alternative	31 Jan45	27 Mar 45
Seventh " Sec. 18(4)A.A. Stealing property	5 Oct44	27 Mar 45.
Eighth " Sec. 40 A.A. Alternative	31 Jan45	27 Mar 45.
FINDING- Guilty of FIRST,THIRD,FIFTH,&SEVENTH CHARGES.		

Signature of Officer making entry
Major
(R.A.Fisher)

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
25 Apr 45	Recommend that the accused serve his sentence imposed by the Standing Court Martial.	Major (R.A.Fisher)

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
2 May 45	No review.	Arthur E Potts (A.E.Potts) Maj-Gen. D.O.C. M.D.2.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

I.C.M. - D

REPORT ON CONDUCT

CENTRAL REGISTRY Army
CONF 250
C 55-M-1595
MAY 18 1945
File
Chgd. to
Referred to 2 CM

H. Q. C. 55-M-1595, (IGM)
11 MAY 1945.

To:- Secretary,
Department of National Defence,
Ottawa, Ontario.

314999

1. Soldier under sentence	C100861 Spr. James McLEOD,
2. **PLEASE STATE:-**	
(i) Date of sentence	March 27/45
(ii) Sentence	7 months
(iii) Date you received soldier	March29/45
(iv) (a) Can soldier read and write?	Yes
(b) Religion	Presb.
(c) Married, widower, single	Single
(d) What Army trade has soldier?	None
(v) (a) Conduct of soldier	Good
(b) Industry of soldier	Good
(c) Remission earned:-	
(i) Number of days actually earned.	6 days
(ii) Number of days obtainable to date.	6 days
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	
(a) Whether imprisonment or detention will seriously aggravate soldier's condition.	No | G. F. Cleff Medical Officer
(b) Whether further confinement is likely to prove fatal.	No |
(vii) (a) Whether in your opinion conduct of soldier warrants remission of balance of sentence?	Part only.
(b) Moral effect confinement has had?	Good
(viii) Date term will expire if all remission earned from now on.	Sept.26/45

Signature W. L. McJannet
(W.L. McJannet) Governor

Date of Report. May 16, 1945.

LHC:WS.

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

H.Q.C 55-M-1595 (ICM)
NDHQ Ottawa, Ontario

1 Aug. 1945

CONFIDENTIAL
C.M.

District Officer Commanding,

Military District No. 2,

Toronto, Ont.

C.100861 Spr. MCLEOD, J.

Ref 20-M-15576

2. Enclosed herewith:-

(a) MEM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

6. In the event that the soldier under sentence has been transferred to another District or Command these documents will be transmitted by the recipient to the appropriate authority.

(A.E. Walford)
Major-General
Adjutant-General

I.C.M. - C

2

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

H. Q. C. 55- M-1595, (ICM)
OTTAWA, 11 MAY 1945

The Superintendent,
Burwash Industrial Farm,
BURWASH, Ontario.

C100861 Spr. James McLEOD,

1. Herewith "Report on Conduct" form in respect of the marginally-noted soldier who is serving, in your institution, a sentence of 7 months' imprisonment with hard labour awarded by a Standing Court-Martial on the 27 day of MAR 1945.

2. Please complete said form and forward same BY RETURN MAIL addressed to the Secretary, Department of National Defence, Ottawa, Ontario.

LHC:WS.

Leave for Case Study 14/5/45 W.S.

F. Dexter
Deputy Minister (Army).

1M-8-44 (M-4175)

H.Q.C.55-M-1595 (JAG/D)

10 May 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

~~STANDING~~ Court-Martial

C.100861 Spr. James McLeod,
No. 2 E.S.& W. Coy., R.C.E., C.A.

Receipt is acknowledged of your T.20-M-15576 dated 5th May 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M.288.

E.L.M.
Capt
for (R.J.Orde), Brigadier
Judge Advocate-General.

Notice
J.A.C.

L.H. CLAYTON
Lieut.-Colonel
Inspector of Courts Martial
MAY 11 1945

MM

5M-3-45(M-4664)

I.C.M. - L455

REVIEW OF SENTENCE

DATE MAY 11 1945

H.Q.C. FILE: 55-17-15 95

1. NO. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES 4 charges of stealing a wallet.

8. PREVIOUS CONDUCT Enlisted 1111141 ENLISTED ENROLLED ~~2 Lieut~~ AGE 33
4-1-44 R.W.C. 3 days 3 days C.O. on 6-1-44
31-1-45 Losing by neg. 28 days R.D. on 1-2-45

9. STATEMENT OF ACCUSED Pleaded Guilty. Nothing to say!

10. RECOMMENDATION

IN REPLY PLEASE QUOTE No. T-20-M-15576 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

312331

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
5th May, 1945.

CENTRAL REGISTRY Army
CONF. SEC.
C55-M-1595
MAY 7 1945
File
Chgd to
Referred to JAG

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
C-100861 - Spr. James McLEOD,
No. 2 E.S.&W. Coy., R.C.E.

Reference H.Q.C.55-M-1595 (JAG/D-3) dated 12th April, 1945.

2. Returned herewith proceedings of the marginally-noted Standing Court-Martial, pursuant to C.A.R.O. 4567(7)(C)(e) together with M.F.M. 288, duly completed.

3. With respect to H.Q.55-1-41 F.D.74 (Adm) dated 16th January, 1945, please be advised that:

(1) Medical reboard ordered.
(2) Discharge under C.A.R.O. 1029(8) Misconduct under consideration.

(A. E. Potts)
Major-General
D.O.C. M.D. 2.

NAT. DEF. B. 140
250M-4-44 (4923)
H.Q. 1772-39-787

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont.,

on the 27th day of March 1945 at 1030 hours,

for the trial of: C-100861, Sapper James McLEOD,
Number Rank Full Name

No. 2 R. S. & W. Company, R.C.E., C.A. (A)
Unit Attachment, if any

PRESIDENT: Major R.D. Evans, Headquarters, Military District No. 2.

PROSECUTOR: Capt. J.L. Downey, No. 2 D.D., CA, att'd C.A.T.S., CA.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~
~~or~~ DEFENDING OFFICER: Lt. A.J.D. Serre (General List) No. 2 D.D., CA.
Rank Full Name Unit Attachment, if any

FINDING: Guilty of the FIRST, THIRD, FIFTH and SEVENTH charges; the SECOND, FOURTH, SIXTH and EIGHTH charges having been withdrawn.

SENTENCE: To be imprisoned with hard labour for SEVEN (7) MONTHS.

Signed at Toronto, Ont., this 27th day of March 1945.

Major.
President,
Standing Court-Martial.

M.F.E. 1486, 25M-6-44 (4326), H.Q. 1772-38-3298

Extracts entered as No. 34730 in the Record of Court Martial kept in the Office of the Judge Advocate General this 10 day of Apr. 1945

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: ~~as interpreter?~~

Question to the accused. Do you object to No. B-55937, SM W.O. Stuart, No. 2 Det., CMSC, CA, Headquarters, M.D. 2, as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: Yes, sir, the accused has elected to be tried by Standing Court-Martial instead of by District Court-Martial.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read? A- Guilty, sir.

Answer: --- In accordance with R.P. 35(c) the 2nd (alternative) charge is withdrawn at the request of the Prosecutor.

Question to the accused. Are you guilty or not guilty of the ~~second~~ Third charge against you, which you have heard read? A-Guilty, sir.

Answer. --- In accordance with R.P. 35(c) the 4th (alternative) charge is withdrawn at the request of the Prosecutor.

Question to the accused. Are you guilty or not guilty of the ~~third~~ Fifth charge against you, which you have heard read? - Guilty, sir.

Answer. --- In accordance with R.P. 35(c) the 6th (alternative) charge is withdrawn at the request of the Prosecutor.

Question to the accused. Are you guilty or not guilty of the ~~fourth~~ Seventh charge against you, which you have heard read? A- Guilty, sir.

Answer. --- In accordance with R.P. 35(c) the 8th (alternative) charge is withdrawn at the request of the Prosecutor.

(The accused having pleaded guilty to the 1st, 3rd, 5th and 7th charges the provisions of Rule of Procedure 35 (B) are here complied with.)

B-2 82 Lt Col Lagan President, S.C.M. 5

CHARGE SHEET

The accused, C.100861, Sapper James McLeod, No. 2 E.S.&W. Coy. R.C.E., C.A.(A), a General Service soldier of the Canadian Army placed on Active Service is charged with:

FIRST CHARGE
Sec.18(4)
Army Act

STEALING PROPERTY BELONGING TO
A PERSON SUBJECT TO MILITARY LAW

in that he

at Exhibition Barracks, Toronto, Ontario, on the 29th day of January, 1945 stole a wallet, the property of B.169594, Pte. Joseph Pilot (C.I.C.) No. 2 District Depot, C.A. Toronto, Ontario, a person subject to military law.

SECOND CHARGE
Sec.40
Army Act
(Alternative)

CONDUCT TO THE PREJUDICE OF
GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Exhibition Barracks, Toronto , Ontario, on the 31st day of January, 1945, was improperly in possession of a wallet, the property of B.169594, Pte. Joseph Pilot, (C.I.C.) No. 2 District Depot, C.A. a person subject to military law.

THIRD CHARGE
Sec.18(4)
Army Act

STEALING PROPERTY BELONGING TO
A PERSON SUBJECT TO MILITARY LAW

in that he

at Exhibition Barracks, Toronto, on or about the 27th day of January, 1945, stole a wallet the property of B.169884 Pte. Harrison Harris (C.I.C.) No. 2 District Depot, C.A. a person subject to Military Law.

FOURTH CHARGE
Sec.40
Army Act
(Alternative)

CONDUCT TO THE PREJUDICE OF
GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Exhibition Barracks, Toronto, Ontario, on the 31st day of January 1945 was improperly in possession of a wallet the property of B.169884, Pte. Harrison Harris (C.I.C.) No. 2 District Depot, C.A. a person subject to Military Law.

FIFTH CHARGE
Sec.18(4)
Army Act

STEALING PROPERTY BELONGING TO
A PERSON SUBJECT TO MILITARY LAW

in that he

at Exhibition Barracks, Toronto, Ontario, on or about the 9th day of October 1944 stole a wallet the property of B.166185 Pte. Valere Vendergunst, No. 2 District Depot, C.A., Toronto, Ontario, a person subject to Military Law.

.....2

7

SIXTH CHARGE
Sec.40
Army Act
(Alternative)

CONDUCT TO THE PREJUDICE OF
GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Exhibition Barracks, Toronto, Ontario, on the 31st day of January, 1945, was improperly in possession of a wallet the property of B.166185 Pte. Valere Vandergunst, No. 2 District Depot, C.A., a person subject to Military Law.

SEVENTH CHARGE
Sec.18(4)
Army Act

STEALING PROPERTY BELONGING TO
A PERSON SUBJECT TO MILITARY LAW

in that he

at Exhibition Barracks, Toronto, Ontario, on or about the 5th day of October, 1944, stole a wallet the property of B-635616 Pte. Leo Orzy, Petawawa Military Camp, Petawawa, Ontario, a person subject to Military Law.

EIGHTH CHARGE
Sec.40
Army Act
(Alternative)

CONDUCT TO THE PREJUDICE OF
GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Exhibition Barracks, Toronto, Ontario, on the 31st day of January, 1945, was improperly in possession of a wallet the property of B-635616 Pte. Leo Orzy, Petawawa Military Camp, Petawawa, Ontario, a person subject to Military Law.

(R.A. Fisher) Major,
Officer Commanding,
No.2 ES&W Coy RCE CA
Toronto, Ontario.

Toronto, Ontario,
22 March 1945.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the 1st, 3rd, 5th and 7th charges is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

BY THE PROSECUTOR: Yes, sir. (See document marked "F", signed by the President and attached to the proceedings)

Question to the accused. Have you any statement to make in reference to the charges to which you pleaded guilty?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. Just that I have no other crimes, sir.

BY THE PRESIDENT: Is that all you wish to say?

BY THE ACCUSED: Yes, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. Yes, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

F

STATEMENT BY THE PROSECUTOR:

Sir, it appears from the evidence that was available to the Prosecution to produce before this Court-Martial that the accused is a member of No. 2 E.S.& W. Company, Headquarters, M.D. 2, attached to No. 2 Depot. It appears that he was employed in one of the buildings that houses soldiers. In each case it was the intention of the Prosecution to have evidence given by the owners of each of the respective wallets and to positively identify same as their own. That not being necessary now that the accused has pleaded guilty, naturally they won't be called, but there was evidence to identify the wallets. Then there is evidence, also, from the same witnesses whose names are stated in the Charge-Sheet, the owners of the wallets, that the wallets were missing, appeared to be missing from their clothing, etc., during the night-time.

Then there is the evidence of Corporal Harry Meyers who could have given evidence, I believe, that he found a pig skin wallet lying on McLeod's pillow in his cubicle; that McLeod was on duty that night. Then Corporal Meyers, apparently, mentioned this to Sergeant Ribble and the result was that a kit inspection was made of the accused's kit, with the assistance of Corporal Vigar of the Regimental Police, and during that kit inspection the wallets were found. These four wallets here, I believe, were found at that time. There was also evidence available from Sergeant Ribble and Corporal Vigar to tell about the kit inspection, but I consider it unnecessary to go into that very fully.

Sergeant Clark, who is a special investigator for the Commanding Officer of No. 2 District Depot, he also had evidence and he was available as a witness. He

would have given evidence that, in the presence of the accused and himself, these wallets were identified by their respective owners.

Also there is the question of a statement, which may or may not have been admissible, in which the accused admitted to the Sergeant that he had taken these respective wallets. It was intended to offer that as evidence providing that the Prosecution was able to show by prior evidence that the accused had, in fact, been properly and duly warned and the statement was proved to the Court to have been given voluntarily.

BY THE PRESIDENT: Which, I think, would mean a trial within a trial?

BY THE PROSECUTOR (Cont'd): Yes, sir. The facts seem to be very similar in each of the charges and I feel it is unnecessary to take up the time of the Court by going into each charge seperately. It seems that the accused had the opportunity of taking these wallets, and the wallets were missing; the accused was working nights and the wallets were found in the possession of the accused, in his kit. The story seems to be the same in each case. For instance, there is the evidence of Private Orzy, who was stationed at No. 2 District Depot and quartered in the Horse Palace, who would have stated, I believe, that when he got up in the morning at approximately October 5th, 1944, he noticed that his wallet was missing and he reported that fact to the Corporal in charge. He identified the wallet as a smooth brown leather wallet containing some pictures, Unemployment Insurance Card, Temporary Driver's License and some papers and some loose change amounting to approximately 60 cents. The night before he went to bed he placed his wallet in his battle-dress trousers and at reveille

BY THE PROSECUTOR (Cont'd): the wallet was missing. Then there is the evidence of Private Vandergunst. Private Vandergunst would have given evidence, I believe, that he reported to the Depot on October 6th, 1944, for enlistment in the Canadian Army and that at approximately on the 8th or 9th of October 1944, he was quartered in the Horse Palace, Exhibition Buildings, Toronto. He would have stated that when he went to bed that night he hung his trousers on a nail behind his cot and in the morning his wallet was missing. He then reported the loss of the wallet to the Corporal in charge. He would also have told the Court that around 0200 hours the same night he had noticed someone come into the cubicle but he didn't pay much attention, thinking that it was somebody making an inspection and he went back to sleep. He would have stated that his wallet was black leather, with a zipper and it had the words 'Morocco Goat' stamped on it. It also contained a chauffeur's license, a National Registration Card, a 22 rifle registration certificate and various snapshots, and that the wallet itself cost $2.50.

Private Harris would have told the Court that on the 26th or 27th of January, 1945, he returned from his leave; that he had left his wallet in the left upper pocket of his tunic, where he always carried it. When he arrived around midnight he forgot to take the wallet out of his pocket when he went to bed. The next morning he went to breakfast and didn't think about looking for his wallet until he went to dinner. After dinner he looked for his wallet and found it missing. He then reported it to a Corporal in his lines and the next day there was an investigation. A few days later he was called to the Orderly Room and was shown a black wallet which he identified as his own, and

BY THE PROSECUTOR (Cont'd): in the presence of the accused. The wallet contained his 1944 driver's license, a snapshot of himself in civilian clothes, a One Dollar Bill and about 40 cents in silver, and also various other papers.

Private Joseph Pilot is the only witness I have not yet covered. He was available to give evidence to the effect that at approximately midnight on January 28th, 1945, he returned to his cubicle in the Horse Palace, No. 2 District Depot, from a week-end leave. He would have stated that he went to bed immediately, leaving his wallet in the inside left-hand pocket of his tunic. He had carried his pass in his wallet and when he handed in his pass he remembered placing the wallet in that pocket. The next morning, when he got dressed, he felt for his wallet and he found it missing. He then reported the loss to Corporal Iris and the Corporal advised him to report it to the Wing Police, which he did. His wallet was hand-made, light brown leather with the name "J. Pilot" engraved in ink on the front of it. His regimental number was written in ink on the opposite side. On the inside of the front cover there was a heart-shaped opening containing a picture of his girl friend. On the first leaf there was his driver's license and a picture of himself in civilian clothes. In the second leaf there was a picture of himself and his girl friend, and another picture of his girl friend. In the change compartment was his duffle bag key, a piece of lighter wick and a business card. During the inspection Sergeant Ribble handed him a wallet which was found in the kit of the accused, which he identified as his own.

There was also available the evidence

BY THE PROSECUTOR (Cont'd): of the two N.C.O's who made the kit inspection and the evidence of Sergeant Clark, the special investigator, who took the statement from the accused. Now, sir, is it the Court's wish that these wallets be made exhibits?

BY THE PRESIDENT: I think that would just make it more difficult for the owners to get them back. I think that you having referred to them and my having seen them should be quite sufficient and that will allow the owners to have them back without delay.

FIRST WITNESS FOR THE DEFENCE.

Frank Derno (Civilian) employed by Royal Canadian Engineers, No. 2 D.D., CA, residing at 167 Northcliffe Boulevard, Toronto, having been duly sworn is examined by the Defending Officer:

Q- Do you know the accused, Sapper McLeod?

A- I have known him since he came up with the Engineers; he was helping me.

Q- How long have you known him?

A- I would say about three months.

Q- I think that McLeod came here sometime in October.

A- Well, I have known him just since he started to help me.

Q- What kind of a man is he, as far as you know?

A- Well, he was helping me and, as a helper, he was alright; he was O.K. I understood that he was using some of my tools at night, when there used to be a job and he was on duty, but the tools were always brought back in the daytime; I had nothing missing.

Q- Personally, you have no complaint against him?

A- No.

Q- As a worker, you say he was a good worker.

A- Yes.

Q- Was he working at nighttime with you or in the daytime?

A- I understand they go out on duty one night and other times it is their duty to answer the phone. They go out on small jobs, such as frozen pipes during the winter. I understand that McLeod used a blow-torch of mine but he brought it back the next morning.

Q- You are quite satisfied with the man, as far as his work was concerned?

A- Yes, sir.

---- The Prosecutor declines to cross-examine.

QUESTIONED BY THE PRESIDENT:

Q- What was the general reputation of Sapper McLeod in the camp, as far as you are concerned?

A- Well, I suppose he was the same as any other Sapper; he came in in the morning and did his work and talked with the boys and nothing was out of the ordinary, as far as we were concerned.

BY THE PRESIDENT: Are there any questions arising out of my examination?

BY THE PROSECUTOR: I have none.

BY THE DEFENDING OFFICER: No, sir.

--- The witness withdraws.

--- The Defence is closed.

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E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir, through my Defending Officer.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

ADDRESS BY THE DEFENDING OFFICER:

Sir, the accused has pleaded guilty to the four charges under Section 18 (4) of the Army Act, stealing property belonging to a person subject to military law. I think the accused did the right thing in pleading guilty instead of taking up the whole time of the Court. He knew that he was guilty and, therefore, he admitted his guiltiness.

Now, the accused will have been in the Army three years on July 28th, 1945, and he has rather a very good record, just one absence without leave. On January 31st, 1945, that was after his arrest on these charges, there was a kit inspection and he was charged with losing by neglect. The accused had been in the Army for about eighteen months before committing an offence. The accused has had a very good record, as far as the Army is concerned, as a soldier.

This case - I think it is a very light offence. Now, why the accused stole these pocketbooks, well, naturally, to get the money that was in them, perhaps, because the pocketbooks were not of much use to him. I see that the only money mentioned at all was $1.41 taken from Harrison Harris and $6.00 from Private Vandergunst, approximately $7.40 altogether. The offences, sir, in each case, are not very serious because the amount of money involved is rather small, and all these pocketbooks will be returned to the owners. Taking that into consideration, sir, also the fact that the accused has already been 56 days in custody, I submit that the Court should be very lenient with the accused. As a matter of fact, I would suggest that the accused be sentenced, if this is possible, just

for the time he has already spent in custody. In the ordinary case, if the case had been heard right after his arrest, he would probably have got a light sentence, but in this case he had to wait 56 days in custody, and you know what it is to be in custody here. I suggest that the sentence should run concurrent and not consecutively in each case. The witness, Derno, said that the accused was a good man, that he took tools at night and brought them back and he never missed anything.

I submit, sir, that you should be very lenient to the accused and sentence him to the time he has already spent in custody. That is all I have to say, sir.

BY THE PRESIDENT: I just want to point out, Mr. Serre, that it would make no difference to the Court if the accused had pleaded not guilty and it had taken a week to try the case; it is the duty of the Court to sit here and listen to anything accused have to say.

BY THE PRESIDENT TO THE PROSECUTOR: Can you explain the reason, Captain Downey, for the accused being 56 days in custody, as shown on the M.F.B. 355?

BY THE PROSECUTOR: Well, sir, my personal knowledge of this case only dates back two days; in other words, it was given to me to prosecute only two days ago - I am sorry, maybe three or four days ago - therefore I am unable to explain the delay myself, but I think I can explain part of the delay by reason of the fact of what has been told to me. What I am getting at is this: it appears that two of the witnesses who were called to give evidence at the taking of the summary of evidence - and at that time it was necessary to take a summary of evidence under the existing laws relating to Courts-Martial cases - went

BY THE PROSECUTOR (Cont'd): absent without leave and, therefore, it was very difficult for the Prosecutor who was handling the case to get the summary of evidence taken. For the purposes of this case it was necessary for two witnesses to be returned here, one from Petawawa and one from Winnipeg, No. 10 District. Vandergunst is the one who was sent here from M.D. 10 for the purpose of giving evidence and the other was Private Orzy, but it just happened that he was in Toronto on embarkation leave when we contacted him. Then, I believe, and know, that in this charge under Section 18(4)of the Army Act it is necessary that the Charge-Sheet be submitted to the Judge Advocate-General for approval before an order for trial can be granted, or the case heard. A letter was dispatched to the Secretary, Department of National Defence, signed by Major-General A.E. Potts, on March 22nd, 1945, sending the Charge-Sheet and precis of evidence for submission to the Judge Advocate-General and asking that the two charges be proceeded with at the same time as the other six charges which had previously been sent to the Secretary, Department of National Defence. A telephone call came from the Department of National Defence just yesterday to Headquarters, M.D. 2 authorizing the additional two charges, in other words, the seventh and eighth charges, be included in the Charge-Sheet. That is part of the reason for the delay. While I am on my feet, I would like to explain that the Charge-Sheet given to the accused this morning, through his Defending Officer, could not have been given to the accused before, because it was only yesterday that we were authorized to include the seventh and eighth charges in the Charge-Sheet.

BY THE PRESIDENT: The accused waived the usual twenty-four hours' notice?-

BY THE PROSECUTOR: That is right, sir, he did. I am

BY THE PROSECUTOR (Cont'd): unable to give the Court any other explanation for the delay because I knew nothing of the case prior to taking it over a few days ~~later~~ ago.

Return to - A.J.A.G.

Y - Alberta Regt.

Pleaded S.C.M.

M.F.B. 155
(P-2-42 (1591))
H.Q. 1772-39-420
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-100861	Sapper	James McLeod	No. 270 General Pioneer Sec. R.C.E. (Administered by No. 2 ES&W Coy.RCE.

1. The following is a fair and true summary of the entries in the Field [redacted] conduct sheets of the accused, excluding convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Losing by Neglect	1 times	A.W.L.	1 times
For		times	Losing by Neglect	1 times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct Nil

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

[redacted]

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement [redacted] trial on the present charges, for NIL days in civil custody, and 56 days in military custody, making a total of 56 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 35Yrs- 5 months

6. The date of his [redacted] specified in his [redacted] attestation paper is 28 July 1942

7. [redacted]

8. [redacted]

9. The accused is in possession of or entitled to no [redacted] military decoration, or [redacted] military reward (or is in [redacted] military. Except Canadian Volunteer Service Medal

10. [redacted]

3b

11. [redacted]

unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused Air Force Number.....Rank.....

Name..... of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of March 1945 (R.A.Fisher) Major
O.C. No. 2 E.S.&.W. Coy.RCE

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

C-100861 McLeod, J.

No. Name

Date of last entry in Company Conduct Sheet

Sqn., Battery, or Company: 28 GENERAL PIONEER COY R.C.E.

Corps

No. and date of last drunk: Nil

Period not reckoning towards freedom from extra fine: Nil

Date of enlistment: 28JUL 42

G.C. Badges

Sheet No. One

Signature O.C. Company: Adjutant for Commandant O.T.C. (EC)

Service or Proficiency Pay: Capt.

Charac(ter)

M.F.M. 6 (A.F.B. 122) [illegible] (1935) R.O. 1172-40-18

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				First sheet destroyed 28 Jan. 43				Signed J.A. Verrall Lt.	
Camp Borden				To draw 1.50 per diem under RO 2772 eff 28 Feb 43					
Camp Borden	4-1-44	Spr.		A.A. Sec. 15(1) A.W.L. from 0615 hrs. 5 Jan 44 until 0615 hrs. 6 Jan 44(1 day) Open arrest	Cpl LaPierre	3 days C.B.	6-1-44 Signed	C.R. Campbell Lieut.	Forfeits 1 days pay GRC under FR&I
Toronto, Ont.	31Jan45	Spr.		Sec. 24(2) A.A. Losing by Neglect Documentary his Clothing and Regt'l Necessaries		Stoppage of Pay to amt. $13.08	1 Feb45 Signed	(R.A.Fisher) Major	Forf. stoppage of Pay $13.08 under FR&I 158(2)

CERTIFIED TRUE COPY

Major

(R.A.Fisher)

OC #2 Coy. 53rd. RCE

(7.70)

MEDICAL OFFICER'S REPORT

I certify that No. C.100861 Spr. James McLEOD

of No.2 E.S.& W. M.D.#2 is in a good state of health,

and is fit to undergo Trial by Court martial.

A S Flubberg Capt.
Medical Officer RCAMC
attached to No.2 District Depot, CA

Station Exhibition Barracks, Toronto, Ontario.

Date 27th March 1945

R E Eaton Major,
President, S.C.M.

M. F. B. 246

(AM—10-42 (6603)
H.Q. 1771-30-580

HQC.55-M-1595 (JAG/D-3)
Your File T.20-M-15576

12 Apr 45

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

STANDING COURT-MARTIAL
C.100861, Spr. James McLEOD,
No. 2 E.S. & W. Coy. R.C.E., C.A.(A)

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

"E.M.C."

EMC/AB

(E.J. Orde), Brigadier,
Judge Advocate-General.

8 93

THIS COPY FOR H.Q. C.55-M-1595
M.D. T.20-M-15576

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. C.100861 Name McLEOD, James

Rank Spr Unit No. 2 E.S. & W Coy R.C.E. CA (A)

Charge (1st) A.A. 18 (4) - Stealing property belonging ...
(2nd) A.A. 40 (alt) - Conduct to the prejudice ...
(3rd) A.A. 18 (4) - Stealing property ...
(4th) A.A. 40 (alt) - Conduct to the prejudice ...
(5th) A.A. 18 (4) - Stealing property ...
(6th) A.A. 40 (alt) - Conduct to the prejudice ...
(7th) A.A. 18 (4) - stealing property ...
(8th) A.A. 40 (alt) - Conduct to the prejudice ...

Date of Crime (1) 29-1-45; (2, 4, 6 & 8) 31-1-45; (3) 27-1-45; (5) 9-10-44; (7) 5-10-44.

Date of Arrest Charge Signed 22-3-45

Orders for D.C.M.

Place and Date of Trial Stanley Brks Toronto Ont 27-3-45

Sentence Imprisonment W.H.L. 7 mos

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36730

Date 10-4-45

MEMO Guilty on 1st, 3rd, 5th, & 7th Charges. Balance of sentence remitted by Conf. Auth. 22-7-45

for Judge Advocate-General

10M-1-45 (M-4629)

IN REPLY PLEASE QUOTE No. T-20-M-15576 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

305542

Headquarters, Military District No. 2,
150 Bay Street, Toronto, Ontario,
7th April 1945.

CONFIDENTIAL

CONF. SEC.
APR 9 1945
Dsg-5-M-15595
Dsgd. to
Referred to J.A.G.

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL

C-100861, Spr. James McLEOD,
No. 2 E.S. & W. Coy. R.C.E., C.A.(A).

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the above-named soldier, in accordance with C.A.R.O. 4505, Section 11 (a).

(R.D. Evans) Major
President
Standing Court-Martial.

36730

NAT. DEF. B. 440

H.Q.C.55-M-1595 (JAG/D-1)

March 27th, 1945.

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

Application for District Court-Martial
C. 100861 Spr. James McLeod,
No. 2 E.S. & W. Coy., R.C.E., C.A.

1. Reference your T.20-M-15576 (AJAG) dated 22nd March 1945, enclosing Charge Sheet and Precis of Evidence pursuant to K.R.(Can) 540.

2. As indicated in the telephone conversation of 26th March 1945, between your Major F.M.Reid and Captain A.L.Thurlow of this office, it is considered that these charges are in order, that there appears to be sufficient evidence available to establish a prima facie case on both charges and that this is a proper case in which to include these charges in the same Charge Sheet with the other six charges against this accused.

3. The Charge Sheet and Precis are returned herewith.

ALT/MM

(R.J.Orde), Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE
No. T-20-M-15576(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

AIRMAIL

301573

22nd March, 1945
Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario.

CONFIDENTIAL

CENTRAL REGISTRY Army
CONF. SEC.
MAR 23 1945
File G 55-M-1595
Chgd. to
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Application for Trial by Court-Martial
C-100861 - Spr. James McLEOD,
No. 2 E.S. & W. Coy., R.C.E., C.A.

Reference H.Q.C.55-M-1595 (JAG/D-1) dated 14th March, 1945, and T-20-M-15576 (AJAG) dated 7th March, 1945.

2. Herewith Charge Sheet and Precis of Evidence for submission to the Judge Advocate-General pursuant to the provisions of K.R. (Can) 540, the charge being theft of a wallet. This charge was not included with those six charges forwarded with T-20-M-15576 (AJAG) dated 7th March, 1945, as the information has only now become available.

3. In accordance with C.A.R.O. 5439 arrangements have been made to try the marginally-named soldier on the 27th March, 1945, by a Standing Court-Martial on other charges of theft of wallets, the Charge Sheets and Summary for which were returned to this Headquarters with the above-reference.

4. It is recommended that this charge be proceeded with at the same time as the other six charges, the disposition of which has already been authorized as aforesaid.

5. With reference to para. 3 of H.Q.C.55-M-1595 (JAG/D-1) dated 14th March, 1945, a new Charge Sheet has been drawn including all six charges and it is suggested that if trial is ordered on the charges submitted herewith, the Charge Sheet might be again redrawn to include them, making eight charges on the one Charge Sheet.

6. The Commander, Petawawa Military Camp, advises that Pte. Orzy is now on embarkation leave but will be in Toronto on the 27th March and tentative arrangements are being made with Pte. Orzy to be available on that date.

(A. E. Potts)
Major-General
D.O.C. M.D. 2.

M.F.E. 239
20000M—6-43 (3555)
H.Q. 1173-26-194

CLEAR

ARMY MESSAGE

(INCOMING)

PLACE FROM — DATE & TIME

C 55 m 1595

9C CIB HD 1221 9SH

SECTY DND OTTAWA

CORRECTED ADDR 1915459

RECEIVED
MAR 19 1945
A.D.M.I.N.
363

R.C.SIGS
537
NATIONAL DEFENCE BLDG.
MAR 19 1945
(OTTAWA)
ARMY SIGNAL OFFICE

363

TA 1825 FOLLOWING RANDIOGRAM RECEIVED FROM DEFENSOR QUOTE RANKS 5144 RELET T 20-M-15576 (AJAG) DATED SEVEN MAR 45 REFERS B166185 PTE VALERE VANDERGUNST TOS A-35 CATC TWO FEB 45 STOP AUTHORITY GRANTED TO TRANSFER THIS SOLDIER TO DD TWO WHEN REQUIRED AS WITNESS AT DCM ON MCLEOD STOP MOVEMENT TO BE COORDINATED BETWEEN DISTRICTS WITH INFORMATION TO NDHQ STOP ACKNOWLEDGE STOP ADDSD CMDG 12 RPTD CMDG TWO UNQUOTE STOP MAY VANDERGUNST BE TRANSFERRED SERIAL 2942 TO ARRIVE NOT LATER XXX THAN 25 MAR 45 ADDSD CMDG 10 RPTD DEFENSOR

CMDG TWO

60793

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO A.S.O. 615 WOODB

BRANCH	TIME	SIGNATURE
J.A.G.	1925	[illegible]

1978430 HJ

N 1945 d

copy on HQ 405 V 3871 Vandergunst pl. 1

COPY 1

544 (FORM 2-50-2100) 2-50-2100 K.P. 4440

CHAIN PRINTERS LIMITED

CLEAR

ARMY MESSAGE

(OUTGOING)

FILE: AG 55-1-1596
AGn 3(b)3

	PLACE	DATE
District Officer Commanding, Military District No. 10, WINNIPEG, Man District Officer Commanding, Military District No. 2, TORONTO, Ont	OTTAWA, Ont	17 Mar 45

RANKS: S144

RELET T-20-3-15576 (AJAG) DATED 7 MAR 45 REFERS B-146185 PTE VALENE VANDERGUEST TOS A-35 OPTC 2 FEB 45 (.) AUTHORITY GRANTED TO TRANSFER THIS SOLDIER TO DD 2 WHERE REQUIRED AS WITNESS AT DCM ON McLEOD (.) MOVEMENT TO BE COORDINATED BETWEEN DISTRICTS WITH INFORMATION TO NHQ (.) ACKNOWLEDGE (.) ADMIN GRIG 12 RPTD GRIG 2

ADJUTANT GENERAL

WEB:JC

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT INCLUDING WIRELESS

SIGNED Major-General Adjutant-General

DEGREE OF PRIORITY

TIME OF ORIGIN 1040

COPY 5 FOR ORIGINATOR'S FILE

H.Q.C.55-M-1595(AJAG)D.)

March 14, 1945.

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

Application for Trial by District Court-Martial
C-100861, Spr. James McLeod,
No. 2 E.S. & W. Company, R.C.E., C.A.

Receipt is acknowledged of your T-20-M-15576(AJAG), dated 7th March, 1945, under cover of which you forwarded two Charge Sheets and Summaries of Evidence with reference to the a/m soldier, pursuant to K.R.(Can.) 540.

2. It is noted that both Charge Sheets are signed by the Officer Commanding No. 2 E.S. & W. Coy., R.C.E., but the accused is described as Spr. Jas. McLeod, No. 2 E.S.& W. Coy., R.C.E., attached No. 2 D.D. If the officer commanding No. 2 E.S.& W. Coy. is the accused's Commanding Officer the words "attached No. 2 D.D." should be omitted from the Charge Sheets. On the other hand if the accused is attached to No. 2 D.D. for purposes of discipline, as the description of the accused appears to indicate, the C.O. of that unit is the proper officer to conduct the proceedings required by R.P. 4 and 5 and to sign the Charge Sheets.

3. Attention is directed to Note 1(c) to R.P. 62. Unless there is some reason not apparent in the summaries it is considered that this is a proper case to include all six charges in one Charge Sheet.

4. The Fourth Charge in the First Charge Sheet, and the Second Charge in the Second Charge Sheet should be marked "alternative".

5. I have perused the summaries of evidence and am of the opinion that there is sufficient evidence to establish a prima facie case on all six charges. It is noted however that some of the material in the summaries is hearsay and the statements attributed to the accused have not been shown to have been made voluntarily. In this connection may the attention of the officers concerned be drawn to Court Martial Circular Letter No. 3, dated 30th June, 1944, Para 5(E).

6. Paragraph 2 of your letter has been noted and passed to the proper authorities for action.

7. The Charge Sheets and Summaries are returned herewith for your further use. Your attention is directed to CARO 5439.

(R.J.Orde), Brigadier,
Judge Advocate-General.

ALI/MR

D of Admin
For necessary action on Para 2 of letter from D.C.M.P. 2, Reminder.
A.L.I. Capt
for J.A.G.
16 Mar 45.

IN REPLY PLEASE QUOTE No. T-20-M-15576(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
7th March, 1945.

CONFIDENTIAL

C.155-M-1595

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Application for Trial by District Court-Martial
C-100661, Spr. James McLEOD,
No. 2 E.S. & W. Company, R.C.E. C.A.

Herewith Charge Sheets and Summaries of Evidence for submission to the Judge Advocate-General, pursuant to the provisions of K.R. (Can) 540.

2. The owner of one of the wallets, B-166185, Pte. VANDERGUNST, Valere, was T.O.S. A-35 C.P. T.C., for parachutist reinforcement training on 2nd Feb. 45. At the Summary of Evidence his written statement was included pursuant to R.P. 4(G). As his presence will be required at the trial, it is requested that authority be granted, please, to bring him to No. 2 District Depot, C.A., at the required time.

3. The provisions of K.R. (Can) 530 and A.G. Circular Letter R 730 have been carefully considered and it is recommended by the District Officer Commanding, M.D. No.2, that the charges in this case be dealt with by the military authorities rather than by the civil authorities.

(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

NAT. DEF. & ARS
ZSOPM 4 44 (4201)
H.Q. 1172-26-787

H.Q.C. 3-1-1396 CONFIDENTIAL

N.F.R. 2519

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

DISTRICT COURT-MARTIAL

MCKITTEN. METRO J-23705

CONFIDENTIAL H.Q.C. 3-1-1396

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute in file and enter here "With Minute")		
				J. A. G.	NEW FILE C.R.		MAR 1 0 1945
MAR 15 1945	26 Mar			ICM	To note pls.	RDP	Mar 27
MAR 26 1945					PER B.F. MAR 26 1945		
	3/4/45	P.A.		ICM	With Papers C.R. APR 2 1945	OK	
AUG 3 1945	Cancelled	Cancelled	Cancelled		With Papers C.R. AUG 6 1945	OK	
AUG 29 1945	28/8/45	P.A.	EG	J.A.G.	With Papers C.R. [illegible]	OK	
				CMBR	With Completion C.R. NOV 26 1945		
DEC 19 1945	18/12/45	PA	GOB	Adm 3	Recommendation	Mas	DEC 1 3 1945
				CMBR	With Papers C.R. JAN 25 1946	OK	
JAN 29 1946	28-1-46	PA		Adm 3	Folio 81 pls	[illegible]	26 Jan 46.
					With Papers C.R. FEB 2 1946	BS	
FEB 4 - 1946				CMBR		EG	2.2.46
FEB 4 1946	5-2-46	PA		Adm 3	To note pls	[illegible]	4 Feb 46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

DEPARTMENT OF NATIONAL DEFENCE
- Army -

W.44-Mc-3080 (J)

Winnipeg, Manitoba,
29th January 1946.

CENTRAL REGISTRY ARMY
CONT. SEC.
FEB 1 1946
FILE CJ J-28705-15-96
Chkd. to
Referred to
JAS.

The Secretary,
Department of National Defence (Army)
OTTAWA, Ontario.

REMISSION OF SENTENCE

Call-up J-28705 Metro McKITTEN,
No.10 District Depot, C.A.

Herewith, for custody, is Form of Remission of Sentence relative to the marginally named, duly completed in accordance with C.A.R.O. 3974. MFM 288 is also enclosed.

(H.O.J. Morton) Brigadier
District Officer Commanding
Military District No. 10.

APPENDIX 'G' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CoM

NDHQ File No. HQC 55-M-1596
District File No. W.44-M2-3080(J)

PART 1

Call-up No. J-28705 Rank Name Metro McKITTEN

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial 25th July 1945
Charge(s) Disobeying a Lawful Command
Sentence Fifteen (15) months imprisonment with hard labour
Date of Sentence 25th July 1945
Confirmation - (a) Authority N/A SCM
(b) Date

PART 111

REMISSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby remit (xxxxxxxxxxxxxxxx) (xxxxxxxxxxxxxxxxxxxxxxxxxx) the balance of the sentence of imprisonment with hard labour effective the 25th day of January 1946.

Signed at Winnipeg Man this 22 day of January 1946

H.P. Rocke

(H.P. Rocke) Lt Col., Officer Administering,
(Appointment) M.D. No. 10.
To be signed by the Competent Authority or Superior Military Authority personally.

PART 1V

PROMULGATION

Remission (xxxxxxxxxxxxxxxxxxxx

PART XII

REMARKS AND RECOMMENDATIONS OF C.O. ON SECOND TRIAL

Date	—	Signature
26 Jul 45	In view of previous conviction recommend only routine review.	

(A.Thomson) Lieut.-Colonel
Commanding Officer,
No.10 District Depot, C.A.

PART XIII

REMARKS AND RECOMMENDATIONS OF CONFIRMING OFFICER ON SECOND TRIAL

Date	—	Signature

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of Call-up No. J-28705 Metro McKITTEN,
Number Rank Name in full

No.10 District Depot, C.A.
Unit Attachment (if any)

Sentenced to be imprisoned with hard labour for fifteen (15) months.

on 25th July, 1945 at Winnipeg, Manitoba,

being served at Headingly Gaol, Headingly, Manitoba,
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment

Medical grade or category

FIRST TRIAL—PART II

To
Superior Military Authority

For details of offence see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on date) for reasons given in paragraph X.

Place

Confirming Authority

Date

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Superior Military Authority

Date

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To
Superior Military Authority

See details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Confirming Authority

Date

M.F.M. 202
(Army Form A-2104)
2000—5-45 (1933)
H.Q. 1771-20-2015

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

.....
Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
SEP 8 1945	B. F. FOR REVIEW TO MAR 12 1946	A. J. A. G., M. D. No. 10.	
22 Jan 46	Sentence remitted effective 25 Jan 46	(H.P. Rocke) Lt Col., Officer Administering, Military District No. 10.	

All recommendations, etc., considered upon review, should be pasted here.

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part VIII—Second Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE Sec. 9(2) Army Act.	DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER: in that he, at Fort Osborne Barracks, Winnipeg, Manitoba, on the 18th day of July, 1945, did not strip to the waist and be X-rayed when ordered to do so by Lieutenant H.V. Larusson, No.10 District Depot, C.A.	18 Jul 45	25 Jul 45.

(A. Thomson) Signature of Officer making entry Lieut.-Colonel Commanding Officer. No.10 District Depot, C.A.

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

IN REPLY PLEASE QUOTE No. W.44-Mc-3080 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Winnipeg, Manitoba, 22nd January 1946.

The Secretary,
Dept of National Defence (Army),
OTTAWA, Ontario.

Copy to: Lt-Colonel Nagle,
NRMA Liaison Officer,
M.D. No. 10.

CENTRAL REGISTRY
CONFIDENTIAL
4043
JAN 25 1946
File
Chg
Sub. CMBR

Call-up J-28705 Metro McKITTEN

Reference HQC 55-M-1596 (CMBR-6) dated 28 Nov 1945.

2. The marginally named call-up was tried by SCM at Winnipeg, Manitoba, on the 25th July 1945, on a charge of "Disobeying a Lawful Command given by His Superior Officer" and was sentenced to be imprisoned with hard labour for fifteen months.

3. The balance of the sentence has been remitted effective the 25th January 1946.

4. This man is being released to civil life and is being returned to his destination pursuant to Section 15(a)(v) and 15(c) of National Resources Mobilization Act, Army Regulations 1943.

H.P. Rocke

(H.P. Rocke) Lt Col.,
Officer Administering,
Military District No. 10.

81

NAT. DEF. B. 442
(2000M-2-44 (4321)
H.Q. 1172-39-767

CLEAR

ARMY MESSAGE

(INCOMING)

PLACE FROM | DATE & TIME

Army

ROYAL CANADIAN SIGNALS
WORKS BRANCH
OTTAWA
DEC 18 1945

30VEL RS 13

WINNIPEG DEC 181105

SECRETARY DND

OTTAWA

3439 F UNCLASSIFIED YOUR RANKS 1449 ACKNOWLEDGED

CMDG TEN

181431R AK

181435R

McKitt

RECEIVED
DEC 18 1945

62642

AK

80

M.F. No. 344 300M-10-44 (5669)
H.Q. 1772-38-4300 K.P. 20290

COPY 1

GRAIN PRINTERS LIMITED-NE

HQC 55-M-1596
Adm 3a3

CONFIDENTIAL

Ottawa, Ontario
18 Dec 5

District Officer Commanding
Military District No 10
WINNIPEG Manitoba

J.28705 CU McKITTEN M

Ref Ranks 1449 dated 17 Dec 45 and your W.44-Mc-3080.

2. Herewith MFW 288 for this soldier.

G.D.B.

(A E Walford)
Major-General
Adjutant-General

Enc
GDB:hrr

19

IN REPLY PLEASE QUOTE No. W.44-Mc-3080(J) Confidential

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

District Headquarters, M.D. 10,
WINNIPEG, Manitoba.

11 DEC 45

15148

DEC 14 194

CMBR 26-11-45

The Secretary,
Department of National Defence,
OTTAWA, Canada.

J-28705 C.U. McKITTEN, Metro

Reference HQC 55-M-1596 (CMBR-6) dated 28 NOV 45, Confidential.

1. Enclosed herewith please find M.F.M. 288 and latest report on conduct concerning the m/n soldier under sentence.

2. It is the intention of this H.Q. to review this sentence on 12 MAR 46.

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

/eed
Encl.2

NAT. DEF. B. 440
2500M-4-44 (4321)
H.Q. 1772-39-767

REPORT ON CONDUCT

To: AJAG,
MD No. 10

File W.44-Mc-3080 (J)

3 Dec 1945

J-28705 McKITTEN, Metro

1. Soldier under sentence

2. PLEASE STATE:-

(i) Date of sentence. — July 25th. 1946.
(ii) Sentence — 15 Months.
(iii) Date you received soldier — July 27th. 1945.
(iv) (a) Can soldier read and write? — Yes.
(b) Religion — Jehovah's Witness.
(c) Married, widower, single. — Single.
(d) What Army trade has soldier?

(v) (a) Conduct of soldier — good
(b) Industry of soldier — good
(c) Remission earned:-

(i) Number of days actually earned. — 21 Days.
(ii) Number of days obtainable to date. — 21 Days.

(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-

(a) Whether imprisonment or detention will seriously aggravate soldier's condition. — In good Health.

(b) Whether further confinement is likely to prove fatal. — No.

(vii) (a) Whether in your opinion conduct of soldier warrants

(i) Remission — No.

(ii) Suspension *

(b) Moral effect confinement has had?

(viii) Date term will expire if all remission earned from now on.

W.H. Correll for
W.H. Correll,
Gaol Physician.

On basis of his conduct here, yes

appears good

August 11th. 1946
Signature
W. Correll
Governor/~~Co-Manager~~
~~M.D.B.~~

Date of Report
December 6th. 1945.

* Do NOT recommend suspension for personnel discharged from Canadian Army

77

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

N.F.H. 1148
2000-6-44 (3215)
E.F. 12549 H.Q. 1773-18-2000

CIPHER

ARMY MESSAGE

(OUTGOING)

HQC 55-M-1596
Adm 3(a)
FILE:

PLACE	DATE
OTTAWA ONTARIO	17 DEC 45

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 10
WINNIPEG MAN

RANKS 1449 RESTD

REVIEW REF AG 0267 D/18 OCT 45 REFERS J 28705 GU McKITTEN M (.) CMBR

RECOMMENDS REMISSION OF SENTENCE WEF 25 JAN 1946 (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFM COPY TO: CMBR

JAG

GDB/MA

G D Bick Capt

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN	THIS MESSAGE IS LIABLE TO BE PUBLISHED. INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
CIPHER Adjutant-General		IMMEDIATE	1603

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

16

AGZ 1.

HQG 55- M-1796 (OMBR- 6) / EH
29 Nov 45.

Case No----------

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No, Rank and Name: J-28705 C.U. McKITTEN, M.

2. Unit at date of offence: Never Documented M.D. 10.

3. Charge: AA Sec 9(2) Disobeying a lawful command:- At Ft. Osborne Bks. 18 Jul 45 did not strip to the waist when ordered to do so.

A person subject to Military Law a s a soldier called up under the provisions Section 28(1) of N.S.S. Mobilization Regulations 1944. A Jehovah Witness.

Plea: NOT GUILTY.

4. Place and Date of Trial: Ft. Osborne Bks. 25 Jul 45.
(~~DCM~~) (~~DCM~~) (SCM)

5. Finding: GUILTY.

6. (a) Sentence: 15 months imprisonment W.H.L.

(b) Date of Sentence: 25 Jul 45.

7. Date of Confirmation: N/A

8. Date of Promulgation: N/A

9. Being served at: Headingly in M.D. 10
1449

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil convictions:	N.S.S.M. Regulations.	14 Dec 44.	1 month Imp.) $50.00 fine.)
(ii) Courts-Martial:	Disobeying	9 Feb 45.	6 months Imp.
(iii) Summary Convictions:	N/A		

(b) After conviction: Good.
D.C.C. expects to release 12 Mar 46.

(c) Date of enrolment/enlistment: never documented. Present Age: ?

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) Made the usual unsworn statement of a Jehovah Witness.

13. Recommendations: (State by whom made, e.g. CMHQ, DOC, Reviewing Officer, etc.)

Reviewing Officer: Recommend release on 25 Jan 46 on completion of 6 months of sentence.

Reviewed by [signature]
(W.A. MOSS) Major.

14. Recommendation of the Board: Release on 25 Jan 46.

Date: DEC 1 3 1945

[signature]
Secretary, Courts-Martial Board of Review.

HQC 55-M-1596 (JAG/D)

28 August 45

District Officer Commanding,
Military District No. 10,
Winnipeg, Manitoba.

Standing
~~Civil Type J Court Martial~~ Court-Martial
~~Prisoner~~ Matter Written.

Receipt is acknowledged of your W. 44-Mc-3080(J) dated 23 August 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

EWH:EJ

EWH
for (R.J.Orde) Brigadier,
Judge Advocate-General.

AR

72

IN REPLY PLEASE QUOTE

No. W.44-Mo-3080 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

338108

Winnipeg, Manitoba. 25 august, 1945

Judge Advocate General
Army
AUG 27 1945
File C.55-Mo-1596
Chgd. to
Referred to JAG

Judge Advocate-General,
Dept. of National Defence (Army),
OTTAWA, Ontario.

STANDING COURT-MARTIAL
Call up - J28705, M. McKITTEN.

Reference H.Q.C.55-Mo-1596 (JAG/D-1)

dated 18th August 1945.

2. The proceedings of the marginally-noted Court-Martial are returned herewith for custody.

(E.A. Fletcher) Major,
Assistant Judge Advocate-General,
M.D. No. 10.

va
enc.

N.D. 23
5000M—10-44 (5769)
M.Q. 1772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Fort Osborne Barracks, Winnipeg, Manitoba,

on the 25th day of July 1945 at 1400 hours,

for the trial of: Call-up No. J-28705, Metro McKITTEN, No. 10 District Depot, C.A., a person such as is mentioned in Section 176 (10) of the Army Act Subject to Military Law as a Soldier.

(Number, Rank, Full Name, Unit, Attachment, if any)

PRESIDENT: Major F.J.Killeen, District Headquarters, M.D.No.10.

(Rank, Full Name, Unit, Attachment, if any)

PROSECUTOR: Captain, F.W.Christie, District Headquarters, M.D.No.10.

(Rank, Full Name, Unit, Attachment, if any)

~~CHIEF WITNESS~~ ~~DEFENDING OFFICER~~ The Accused declined the services of a Defending Officer and elected to conduct his own Defence.

(Rank, Full Name, Unit, Attachment, if any)

FINDING: The Court find the accused Call-up No. J-28705, Metro McKITTEN, No. 10 District Depot, C.A., a person such as is mentioned in Section 176 (10) of the Army Act subject to Military Law as a soldier, guilty of the Charge.

F.J.K

SENTENCE: The Court sentence the accused Call-up No. J-28705, Metro McKITTEN, No. 10 District Depot, C.A., a person such as is mentioned in Section 175 (10) of the Army Act subject to military law as a soldier, to be imprisoned with hard labour for fifteen (15) months.

F.J.K

Signed at Winnipeg, Manitoba, this 25th day of July 1945.

F.J.Killeen

(F.J.Killeen) Major, President, Standing Court-Martial.

Extracts entered as No. 38939 in the Record of Courts-Martial kept in the Office of the Judge Advocate General this 8 day of Aug 1945

90

M.F.B. 1486
25M-6-44 (48269)
H.Q. 1772-39-2[illegible]

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to ..... as interpreter?

Answer: .....

Question to the accused. Do you object to No. H-2846S.M.(W.O.1) Mark H. Pearce, District Headquarters, M.D.No.10, as shorthand writer?

Answer: No.

The shorthand writer and ~~interpreter (if any)~~ are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No, Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit? Call-up

Answer by accused. A. I don't know the number, that is my name. Q. And you are at No. 10 District Depot, C.A.? A. Yes. Q. And you were dealt with by a Magistrate and ordered to be turned over to the Army? A. Yes.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Answer: Not Guilty.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer. .....

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer. .....

(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

A-2

CHARGE SHEET

President, S.C.M. ..... Major

The accused, Call-up No. J-28705 Metro McKITTEN, having been taken to the No.10 District Depot, C.A., pursuant to an Order made under the provisions of Section 28(1) of National Selective Service Mobilization Regulations, 1944, and being deemed under the provisions of National Resources Mobilization Act (Army) Regulations, 1943, to be a person such as is mentioned in Section 176(10) of the Army Act, subject to Military Law as a soldier, is charged with:-

CHARGE
Sec. 9(2)
Army Act.

DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

- in that he -

at Fort Osborne Barracks, Winnipeg, Manitoba, on the 18th day of July, 1945, did not strip to the waist and be X-rayed when ordered to do so by Lieutenant H.V. Larusson, No.10 District Depot, C.A.

Winnipeg, Manitoba,
19th July, 1945.

(F.W. Christie) Captain,
Prosecutor, Courts-Martial,
Military District No. 10.

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C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor makes an opening address.

The Prosecutor proceeds to call witnesses. (See page 'F' attached.)

First Witness for prosecution.

No. H-95696, Private N.J. DELVEAUX, No. 40 Company, Canadian Provost Corps, C.A.,

being duly sworn, is examined by the Prosecutor.

Question

Are you No. H-95696, Private N.J. Delveaux, No. 40 Company Canadian Provost Corps?

A Yes, Sir.

Q Where are you normally stationed?

A Stanley Barracks.

Q That is in Winnipeg, Manitoba, is it?

A Yes, Sir.

Q Do you know Call-up No. J-28705, Metro McKitten?

A Yes, Sir.

Q Is he present?

A Yes, Sir, there (Pointing out the accused.)

Q Do you recall the 15th day of July, 1945?

A Yes, Sir.

Q Did you see the accused that day?

A Yes, Sir.

Q Where did you see him?

A I took him in custody at the Vaughan Jail.

Q Where is the Vaughan Jail?

A I don't remember the street exactly, it is in Winnipeg here.

Q At what time did you see him there?

A Approximately around nine o'clock in the morning.

Q You said that you took him into your custody, What did you do with him?

A We proceeded from the Vaughan Jail and came down to Fort Osborne Barracks, where we proceeded to see the adjutant.

Q The Adjutant of what Unit?

A M.D.10.

Q In what Building was it?

A Roblin Hall, Sir.

Q Is Roblin Hall not the Headquarters of No. 10 District Depot?

A I think it is, Sir.

Q And would not the Adjutant you speak of be the Adjutant of No. 10 District Depot?

A Yes, Sir.

Q What happened after you saw the Adjutant?

A Lieutenant Larusson came over and we proceeded down to the Army Receiption Centre.

Q You say we proceeded, just who do you mean?

A Lieutenant Larusson, the accused and myself proceeded down to the Army Reception Centre.

Q What happened there?

A From there we went down to the X-ray room and Lieutenant Larusson gave the order to strip to the waist and be X-rayed and the accused disobeyed the order.

Q How do you know Lieutenant Larusson gave such an order?

A Because I heard him say so, Sir.

Q Now you said that you took the accused into custody at the Vaughan Jail, when did you release him from your custody?

A I got a live body receipt at 1045 hours from the guard house here at M.D.10.

Q Was that after or before Lieutenant Larusson gave this order?

A It was after. Lieutenant Larusson told me to bring him to the guard house after the order was given.

Q How was Lieutenant Larusson dressed?

A He was carrying the rank of lieutenant.

Q Did he say anything to the accused as to who he was or what he was?

A Yes, he explained to him that he was - he told him his rank first, that he was a Lieutenant in the Canadian Army and that he was carrying out the duty of the Officer Commanding No. 10 District Depot and he then told him to strip to the waist and be X-rayed. He explained very clearly to him about his rank and who he was and the accused said he understood.

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Q And after Mr. Larusson gave the order did the accused say anything?

A He disobeyed the order.

Q Did he say anything?

A I can't exactly recall the words. Anyway, he would not do such a thing. I don't remember what he said, all I know is he disobeyed the order.

The accused declines to cross-examine this Witness.

Questioned by the Court:-

Q You said in your evidence that you took the accused into custody

at Vaughan Jail and then you said we proceeded to M.D.10; who do you mean by 'we'?

A There was two other accused and one other soldier and the driver and this accused.

Q What kind of institution is the Vaughan Jail?

A It is a civilian Jail, Sir.

The Witness Withdraws.

Second Witness for the Prosecution) Lieutenant H.V.Larusson, No. 10 District Depot, C.A., having been first duly sworn, is examined by the Prosecutor:-

Q Are you Lieutenant H.V.Larusson, No. 10 District Depot, C.A.?

A Yes, Sir.

Q How are you employed at the Depot?

A I am at present with the Appraisal Wing, Sir.

Q And No. 10 District Depot is at Fort Osborne Barracks, Winnipeg, Manitoba, is it?

A Yes, Sir.

Q In what Building are the Headquarters located?

A Roblin Hall, the red brick building.

Q Do you recall the 18th day of July, 1945?

A Yes, Sir.

Q How were you employed on that date?

A I was employed as acting assistant Adjutant.

Q Do you know Call-up No. J-28705, Metro McKitten?

A I do, Sir.

Q Is he present?

A There is Metro McKitten, Sir (Pointing out the accused.)

Q Did you see the accused on the 18th day of July, 1945?

A Yes, Sir.

Q Where did you see him?

A I saw Metro McKitten in the hall in front of the Assistant Adjutants office in Roblin Hall in the custody of Private Delveaux.

Q At what time was that?

A Approximately 0945 hours.

Q Had you any instructions in regard to him?

A Yes, Sir.

Q What did you do pursuant to those instructions?

A I called Metro McKitten into my office in company with Private Delveaux and explained to Metro McKitten that under the terms of the N.R.M.Act he was subject to Military Law and that I was,

65

in effect, his Superior Officer

Q Did he appear to understand the explanations that you made to him?

A Yes, he did.

Q Did he say anything about it?

A He made no comment except that he said he understood when I asked him whether he did understand.

Q What happened then?

A I took Metro McKitten with Private Delveaux down to the Reception Centre in Roblin Hall where an M.F.M. 2 was made out and an requisition for an X-ray. We then proceeded to the X-ray Department. I gave the X-ray requisition to a member of the staff there and told that person that Metro McKitten was here to be X-rayed. I then told Metro McKitten that he was to be X-rayed as the first step in his induction into the army and he refused to be X-rayed.

Q Just exactly how did you tell him that he was to beX-rayed?

A After he refused to be X-rayed on the first order, I took him aside into a small room in the X-ray Department and explained to him over again that he came under Army Regulations. That I was his Superior Officer and I indicated my insignia to him, that I was a Lieutenant in the Canadian Army and I told him that I was about to give him a Lawful command and explained further that he was liable to punishment if he did not obey. I asked him again if he understood the explanation and he said he did. I then gave him the order 'Strip to the waist and be X-rayed.' He replied 'No.'.

Q Did he in fact make any move to comply with the order?

A No, Sir.

Q Are you aware of any reason why he should not comply or could not comply with the order?

A No, Sir.

Q What preparations had been made by the X-ray Department?

A I cannot say what preparations had been made, Sir, but the staff appeared to be there and readiness as far as I could tell. When I was giving him this explanation the second time we were not in the room where the actual X-rays are made, so far as I know.

Q How much time did you give him in which to comply with the order?

A Approximately two to three minutes, Sir.

Q Was that sufficient time?

A I would say so, Sir, as Metro McKitten made no move to strip to the waist and comply with my order in any way.

Q Are you satisfied that the accused understood the explanation which you made to him?

A I am, Sir.

Q Are you satisfied that he was aware that you were a Lieutenant in the Canadian Army?

A I believe he understood my explanation, Sir.

Q Are you satisfied that he understood what was required of him when you gave him the order?

A Yes, Sir.

Q What kind of troops are kept at No. 10 District Depot?

A Active Service Troops, Sir.

Q I show you a document, what is that document?

A This is a Magistrates Order, produced from the records of No. 10 District Depot, relating to the accused Metro McKitten.

Magistrates Order is read, marked 'H', signed by the President and attached to the proceedings.

Q Following the disobedience of the Order what disposition was made of the accused.

A I ordered Private Delveaux to take the accused to the Custody Barracks, here at No. 10 District Depot and Private Delveaux did so.

Q In following this procedure on whose instructions were you acting?

A The Adjutant of No. 10 District Depot, C.A., Sir.

The Accused declines to cross-examine this Witness.

That is the case for the Prosecution, Sir.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I have an unsworn statement I would like to read to you.

(See page 'I' attached.)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No.

The Accused declines to make a closing address.

The Prosecutor makes a closing address.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

4/15

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No.

Question to the accused. Do you wish to address the Court?

Answer. I have nothing to say except that any punishment given to me the court will be responsible before Jehovah God.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

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President, S.C.M.

'Y'

PROSECUTOR'S OPENING ADDRESS

Sir, in this case the jurisdiction of the Court to try the accused, who, as the Court has noted, is not a soldier, depends on certain regulations and also on certain instances which occurred prior to the offence set out in the charge sheet. It will be necessary for the Prosecution to prove that the accused has been previously convicted for other offences in order to establish the jurisdiction of the Court. I wish, first of all, to file with the Court, the National Selective Service Mobilization Regulations, 1944, and to refer the Court in particular to Section 26 (1) of those regulations, and the National Resources Mobilization Act (Army) Regulations, 1943 and to refer the Court particularly to Section 26 of those regulations.

Next, Sir, I would like to file with the Court under the provisions of Routine Order 5126 a certified true extract of No. 10 District Depot, Part 11 Order, Order no 54. It is undated but it says on the face of the document that the last order issued was No. 53, dated 3rd March, 1945.

No. 10 District Depot Part 11 Order No. 54, is read, marked 'Q', signed by the President and attached to the proceedings.

G

13

DAILY ORDER PART II

By

LT. COL. C.M. ACKLAND MC VD

President, S.C.M.

COMMANDING
NO. 10 DISTRICT DEPOT (CA)

ORDER NO. 54

Last Order Issued No. 53 d/3 Mar 45.

"D" - ATT'D OTHER RANKS

13. PUNISHMENT

(ii) Tried by D.C.M.

CHARGES: Sec. 9(2) A.A.
FINDING: Guilty of the charge.
SENTENCE: To be imprisoned with hard labour for 6 months.
CONFIRMATION: Finding and Sentence confirmed by Brigadier R.O.C. Morton, D.O.C. M.D. No.10 2 Mar 45.
CLOSE ARREST: Placed in Close Arrest from 1025 hrs. 3 Feb 45 until 2400 hrs. 8 Feb 45. (5 days, 13 hrs. 35 mins.)
FORFEITURES: Forf. 181 days pay under FR&I 149(1)(b). Forf. 6 days pay under FR&I 149(1)(c)(i). Total forf. 187 days pay.

9 Feb 45.

Call-Up J-28705 McKITTEN, Metro

W. Throp Capt. & Adj.

(W.Throp)

No. 10 District Depot (CA).

CERTIFIED TRUE EXTRACT

Captain

(D.H.T.Evans) Officer i/c Records,
No.10 District Depot, CA

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44/2404 H Exhibit "9" [illegible] President, S.C.M.

THE NATIONAL SELECTIVE SERVICE MOBILIZATION REGULATIONS, 1944

WHEREAS Metro McKitten also known as Metro Hykytyn of Chatfield, in the province of Manitoba, was this day convicted before me, Thos. J. Murray, Esq., K. C., a Police Magistrate in and for the Province of Manitoba, for that he, the said Metro McKitten also known as Metro Hykytyn, being a man to whom the National Selective Service Mobilization Regulations, 1944, apply, unlawfully, did, between the 26th day of February, A. D. 1943 and the 1st day of August, A. D. 1944, fail to keep his Registrar advised at all times of the address where mail would reach him, contrary to the provisions set forth in Section 6 subsection 14 of the National Selective Service Mobilization Regulations, 1944,

Fill in full particulars of punishment imposed.

AND WHEREAS I imposed a sentence of One Month's imprisonment at hard labour and $50.00 and Costs ($2.00) and in default of payment of the fine and costs to One Month's imprisonment at hard labour additional, as punishment for the said offence;

AND WHEREAS Crown Counsel thereupon requested that I do make the direction authorized by Section 28 (1) of The National Selective Service Mobilization Regulations, 1944;

Strike out inapplicable parts.

NOW THEREFORE, I DO DIRECT that the said Metro McKitten also known as Metro Hykytyn shall be taken either forthwith or upon the expiration of his term of imprisonment, if any, in police custody to the following military centre No.10 District Depot, Fort Osborne, Winnipeg, Manitoba, which was designated by H. H. Layton, Esq., Counsel appearing for the Crown, and that he shall be held there, or at such place or places as may be directed by the Commanding Officer of such centre, in police or military custody, until he becomes a soldier of the Canadian Army pursuant to the National Resources Mobilization Act (Army) Regulations, 1943, or such other regulations as may be applicable or until he is found by the military authorities not to be fit for military training.

58

DATED at Winnipeg in Manitoba,

this 14th day of December A.D. 194 4.

Police Magistrate

I. J. Fuller
President. S.C.M.

No 10
DISTRICT DEPOT
C.A.

Court Marshall

I have been brought before this court for the second time to answer the charge of disobeying my so called superior officer of the Canadian army. For your information I will state my case scripturally. I cannot possibly recognize any man as my superior officer because Jehovah and Christ Jesus are the only ones who can rightfully claim to be superior to anyone. This is recorded at Ja. 55:4

Behold I have given him for a witness to the people, a leader and a commander to the people.

I have made my vows to Jehovah to obey his commandments at all times whether it be time of war or of peace. God's word instructs me to be entirely neutral in the affairs

Jesus was ordained when he wholly consecrated himself to Jehovah God to do his will in an unconditional agreement. This consecration he symbolized by water baptism at the Jordan river. After his immersion in water the holy spirit descended on Jesus from the almighty God with approval at this act he became an ordained minister. Jesus publicly stated the authority of his ordination by reading Is 1:2. it state hear, o heavens and give ear, o earth for the lord hath spoken, I have nourished and brought up children, and they have rebelled against me

likewise his followers didnt go to any school of higher learning to be ordained. It speaks of them as ignorant and unlearned men as for the the wisdom of this world is concerned but they are not ignorant of the word of God. They were common people from all walk of life such as fishermen farmers tent makers etc. Jesus was the only one they followed who set a so good example.

IV

C.S.D.
Nº 10
DISTRICT DEPOT
C.A.

of this world as Jesus was. Jesus
when on the earth was completely
separate from the politics, ~~and~~ commerce
and religion the bitter which he exposed
as harmful to men; The only thing Jesus
did was to proclaim the Theocratic
Government the hope of humankind;
Therefore knowing that God's kingdom
under christ Jesus the king is not of this
world & follow the same course as Jesus
did when he said at John 18. 36
Jesus said my kingdom is not of the
world If my kingdom were of this world
then would my servants fight, that I
should not be delivered to the Jews: But now
my kingdom is not from hence.
Though I am in this world I am not of it.
nor do I entangle myself in its affairs.
As a posle Paul brought out one could
be a soldier of Christ by enduring
hardships for what he believes and
stands for as christ Jesus did even
to the very death. 2 Tim 2-3:4 state
Thou therefore endure hardness as a good
soldier of Jesus christ. No man that
warreth entangleth himself

even for the true consecrated servants
to day, as I am one of such consecrated
servants. I am commanded by the
Greate Creator to preach the good
tidings of his kingdom under christ
Jesus which kingdom will bring greate
blessing to those who submit to Jehovah's
wills but destruction will be rendered
to those who do not heed the warning

Dan 2: 44 states and in the days of these
kings sall the God of heaven set up a
kingdom which shall neaver be destroyed
and the kingdom sall not be left to other
people but it sall brush in pieces and
consume all these kingdoms and it
sall stand for ever.

In conclusion of my defence what
prosecution is meted out to me the courts
will bear the responsibility before
Jehovah God.

with the affairs of this life That he
may please him who hath chosen
him to be a soldier.
Christ Jesus himself fought or waged
against his enemies when he was on earth
but his weapons were not carnal, His
weapons wod the word of Truth. against
the false teaching of religionists at that
time, I am a warrior for Jehovah God and my
weapon of war is the sword of spirit
which is God's word, the bible. I do not walk in the
flesh but I do not war after the flesh
because my fight is not against men
or governments but against spiritual
wickedness in heavenly places which
control and influence humankind.
Apostle Paul proves this in 2 Corinthians
10:3.4 for though we walk in the flesh,
we do not war after the flesh: for the
weapons of our warfare are not carnal,
but might through God to pulling
down of strong holds:
moreover, I am a minister of the
gospel as Jesus and his apostles were.
and have only one thing in common
and that is to proclaim the
Theocratic Government of Great

Theocrat under his king Christ Jesus. Jesus himself was an ordained Minister of Jehovah God this fact the court will not deny. as were his followers as this proves in John 15:16 Ye have not chosen me, but I have chosen you, and ordained you that ye should go and bring forth fruit, and that your fruit should remain: that whatsoever ye shall ask of the father in my name, he may give it you. The Pharisees, scribes and other worldly wise, questioned Jesus ordination because they knew he didnt attend theological institutions or schools of higher learning to get knowledge concerning Jehovah's purposes. Still he was a minister of the gospel and taught with authority the truth which he was taught by his heavenly Father. Thus Jesus confirmed this with his word at John 7:15 & 16. and the Jews marvelled saying, How knoweth this man letters, having never learned? Jesus answered them, and and said, my doctrine is not mine, but his that sent me,

J. H. L.
President. S. C. M.

4

135

M.F.D. 385
50M.—9-42 (5991)
H.Q. 1772-89-680
A.F.B. 296

[illegible] Major
President, S.C.M.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
Call-up J-687 05		Metro McKITTEN	No. 10 District Depot, C.A.

~~1. The following is a fair and true summary of the entries in the Service and General~~ Conduct sheets Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial ~~or a civil court~~, of summary awards under ~~Air Force Act~~ ~~A.F.A. 73~~ Section 47 of the Air Force Act Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 7 days in military custody, making a total of 7 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is

6. The date of his commission specified in his record of service is attestation attestation paper

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force military decoration, or air force military reward (or is in possession of or entitled to). State any air force military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force

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~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

~~.....dated....., and in his regiment (or corps), the rank of~~

~~.....dated.....~~

~~12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

~~.....Date of promotion.~~

~~In the rank of.....years.~~

~~In the rank of.....years.~~

~~In the rank of.....years.~~

~~NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.~~

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number Call-up J-267 05 Rank..... Name Metro McKITTEN of No. 10 District Depot, C.A. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
District Court-Martial	Winnipeg, Man. 9 Feb 45	Sec. 9(2) A.A.	Imprisonment 6 months.	Remitted 21 days.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Lieut. & A/Adj.
(A.F. Fryers)
No. 10 District Depot, C.A.

Signed this 25th day of July, 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Y, signed by the president, and annexed to the proceedings.

President, S.C.M.

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PRECIS OF EVIDENCE

Call-up No. J-28705 Metro McKITTEN, No.10 District Depot, C.A., a person such as is mentioned in Section 176 (10) of the Army Act, subject to Military Law as a soldier.

CHARGE:

DISOBEYING A LAWFUL COMMAND

TO PROVE THE CHARGE: the following evidence is available

DOCUMENTARY

Police Magistrate's Certificate of Conviction and Direction pursuant to Section 28(1) of the National Selective Service Mobilization Regulations, dated 14th December, 1944.

Certified True Extract of No. 10 District Depot, C.A., Part II Order No. 29, dated 3rd February, 1945, Paras.3(i), 6 (ii).

Certified True Extract of No.10 District Depot, C.A., Part II Order No. 54, dated 5th March, 1945, Para 13 (ii).

Certified True Copy, No.10 District Depot, C.A., Part II Order No. 1[illegible], dated 18th July, 1945, Paras. 12(i), 15.

VERBAL

H-95696 Private DELVEAUX, N.J., #40 Company, Canadian Provost Corps, Winnipeg, Manitoba, who will give evidence of escorting the accused in custody from Vaughan Street Detention Home, Vaughan Street & York Avenue, Winnipeg, Manitoba, to No.10 District Depot, C.A. on 18th July, 1945; and reporting to Lieutenant H.V. Larusson, of No.10 District Depot, C.A. and of escorting the accused in custody until after the accused Disobeyed a command given by Lieutenant H.V. Larusson.

Lieutenant H.V. Larusson, No.10 District Depot, C.A., who will give evidence that on the 18th July 1945, the accused did not strip to the waist and be X-rayed when he ordered him to do so.

NOTICE

TAKE NOTICE: that I propose to present Call-up No. J-28705 Metro McKITTEN, No.10 District Depot, C.A., a person such as is mentioned in Section 176(10) of the Army Act, subject to Military Law as a soldier, the accused, for trial by Standing Court-Martial, at 1400 hours, on ~~Monday~~, the 25th day of July, 1945, at Building 15, Fort Osborne Barracks, Winnipeg, Manitoba.

Winnipeg, Manitoba,
19th July, 1945.

(A. Thomson) Lieut.-Colonel
Commanding Officer,
No.10 District Depot, C.A.

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TRIAL OF: Call-up J-28705 Metro MC KITTEN

No. 10 District Depot (CA)

I, Call-up J-28705 Metro MC KITTEN

No. 10 District Depot (CA), ~~desire~~ do not desire an officer assigned to defend me at my trial by Court-Martial.

Metro McKitten

Winnipeg, Manitoba,
19 July, 1945 194

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MEDICAL OFFICER'S REPORT

I certify that No. Call-up J-28705 Metro McKitten
of No.10 District Depot, C.A.C. appears to be in a good state of health,
and fit to undergo Trial by Court martial.
Refuses to be examined

Station Winnipeg, Manitoba.

Date 25 July, 1945

Medical Officer W.G.C.A.M.C.
No.10 District Depot, C.A.

M. F. B. 246
SPM—5-43 (2244)
H.Q. 1772-99-480

President, S.C.

47

H.Q.C.55-M-1596 (JAG/D-1)
Your File - W. 44-Mc-3080

18 Aug 45.

District Officer Commanding,
Military District No. 10,
Winnipeg, Man.

STANDING COURT-MARTIAL
Call-up J-28705, Metro McKitten
No. 10 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

ALT/ET

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8M-7-45(M-186)

THIS COPY FOR: H.Q. C. 5560-1596
M.D. No. 44-Me-5080

Call-up

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. Call-up J-28705 Name Metro McKITTEN

Rank Call-up Unit No. 10 D.D. C.A.

Charge AA 8 (2) Disobeying a lawful command.....

Date of Crime 18-7-45

Date of Arrest

Orders for D.C.M. Charge Signed 19-7-45

Place and Date of Trial Ft. Osborne Barracks 25-7-45

Sentence Imprisoned WHL. 15 mos.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 38939

Date

MEMO Balance of sentence remitted by Conf. Auth. 6-8-45
25-1-46

M.D. 10

No. 10 D.D. C.A.

10M-1-45 (M-4629)

for Judge Advocate General

45

N.44-Mc-3080 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

334000

Winnipeg, Manitoba.
31st July 1945.

Army
Court
Sec.
C.55-M-1596
AUG 6 1945
File
Chgd. to
Referred to JAG

Judge Advocate-General,
Department of National Defence (Army),
OTTAWA, Ontario.

STANDING COURT-MARTIAL
Call-up J-28705, Metro Mckitten.

Herewith, for review, are the proceedings of the marginally-noted Standing Court-Martial.

G. J. Kellen Major,
President,
Standing Court-Martial.

enc.

38939.

44

I.C.M. - D

REPORT ON CONDUCT

303565

Army
APR 2 1945
File C 55 - M - 1596
Chad. to
Referred to 9 C M

H. Q. C. 55- M-1596,(ICM)
24 MAR 1945.

To:- Secretary,
Department of National Defence,
Ottawa, Ontario.

1.	Soldier under sentence	J28705 M. McKITTEN,
2.	**PLEASE STATE:-**	
(i)	Date of sentence	February 15th, 1945.
(ii)	Sentence	6 months
(iii)	Date you received soldier	March 3rd, 1945
(iv)	(a) Can soldier read and write?	Yes
	(b) Religion	Jehovah's Witness
	(c) Married, widower, single	Single
	(d) What Army trade has soldier?	
(v)	(a) Conduct of soldier	Good
	(b) Industry of soldier	Good
	(c) Remission earned:-	
	(i) Number of days actually earned.	4 days
	(ii) Number of days obtainable to date.	4 days
(vi)	Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	In Good Health W. R. Correll, Gaol Physician.
	(a) Whether imprisonment or detention will seriously aggravate soldier's condition.	No
	(b) Whether further confinement is likely to prove fatal.	No
(vii)	(a) Whether in your opinion conduct of soldier warrants remission of balance of sentence?	Conduct very good but do not consider it to such as to merit a remission of sentence.
	(b) Moral effect confinement has had?	Has not changed his attitude against military service
(viii)	Date term will expire if all remission earned from now on.	July 18th, 1945

Signature _____
Governor

Date of Report. March 28th, 1945

LHC:WS.

I.C.M. - C

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

H. Q. C. 55- M-1596,(ICM)
OTTAWA, 24 MAR 1945

The Warden,

Headingly Jail,

HEADINGLY, Man.

J28205 M. McKITTEN,

1. Herewith "Report on Conduct" form in respect of the marginally-noted soldier who is serving, in your institution, a sentence of 6 months' imprisonment with hard labour awarded by a District Court-Martial on the 9 day of FEB 1945.

2. Please complete said form and forward same BY RETURN MAIL addressed to the Secretary, Department of National Defence, Ottawa, Ontario.

F. Desrosiers.
Deputy Minister (Army).

LHC:WS.

1M-8-44 (M-4175)

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H.Q.C.55-M-1596(JAG/D-V)

March 14, 1945.

District Officer Commanding,
Military District No. 10,
Winnipeg, Manitoba.

District Court-Martial
Call-up J-28705, Metro McKitten
No. 10 District Depot, C.A.

Receipt is acknowledged of your W.44-M3-3030(J), dated the 6th March 1945, under cover of which you forwarded for registration and custody the proceedings of the m/n District Court-Martial.

2. The Court assembled on February 9, 1945, the date named in the Convening Order. After the President, the members and the short-hand writer were sworn, adjournment was made until February 12. The reasons for adjournment were not entered in the proceedings, as required by R.P. 65, Note 2. When the Court re-assembled on the 12th, the accused asked for a further adjournment in order to prepare his defence. This was granted "sine die". The Court re-assembled on February 15th and proceeded with the trial.

3. Under A.A. 53 (5) the Court may adjourn "from time to time". R.P. 65 (B) provides: "If the time to which adjournment is made is not specified, the adjournment will be until further orders from the proper military authority". In view of this provision, it is preferable that an adjournment be to a definite date and time, when this is practicable. In this case it must be assumed that R.P.65(D) was complied with and in any event no injustice was done to the accused.

4. The Finding and Sentence would appear to be legal and supported by the evidence and accordingly the proceedings are retained for custody.

40

RJG/MR

(R.J.Orde), Brigadier,
Judge Advocate-General.

Noted
L.H. CLAYTON
Lieut.-Colonel,
Minister of National Defence
MAR 15 1945

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2M-1-44 (M-3431)

I.C.M. - L 3811

REVIEW OF SENTENCE

DATE MAR 15 1945

H.Q.C. File: 55-17-1596

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES S 26(b) NDA Disobeying a lawful command in that he did not ship to the ship to be x repaired.

8. PREVIOUS CONDUCT ENLISTED / ENROLLED call up AGE

nil.

9. STATEMENT OF ACCUSED Schedule Witness

10. RECOMMENDATION

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THIS COPY FOR

H.Q.C.55-M-1896
M.D.W.44-Mc-3080

NRMA

MEMORANDUM - DISTRICT COURT-MARTIAL

No. J.28705 Name McKITTEN, Metro

Rank Call-up Unit No. 10 D.D. C.A.

Charge A.A. 9 (2) - Disobeying a lawful command ..

Date of Crime 3-2-45 Charge Signed 6-2-45

Date of Arrest

Orders for D.C.M. D.O.C. M.D. 10

Place and Date of Trial Minto Armoury Winnipeg Man 9-2-45

Sentence Imprisonment W.H.L. 6 mos

Date of Confirmation 2-3-45

Date of Promulgation 3-3-45

Entered in Records of J.A.G. as No. 36102

Date 12-3-45

MEMO

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R J Ryan 2/Lt
for Judge Advocate-General

SM-11-44(M-45!!)

W.44-Mc-3080 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba.
6th March, 1945.

C.55-M-1596

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

DISTRICT COURT-MARTIAL
Call-up J-28705, Metro McKITTEN

Herewith, for registration and custody, are the proceedings of the marginally-noted District Court-Martial. M.F.M. 288, duly completed in accordance with CARO.4567, para. 7 B & C, is also enclosed herewith.

36102

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

vea
encs.

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REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of Call-up No. J-28705 (Number) Metro McKITTEN, (Rank) (Name in full)

No.10 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to six months imprisonment with hard labour

on 9th February, 1945 at Winnipeg, Manitoba,

being served at Headingly Gaol, Manitoba, (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment

Medical grade or category

1st ~~XXXX~~ TRIAL—PART II

To Adjutant-General, Department of National Defence, Ottawa (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~XXX~~ RTK committed to undergo his sentence, which I recommend should (not) be (~~XXXXXXXXXXXXXXXXXXXX~~ RTK) (reviewed ~~XXXXXXXXXXXXXXXXXX~~ RTK) (date) for reasons given in paragraph X.

Place Winnipeg, Manitoba.

Date 6th March, 1945.

H. Rocke Hal. Adj.
(Confirming Authority)
(R.O.G. Morton) Brigadier, District Officer Commanding, M.D. No. 10.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Date

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To (Superior Military Authority)

For details of offences, see pars. VIII. For C.O.'s remarks, see pars. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date

(Confirming Authority)

M.F.M. 288
(Army Form A-2104)
15M—4-43 (341)
H.Q. 1772-39-2015

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Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be posted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
APR 3 1945	No Suspension or Remission No further Review	Adjutant-General for Superior Military Authority	

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE Sec.(9)(2) Army Act.	DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER, in that he, at Fort Osborne Barracks, Winnipeg, Manitoba, on the 3rd day of February, 1945, did not strip to the waist and be X-rayed when ordered to do so by Captain K.G. MacQuarrie, No.10 District Depot, C.A.	3 Feb.45	9 Feb. 45
35	Signature of Officer making entry (C.M.Ackland) Commanding Officer, No.10 District Depot, C.A.	Lieut.Colonel	

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
3 Mar 45	As this man has not been enrolled there has been no opportunity to assess him as a soldier. Recommend only Routine Review.	Lieut.Col (C.M.Ackland) Commanding Officer, No.10 District Depot,C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
6 March 45	Recommend full sentence of imprisonment be served.	(R.O.G. Morton) Brigadier,District Officer Commanding,M.D. No. 10.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

34

[illegible] printed matter not applicable to the particular Court being held should be struck [illegible] and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a District Court-Martial held at Minto Armoury, Winnipeg, Manitoba on the 9th day of February 1945 by order of Brigadier R.O.C.Morton, District Officer Commanding Military District No.10. dated the 8th day of February 1945

President.
Major F.J.Killeen, District Headquarters, Military District No.10.

Members.
Major W.J.Gooderham, No. 10 District Depot, C.A.

Captain E.L.C.Smith, No. 10 District Depot, C.A.

Trial of Call-up No. J-28705, Metro McKITTEN, No. 10 District Depot, C.A., a person such as is mentioned in section 176(10) of the Army Act, subject to Military Law as a Soldier.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23. *

The accused is brought before the Court.

Prosecutor,† Captain F.W.Christie, District Headquarters, MD10

The accused declined the services of a Defending Officer and elected to conduct his own defence.

At 1400 hours the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Q 1 Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. A 1 No, Sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Unit, Attachment (if any), and Appointment (if any).

† Here state Rank and Name, Unit (if any), and Attachment (if any).

‡ Qualification to be stated.

(Strike out and initial when not applicable.)

*I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge before the Court-Martial.

F.J.Killeen Major, President DCM

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Mil. Form B. 271
50M-3-43 (9036)
H.Q. 1772-39-224

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction, having been duly detailed, are duly sworn.

Q 2 Do you object to No. H-2846 S.M.(W.O.1)Mark H. Pearce, District Headquarters, M.D.No.10 as shorthand writer?

A 2 No, Sir.

No. H-2846 S.M.(W.O.1) Mark H. Pearce, District Headquarters, M.D. No. 10, is duly sworn as shorthand writer.

(See page 'G' for Minute of Adjournment and reassembly.)

Charge-Sheet

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon the charge in the above-mentioned charge-sheet.

call-up

Q 3 Is that your number, name and unit? *Question to the accused.*

A 3 Yes, Sir.

Q 4 And you are at No. 10 District Depot? *Answer.*

A 4 Yes, Sir.

Q 5 And you were dealt with by a Magistrate under section 28(1) of the NSSM Regulations? *Question to the accused.*

A 5 Yes. *Answer.*

Q 6 And you were taken to the Depot as a result of that Order.

A 6 Yes.

Q 7 Are you guilty or not guilty of the charge against you, which you have heard read? *Question.*

A 7 Not Guilty. *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

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B - 2

CHARGE SHEET

F. J. Gillen Major
President, D. C. M.

The accused, Call-up No. J-28705 Metro McKITTEN, having been taken to the No.10 District Depot, C.A., pursuant to an Order made under the provisions of Section 28(1) of National Selective Service Mobilization Regulations, 1944, and being deemed under the provisions of National Resources Mobilization Act (Army) Regulations, 1943, to be a person such as is mentioned in Section 176(10) of the Army Act, subject to Military Law as a soldier is charged with:

CHARGE
Sec.9(2)
Army Act

DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

- in that he -

at Fort Osborne Barracks, Winnipeg, Manitoba, on the 3rd day of February, 1945, did not strip to the waist and be X-rayed when ordered to do so by Captain K.G. MacQuarrie, No.10 District Depot, C.A.

Winnipeg, Manitoba,
8th February, 1945.

C. M. Ashland Lieut.-Colonel
(C.M.Ashland)
Commanding Officer,
No.10 District Depot, C.A.

TO BE TRIED BY DISTRICT COURT-MARTIAL

H. A. Rocke Lieut.-Colonel
A. A. & Q. M. G., M.D. No. 10
(R.O.G.Morton) Brigadier
District Officer Commanding
Military District No.10.

Winnipeg, Manitoba.

8th February, 1945.

31

(This page to be removed from proceedings if plea to all charges is Guilty.)

C

*Instruction. (See R.P. 39 (A))

Proceedings on Plea of Not Guilty

Question.

Q 8 *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. A 8 Yes, Sir. (See page 'H' attached.)

(Strike out and initial words not applicable.)

The prosecutor makes an opening address [~~hands in a written address~~, which is read, marked 'I', signed by the President, and attached to the proceedings], [~~declines to make an opening address~~]

~~The prosecutor proceeds to call witnesses~~

~~First witness for prosecution~~

By the Court: On the 12th of February the Court adjourned, sine die, at your request to allow you the opportunity of securing Defence Counsel, have you done so?

By the Accused: I have had legal advice and I am ready to proceed.

~~being duly sworn, is examined by the prosecutor~~

By the Court:
You have not secured Counsel?

By the Accused: No, Sir, but I am ready to proceed.

First Witness for the Prosecution } No. 11329, Corporal M.P.McDonald, Royal Canadian Mounted Police, Winnipeg Detachment, having been first duly sworn, is examined by the Prosecutor:-

Q 9 Are you No. 11329, Corporal M.P.McDonald of the Royal Canadian Mounted Police?

A 9 I am.

Q 10 Where stationed?

A 10 Winnipeg, Manitoba.

Q 11 Do you know Call-up No. H-28705, Metro McKitten?

A 11 I do, that is the accused (Pointing out the accused.)

Q 12 And do you recall the 3rd day of February, 1945?

A 12 I do.

Q 13 Did you see the accused that day?

A 13 I did.

Q 14 Where did you see him?

A 14 At Headingly Gaol in the Province of Manitoba.

Q 15 At what time was that?

30

15 At approximately 0830 hours.

Q 16 Did you have anything to do with the accused at that time and place?

A 16 I received the accused from Mr. Keene, Chief Turnkey of the Provincial Gaol at Headingly together with a certificate of conviction.

Q 17 What is this document?

A 17 This is a certificate of Conviction bearing the signature of Magistrate Murray.

Q 18 How do you know that is Magistrate Murray's Signature?

A 18 I know his signature.

Q 19 And to whom does this document refer?

A 19 To the accused Metro McKitten.

Certificate of Conviction/is read, marked 'J', signed by the President and attached to the proceedings. together with certified true copy,

Q 20 Corporal, you said you saw the accused at Headingly Gaol and you received this Order there?

A 20 Yes.

Q 21 What did you do after that?

A 21 After taking the accused into my custody I escorted him to M.D. No. 10 Fort Osborne Barracks and then took him to building No. 4 to the office of Captain MacQuarrie and to him I handed the certificate of conviction. He informed the accused that he was being held in Military Custody until he was medically examined and found fit or otherwise. Afterwards, the prisoner was taken downstairs to the Reception Centre where Captain MacQuarrie obtained some papers and afterwards we went to the X-ray room where Captain MacQuarrie informed the accused that now he was subject to Military Law he was supposed to obey the commands of his Superior Officer, in this particular case he was his Superior Officer, and he told him he was a Captain in the Canadian Army and pointed to the pips on his shoulder showing him his rank. He told him he was going to give him a command and then asked him if he understood what he had said and he said he didn't. So he repeated to him what he had said to him and again asked him if he understood and he said he wanted to see the Brigadier. He then told the accused that he was going to give him a command and he ordered him to enter a certain booth, strip to the waist and be X-rayed and the accused said 'I want to see the Brigadier.' We waited for a little while and he didn't answer or obey the command. He then called Sergeant Burton and handed him over to him.

Q 22 You say that you took the accused into your custody at Headingly Gaol?

A 22 Yes.

Q 23 When did you release him from your custody?

A 23 When he was handed over to Sergeant Burton in the X-ray room after he refused to obey the command.

29

Q 24 Was he in your custody all of the intervening time?

A 24 He was.

Q 25 Do you know of any reason why the accused could not or should not obey the order which he received?

A 25 No.

Q 26 Are you satisfied yourself that the accused heard and understood the explanation which was given to him about being subject to Military Law?

A 26 I am.

Q 27 Are you satisfied yourself that the accused heard and understood what was required of him when he was given the command?

A 27 I am.

Q 28 Did the accused, in fact, make any move to obey the command?

A 28 No.

The accused declines to cross-examine this Witness.
In the opinion of the Court it is not necessary to comply with R.P. 83 (B)
The Witness Withdraws.

Second Witness for the Prosecution) Captain Kenneth George MacQuarrie, No. 10 District Depot, C.A., having been first duly sworn, is examined by the Prosecutor:-

Q 29 Are you Captain Kenneth George MacQuarrie, No. 10 District Depot, C.A.?

A 29 I am.

Q 30 How are you employed at the Depot?

A 30 Acting assistant Adjutant.

Q 31 No. 10 District Depot is at Fort Osborne Barracks, Winnipeg, manitoba, is it?

A 31 Yes, Sir.

Q 32 Do you know Call-up No. J-28705, Metro McKitten?

A 32 Yes, the man sitting in the centre there (Pointing out the accused.

Q 33 Do you recall the 3rd day of February, 1945?

A 33 Yes, Sir.

Q 34 Did you see the accused that day?

A 34 I did, Sir.

Q 35 Where?

A 35 In my office, room No. 8, at about 0930 hours.

Q 36 Was he alone?

A 36 He was in the custody of Corporal McDonald of the R.C.M.P.

Q 37 Do you know what he was doing there?

A 37 He had been brought there to the Depot by the Corporal.

Q 38 Do you know if there was any authority for that move?

A 38 Yes, Sir, a certificate of Conviction.

Q 39 How do you know that?

A 39 It was presented to me at the time.

Q 40 By whom?

A 40 Corporal McDonald.

Q 41 I show you Exhibit 'J', what is that document?

A 41 That is the certificate referred to and it refers to the accused Metro McKitten.

Q 42 Did you have any instructions with regard to the accused?

A 42 Yes, Sir.

Q 43 From whom did you receive those instructions?

A 43 From the Adjutant.

Q 44 In whose name were those instructions given?

A 44 The C.O's.

Q 45 What did you do pursuant to those instructions?

A 45 I warned the accused that he was being held in custody until such time as he became a member of the Canadian Army or was found to be physically unfit.

Q 46 Then did you do anything further?

A 46 Yes, we proceeded then down to the Reception Centre.

Q 47 You say we?

A 47 Corporal McDonald, the accused and myself.

Q 48 What happened at the Reception Centre?

A 48 M.F.M. 2 and an X-ray requisition was made out for the accused and Corporal McDonald, the accused and myself proceeded to the X-ray Department where the requisition was handed to the personnel of the X-ray Department and an X-ray asked for.

Q 49 Was anything said to the accused at that stage?

A 49 Yes, he was warned that he was subject to Military Law, being a follower of His Majesty's Troops and in consequence of such he was bound to obey the commands given by his Superior Officer. I, in this case, a captain in the Canadian Army, was his superior officer.

Q 50 Anything said about disobedience?

A 50 Disobedience of such a command would make him liable to punishment which would be meted out by a Court-Martial

or other proper authority upon his being convicted.

Q 51 Did the accused have anything to say as to that explanation?

A 51 I asked him if he clearly understood and heard what I had said up to that point. He said he didn't understand and so I repeated the warning and his second reply was 'I want to see the Brigadier.' I then gave him the command.

Q 52 Before you gave him the command, what is your opinion as to whether or not he understood?

A 52 My opinion is he understood as he asked to see the Brigadier the second time, Sir.

Q 53 What was the command you gave the accused?

A 53 I called him by his call up number and his name, Metro McKitten ' I order you to enter that booth, strip to the waist and be X-rayed', his reply was 'I want to see the Brigadier.'

Q 54 Did he make any attempt to comply with the Order?

A 54 None whatever, Sir.

Q 55 Are you satisfied that he heard the Order?

A 55 He did, yes, Sir.

Q 56 Are you satisfied that he understood what was required of him?

A 56 I believe so.

Q 57 What preparations had been made for the X-ray?

A 57 The X-ray Staff and Equipment were ready and waiting.

Q 58 Are you aware of any reason why the accused could not or should not comply with the Order?

A 58 There was no physical restraint whatsoever or nothing to have kept him from doing so.

Q 59 When the accused failed to comply what happened?

A 59 I placed him in the custody of Sergeant Burton and told him to take him into custody and march him to the custody Barracks.

Q 60 What time elapsed from the giving of the Order and placing him in the custody of Sergeant Burton?

A 60 Approximately two minutes.

Q 61 Was that sufficient time for the accused to comply with the Order if he intended to do so?

A 61 In my opinion, yes.

Q 62 What kind of troops are at No. 10 District Depot?

A 62 Soldiers placed on Active Service only.

Q 63 Is this the only occasion on which you have made this explanation to a man as to his liability under Military

Law?

A 63 No, Sir.

Q 64 How often have you done it, can you give the Court any idea?

A 64 Eight times that morning, Sir, and previously I don't recall the exact number of times.

Q 65 From your experience in giving the explanation are you able to determine fairly accurately, whether the man understands or not; in other words, is the explanation that is given one that the ordinary man can readily understand?

A 65 I would say yes.

Q 66 Where was Corporal McDonald while all this was going on?

A 66 He was present about two feet to the right of the accused.

The Accused declines to cross-examine this Witness.

In the opinion of the Court it is not necessary to comply with R.P. 83 (B).

The Witness Withdraws.

The Prosecution have no further Witnesses.

(This page to be removed from proceedings if plea to all charges is Guilty.)

D

The prosecution is closed.

Defence

Question to the accused. Q 67 Do you apply to give evidence yourself as a witness?

Answer. A 67 No, Sir.

Question. Q 68 Do you intend to call any other witness in your defence?

Answer. A 68 No, Sir.

~~Question~~ ~~Is he a witness as to character only?~~ ~~*Answer.*~~

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

~~(*Where no evidence is given for the defence.*)~~

~~The evidence of the accused (and of the witnesses for the defence in rebuttal witnesses as to character) is recorded on a separate page (see attached).~~

(*The following question must be asked where the accused states that he does not intend to give evidence himself as a witness*).

Question to the accused. Q 69 Have you anything to say in your defence?

Answer. A 69 The accused in his defence ~~says~~

[Hands in a written address which is read, marked 'K' signed by the President and attached to the proceedings.]

The Accused declines to make a closing address.

By the Court: If there is anything in favor of the accused, you might make reference to it in your closing address, Captain Christie.

By the Prosecutor: Yes, Sir.

The Prosecutor makes a closing address

(See page 'L' attached.)

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† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused, Call-up No. J-28705, Metro McKITTEN, No. 10 District Depot, C.A., a person such as is mentioned in section 176 (20) of the Army Act, subject to Military Law as a soldier, is guilty of the charge.

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, etc.

Question by the President. Q 70 Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Prosecutor A 70 Yes, I produce M.F.M. 355 under R.O. 5126, Sir, There is no. M.F.M. 6.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked Y , signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question. Have you compared the contents of the above statement with the regimental books? *Answer.*

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the Defending Officer (accused) (Counsel for the accused).

Question to the accused. Q 71 Do you wish to address the Court? A 71 No, Sir.

Answer.

The Court is closed for the consideration of the sentence.

The sentence to be awarded by the court, being subject to confirmation will not be announced but will be promulgated later, and the proceedings in open court are accordingly terminated.

20

F

Sentence

The Court sentence the accused, Call-up No. J-28705, Metro McKITTEN, No. 10 District Depot, C.A., a person such as is mentioned in section 176 (10) of the Army Act, subject to Military Law as a soldier, to be imprisoned with hard labor for six (6) months.

Sentence.
To be imprisoned with hard labor for six months.

Signed at Winnipeg, Manitoba, this 15th day of February, 1945.

F. J. Killeen Major
(F.J.Killeen) Major, President
District Court-Martial

CONFIRMATION

Confirmed

Signed at Winnipeg, Manitoba, this 2 day of ~~February~~ MARCH, 1945.

R O.G. Morton
(R.O.G. Morton) Brigadier
District Officer Commanding
Military District No. 10.

PROMULGATION

Promulgated and Extracts taken at Winnipeg, Manitoba, this 3 day of ~~February~~ March, 1945.

Officer I/C Documents,
No. 10 District Depot, C.A.
WINNIPEG, Manitoba.
Military District No. 10.

Extracts entered as No 36/02 in the Record of Court-Martial kept in the office of the Judge Advocate-General this 12 day of March 1945

22

F. J. Killeen Major
President, D. C. M.

21

' X '

Orders by Brigadier, R.O.G. Morton, Commanding

the Military District No. 10.

District Court-Martial

8th February 1945

The detail of Officers as mentioned below will assemble

at Minto Armoury, Winnipeg, Manitoba on Friday,

the 9th day of February 1945 at 1400 hours

for the purpose of trying by a District Court-Martial the accused person (persons) named in the margin (and such other person or persons as may be brought before them).

Call-up No. J-35660, Myron DZIOBA, No. 10 District Depot, C.A., a person such as is mentioned in Section 12 (10) of the Army Act, subject to Military Law as a soldier

PRESIDENT

Major F.J.Killeen, District Headquarters, Military District No. 10, is appointed President.

MEMBERS

Major W.J.Cooderham, No. 10 District Depot, C.A.

Captain T.L.C.Smith, No. 10 District Depot, C.A.

WAITING MEMBERS

Captain W.Smith, 10th (R) District Signals, Royal Canadian Corps of Signals, C.A.

~~JUDGE ADVOCATE~~ HPR

~~has been duly appointed~~ HPR

~~Judge Advocate~~ HPR

PROSECUTOR

Captain F.W.Christie, District Headquarters, M.D.10. has been ~~detailed~~ HPR appointed Prosecutor.

~~DEFENDING OFFICER~~

The accused declined the services of a Defending Officer and elects to conduct his own Defence. ~~has been duly appointed Defending Officer~~

The accused will be warned and all witnesses duly required to attend.

The Officer Commanding No. 10 District Depot, C.A., will arrange for the necessary accommodation, stationery, court orderly, escort, shorthand writers, and interpreters, and the Officers Commanding No. 10 District Depot, C.A., and the No. 110 Company C.W.A.C., C.A., will detail, as may be convenient, two officers each to attend for instruction.

The proceedings will be forwarded to A.A. & Q.M.G., M.D. No. 10.

Signed this 8th day of February 1945

H. H. Kocke
Lieut.-Colonel
A.A.&Q.M.G., M.D. No. 10

M.F.B. 220
A.F.A. 47
25M—7-43 (1152)
H.Q. 1773-39-564

21

R. J. Gillem Major
President, D. C. M.

23

MINUTE OF ADJOURNMENT AND
REASSEMBLY

At 1400 hours on the 9th day of February, 1945, the Court adjourned until 1040 hours on the 12th day of February, 1945.

On the 12th day of February, 1945, at 1040 hours, the Court reassembled pursuant to adjournment, Present the same members as when adjourned.

R.J.G.

20

'H'

By the Accused: I am not well prepared yet so I would like to have an Adjournment.

By the Court: Any objections Captain Christie?

By the Prosecutor: No, Sir, the same applies in this case as in the others, the accused wishes to consult Counsel.

At 1050 hours on the 12th day of February, 1945, the Court adjourned Sine Die.

At 1400 hours on the 15th day of February, 1945, the Court reassembled pursuant to adjournment, present the same members as when adjourned.

F.J.M.

T. J. Gillem Major
President, D. C. M.

' I '

PROSECUTOR'S OPENING ADDRESS

The Court has noted from the charge that the accused is not a soldier. It is therefore necessary for the Prosecution to prove not only the offence set out in the Charge Sheet but also the jurisdiction of the Court to try the accused.

Dealing first with the matter of jursidiction I will file with the Court now:

1. The National Selective Service Mobilization Regulations.
2. The National Selective Service Mobilization Regulations, 1944.
3. National Resources Mobilization Act (Army) Regulations, 1943,

as printed by the King's Printer. The relevant Sections are Section 28 (1) as amended of the first cited regulations and Section 26 of the last cited regulations, and in order to show compliance with the regulations making the accused subject to Military Law as a soldier certain evidence of previous convictions by both the civil and Military authorities must be introduced.

The Prosecution will prove that the accused was convicted under the first cited regulations by a Police Magistrate and that the order provided therein was made.

The Prosecution will further prove that the accused was taken pursuant to the order, to the appropriate Military Training Centre and became subject to Military Law pursuant to the last cited regulations.

Lastly the Prosecution will prove that neither of the conditions precedent to the release of the accused from the provisions of the Magistrate's Order have been complied with and that the accused at the time of the commission of the offence was, and still is, subject to Military Law as a soldier.

Dealing with the offence itself the Prosecution will prove that the accused was given a direct and definite order, that he understood what was required, and that he made no attempt to comply even though fully capable of doing so.

I believe I mentioned that I was filing with the Court the National Selective Service Mobilization Regulations; that is not necessary in this case, only the 1944 regulations are required.

4/4

18

' J '

F. J. Killeen Major
President, D. C. M.

44/1404

THE NATIONAL SELECTIVE SERVICE MOBILIZATION REGULATIONS

1944

WHEREAS Metro McKitten also known as Metro Mykytun of Chatfield, in the province of Manitoba, was this day convicted before me Thos. J. Murray, Esq., K.C., a police Magistrate in and for the Province of Manitoba, for that he, the said Metro McKitten also known as Metro Mykytyn, being a man to whom the National Selective Service Mobilization Regulations, 1944, apply, unlawfully, did, between the 26th day of February, A.D. 1943 and the 1st day of August, A.D. 1944, fail to keep his Registrar advised at all times of the address where mail would reach him, contrary to the provisions set forth in Section 6 subsection 14 of the National Selective Service Mobilization Regulations, 1944.

AND WHEREAS I imposed a sentence of One Month's imprisonment at hard labour and $50.00 and Costs ($2.00) and in default of payment of the fine and costs to One Month's imprisonment at hard labour additional,

as punishment for the said offence;

AND WHEREAS Crown Counsel thereupon requested that I do make the direction authorized by Section 28 (1) of The National Selective Service Mobilization Regulations, 1944:

NOW THEREFORE, I/DO DIRECT that the said Metro McKitten also known as Metro Mykytyn shall be taken either forthwith or upon the expiration of his term of imprisonment, if any, in police custody to the following military centre No. 10 District Depot, Fort Osborne, Winnipeg, Manitoba, which was designated by N.H.Layton, Esq., Counsel appearing for the Crown, and that he shall be held there, or at such place or places as may be directed by the Commanding Officer of such centre, in police or military custody, until he becomes a soldier of the Canadian Army pursuant to the National Resources Mobilization Act (Army) Regulations, 1943, or such other regulations as may be applicable or until he is found by the military authorities not to be fit for military training.

DATED at Winnipeg in Manitoba this 14th day of December, A.D. 1944

(Sgd) Thos J. Murray

Police Magistrate.

I certify that I have compared this document with the duplicate original and find it to be a true copy thereof.

F. J. Killeen
(F. J. Killeen) Major, President
District Court-Martial

17

V. J. Killian Major
President, D. of M.

I desire to inform this court, that it has become a world-wide established fact that Jehovah's witnesses never will take part in the affairs of this world. This fact is true regardless of whether the nations be aggressive or neutral.

I am one of Jehovah's witnesses, I have made a very strict covenant with the Almighty God, to obey every ordinance set out by Him. For me to now take up carnal weapons and shed the blood of my fellow man, would be a direct breaking of the covenant. Jehovah teaches us to

2/

Inwood the little that when
one makes a covenant with
he must not be slow to carry
it out. Also that if we break
part of the law we break all.
Romans 1:32 sets clearly
that all covenant breakers are
worthy of death.
The world over, people
are persecuted and hated
because they stand firmly for
the supreme laws of Jehovah
God. This only gives them
more confidence because
our King Christ Jesus forewarned us of this saying at
Math 10 "Here I am sending
you out like sheep among
wolves... But be on your
guard against men; for they 15

2

will give you up to their courts and have you flogged in their synagogues, and you will be brought before governors and kings to bear your testimony before them - - you will be hated by everybody on my account, but the man who holds out to the very end shall be saved." (Goodspeed)

I obey every law of the land, unless they conflict with God's laws. When they do conflict with his laws I must obey God rather than men."

Now gentlemen for me I am in your hands, do with me as you will, but if you persecute me, you bring

innocent blood upon your heads. For this action you will have to answer to the supreme judge.

Mrs McKitten

G. J. Gillies Major
President, D. C. M.

PROSECUTOR'S CLOSING ADDRESS

Sir, the jurisdiction to try this man is based on the Regulations which I have filed with the Court and in particular to the two sections I have quoted.

From Exhibit 'J' it appears that the accused was convicted for an offence under the National Selective Service Mobilization Regulations and thereupon the Court made the Order provided for in Section 28 (1). Following the Civil Conviction the accused apparently served his sentence and then was taken in custody to No. 10 District Depot under the provisions of the Order for the purpose set out in the Order, that is, to be enrolled as a soldier or, after having been medically examined and found unfit, rejected. On being taken to the Depot in this way the accused became subject to Military Law by virtue of Section 26 of the National Resources Mobilization Act (Army) Regulations and the Army Act applied to him. The accused was then taken to the X-ray Department at No. 10 District Depot for the purpose of going through an X-ray which is, as the Court is aware, one of the first steps in the enrolment procedure in the medical examination. The accused was given a command which was a necessary part of carrying out that procedure. He failed to comply with the command and, in fact, by such failure, he disobeyed. The command was a lawful command. It was given by Captain MacQuarrie who was the superior officer, under Military Law of the accused.. I submit that there is a complete case on the charge.

On the other hand the accused puts forward, indirectly, a defence. Captain MacQuarrie made to the accused an explanation that he was subject to Military Law and the accused, when asked whether he understood, said that he didn't understand and he answered that he wanted to see the Brigadier. The Court is aware that the obligations under Military Law are frequently quite different than the obligations of a man under Civil Law and it is quite possible that this accused did not appreciate that hewas bound to comply promptly and without question that order which he subsequently received. The accused also says that the order that was given to him was an order of a nature which he couldn't comply with. He says, in effect, it would be contrary to his conscience; that he sincerely believes that to become enrolled as a soldier or even to take the first step in that procedure, to undergo a medical examination would be a breach of his covenant with Jehovah God and by reason of that he was unable to comply with the order that he received at that time. It is for this Court to decide whether those two objections, first, that he didn't understand - which is only an inference on the basis of the second witness - and second that he couldn't comply because of his conscientious objections.

G.J.G.

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'Y' G. J. Gillen Major
President, D. C. M.

M.F.R. 855
10M—4-42 (5992)
H.Q. 1772-39-620
A.F.R. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
Call-up No. J-28705	Mstro	McKITTEN	No.10 District Depot, C.A.

~~1. The following is a fair and true summary of the entries in the Service and General~~ Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Section 47 of the ~~Army Act~~ Air Force Act ~~and dispensations~~ with trial under A.A. 73 A.F.A. 73 are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 12 days in military Air Force custody, making a total of 12 days in custody, of which Nil days were spent in hospital.

~~5. The present age of the accused according to his record of service is~~ attestation paper is

6. The date of his commission specified in his record of service is attestation attestation paper

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

or,

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or military military is in possession of or entitled to). State any air force decoration or reward. military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated ..... .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army / Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Regiment / Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 15th day of February, 1945 W.Throp Capt. & Adjt.
(W.Throp) No.10 District Depot
C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

A J Killen Major
President, D. C. M.

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SUMMARY OF EVIDENCE

- in the case of -

Call-up No. J-28705 Metro McKITTEN, No. 10 District Depot, C.A., a person such as is mentioned in Section 170(10) of the Army Act, subject to Military Law as a soldier.

CHARGE: DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS: No. 11329 Corporal McDONALD, M.P., of the Winnipeg Detachment, Royal Canadian Mounted Police, Winnipeg, Manitoba, having been duly sworn, states:-

"I am No. 11329 Corporal McDonald, M.P., of the Royal Canadian Mounted Police and I know the accused, Metro Mykytyn, otherwise known as Metro McKitten.

At about 0830 hours on the 3rd day of February, 1945, I, took custody of the accused at Headingly Gaol, in Headingly, Manitoba, in accordance with a Certificate of Conviction which I obtained from Mr. Keen, the Chief Turnkey.

Q.1 Here is a document. What is it and to whom does it refer?

A It is the Certificate of Conviction which I obtained from Mr. Keen, dated 14th day of December, 1944, signed by T.J. Murray, Police Magistrate, whose signature I recognize and refers to the accused. (Document produced and marked Exhibit "A")

I then escorted the accused in custody directly to No. 10 District Depot, C.A., at Fort Osborne Barracks, Winnipeg, Manitoba, where we reported to Captain MacQuarrie, the Acting Assistant Adjutant, No. 10 District Depot, C.A., at about 0930 hours, on the 3rd day of February, 1945. I handed the Certificate of Conviction referred to before to Captain MacQuarrie on arrival at his office.

The accused and I waited in Captain MacQuarrie's office where we were joined by Sergeant Burton and other military escorts.

While the accused and I were in this office, Captain MacQuarrie explained to the accused that he was being held in Military custody until he became a soldier or till he was found by Military Authorities not to be fit.

The accused, Captain MacQuarrie, and I then went to the Reception Centre in the basement of the same building where Captain MacQuarrie obtained some papers. We then went into the X-ray department, where Captain MacQuarrie asked to have the accused X-rayed. Captain MacQuarrie then explained to the accused that he, the accused, was subject to Military Law, that being subject to Military Law he was bound to obey Lawful Commands of his Superior Officer. Captain MacQuarrie further explained that in this case he was his Superior Officer, being a Captain in the Canadian Army. He was dressed in Battle Dress and showed the accused his Pips and Badges.

The accused said, "I don't understand. I want to see the Brigadier." Captain MacQuarrie then repeated to the accused that he was bound to obey Lawful Commands of a Superior Officer. Captain MacQuarrie then asked me if I had heard and understood what had been said up to that point. I replied that I had both heard and understood. Captain MacQuarrie then ordered the accused, "Enter that booth, strip to the waist, and be x-rayed." The accused replied, "I want to see the Brigadier.", and in fact did not obey this command.

This Command was given in a clear and distinct voice while Captain MacQuarrie was within two paces of the accused. The accused was given every chance and plenty of time to comply and there was no physical restraint to prevent him from obeying. When it was certain that the accused would not obey, Captain MacQuarrie Sergeant Burton to retain the accused in custody and march him to the Garrison Custody Barracks.

Q.2 Were you in continuous custody of the accused from the time you took custody of him at Headingly Gaol until the accused did not obey Captain MacQuarrie's command?

A Yes.

The accused declines to cross-examine the witness.

M. A. McDonald Cpl.
(11329 Cpl. McDonald)
R.C.M.P.

SECOND WITNESS: Captain K.G. MacQUARRIE, No. 10 District Depot, C.A., having been duly sworn, states:-

"I am Captain K.G. MacQuarrie, Acting Assistant Adjutant, No. 10 District Depot, C.A., and I know the accused (pointing) Call-up No. J-28705 Metro Mykytyn, sometimes known as Metro McKitten.

At about 0930 hours on the 3rd day of Feburgy, 1945, Corporal M.P. McDonald of the Winnipeg Detachment, Royal Canadian Mounted Police brought the accused in custody to my office, being Room No. 8, Building No. 4, Fort Osborne Barracks, Winnipeg, Manitoba, and at the same time handed me a Certificate of Conviction.

Q.1 Here is a document marked Exhibit "A". What is it and to whom does it refer?

A It is the Certificate of Conviction referred to dated 14th December, 1944, signed by T.J. Murray, K.C., referring to the accused.

I then arranged to have Sergeant Burton report to my office, While Corporal McDonald and the accused were still in my office, I told the accused that on authority of the Commanding Officer, No. 10 District Depot, C.A., he was being held in Military custody until he became a soldier of the Canadian Army pursuant to N.R.M.A. (Army) Regulations, 1943, or until he was found by the Military Authorities not to be fit.

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The accused, Corporal McDonald, and I then went to the Reception Centre in the basement of the said Building No. 4, Fort Osborne Barracks, where an M.F.M. 2 and an X-ray requisition were made out for the accused.

The accused, Corporal McDonald, and I then moved into the X-ray department where I handed the X-ray requisition to the staff and asked to have the accused X-rayed.

I then carefully explained to the accused, (a) that he, the accused, was subject to Military Law, as a person who accompanies his Majesty's Troops on Active Service; (b) that a consequence of his being subject to Military Law was that he was bound to obey a Lawful Command of his Superior Officer and disobedience would make him liable to punishment and that punishment would be awarded after a charge was laid and against him and his guilt established by District Court-Martial or other proper authority; (c) that I, in this case, was his Superior Officer, a Captain in the Canadian Army Active, dressed in Military Uniform and wearing the badges of my rank which I indicated.

I then told the accused that I was about to give him a Lawful Command and asked him if he both heard and understood all that I had said up to that point. The accused replied,"I don't understand. I want to see the Brigadier."

I then repeated to the accused that he was bound to obey Lawful Commands of a Superior Officer. I asked Corporal McDonald if he had both heard and understood what I had said up to that point. Corporal McDonald replied that he had both heard and understood.

I then gave the accused a direct order in these words, "Call-up No. J-28705 Metro McKitten, I order you - enter that booth, strip to the waist, and be X-rayed." The accused replied,"I want to see the Brigadier," and in fact did not comply with the order.

The accused was standing within two feet when I gave the order and in my opinion both heard and understood it. He had every reasonable opportunity and plenty of time to comply with the order. There was no physical restraint to prevent compliance with the order. The X-ray equipment and personnel were ready to X-ray the accused.

After it was obvious that the accused would not comply with the order, I ordered Sergeant Burton to retain the accused in custody and march him to the Garrison Custody Barracks, which he did.

Q.2 What kind of soldiers are kept at No. 10 District Depot, C.A.?

A Soldiers placed on Active Service only.

The accused declines to cross-examine the witness.

K.G. MacQuarrie Captain
(K.G. MacQuarrie)
No. 10 District Depot, C.A.

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QUESTION TO THE ACCUSED:

Do you wish to make any statement or to give evidence upon oath. You are not obliged to say anything or to give evidence unless you wish to do so, but, whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY THE ACCUSED

No, Sir.

QUESTION TO THE ACCUSED

Do you wish to call any witnesses on your behalf?

ANSWER BY THE ACCUSED:

No, Sir.

I certify that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

This Summary of Evidence, consisting of four pages and two exhibits was taken down before me in the presence of the accused, at Fort Osborne Barracks Winnipeg, Manitoba, this 8th day of February, 1945.

A.R. Dahlstrom Captain
(A.R. Dahlstrom)
Officer detailed to take
Summary of Evidence.

TRIAL OF:

Call-up No. H-28705 Metro McKITTEN,

No.10 District Depot, C.A.

I, Call-up No. H-28705 Metro McKITTEN, No.10 District Depot, C.A., M MC do not desire an Officer assigned to defend me at my trial by Court-Martial.

Metro McKitten

List of Witnesses

No. 11329 Cpl. McDonald, M.P.	R.C.M.P.
Captain K.G. MacQuarrie	No. 10 D.D. (C.A.)

List of Exhibits

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MEDICAL OFFICER'S REPORT

I certify that No. Call-up No. J-28705 McKITTEN, M.

of No.10 D.D.(CA). is in a appears in good state of health,

and likely fit to undergo Trial by Court martial.

Refused examination.

C. A. Taylor Major

Medical Officer RCAMC

No.10 District Depot, C.A.

Station Winnnipeg, Manitoba.

Date 9th February, 1945.

M. F. B. 246

30M—12-43 (3223)

H.Q. 1773-30-680

4

MEDICAL OFFICER'S REPORT

I certify that No. Call-up J-28705 Metro McKITTEN of No.10 District Depot, C.A. a fairly good state of health, and likely fit to undergo Trial by Court martial.
Referred to be medically examined

[illegible] capt
Medical Officer RCAMC
No.10 District Depot, C.A.

Station Winnipeg, Manitoba.

Date 10-2-45

M. F. B. 246
20M—3-40 (4593)
H.Q. 1773-29 480

3

MEDICAL OFFICER'S REPORT

I certify that No. Call-up No. J-28705 McKITTEN, M. of No.10 D.D.(CA). is in a appears in good state of health, and medically fit to undergo Trial by Court Martial.

Refuses examination.

C H Parker Major
Medical Officer RCAMC
No.10 District Depot, C.A.

Station Winnipeg, Manitoba,

Date 12th February, 1945.

M. F. B. 246
20M—3-40 (4336)
H.Q. 1772-25 480

MEDICAL OFFICER'S REPORT

I certify that No. Call-up J-26705 McKITTEN, M.
of No. 10 D.D. (CA). is in a appears in good state of health,
and likely fit to undergo Trial by Court martial.
Refuses examination.

C. H. Doyle Major
Medical Officer RCAMC
No. 10 District Depot, C.A.

Station Winnipeg, Manitoba,

Date 15th February, 1945.

M. F. B. 246
20M—3-40 (4393)
H.Q. 1773-39 480

H.Q.C. 55-[illegible]-1597

CONFIDENTIAL

M.F.B. 1918

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MALEKU, RCY B-117752 PTE.

CONFIDENTIAL
H.Q.C. 55-[illegible]-1597

CENTRAL REGISTRY	DATE	P.A. OR B.P.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for which referral cannot be expressed on one line, add minute to file and enter here "With Minute")		
MAR 15 1945				J. A. G.	NEW FILE	C.R.	APR 12 1945
					APR 1 1945		
APR 13 1945							APR 12 1945
APR 1 1945					With Papers C.R. APR 16 1945		
APR 21 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All original letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1597 (JAG/D-7)

20 Apr 45.

General Officer Commanding-in-Chief,
Pacific Command,
Vancouver, B.C.

Standing Court-Martial
B.117752, Pte. Roy MALESKU
(NO XI District Depot CA)

Receipt is acknowledged of your 22-M-6718 (JAG) dated 11 April 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.L.M.
Capt
for (R.J.Orde) Brigadier,
Judge Advocate-General.

LJR/ET

Lieut.-Colonel H. CLAYTON
Inspector of Courts-Martial
APR 24 1945

IN REPLY PLEASE QUOTE
No. 22-M-6718 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

306937

ARMY
Headquarters Pacific Command
Vancouver, B.C. 11 Apr 1945

CENTRAL REGISTRY
APR 16 1945
Referred to

Secretary,
N.D.H.Q.,
OTTAWA, ONT.

Standing Court-Martial
B.117752 Pte Roy MALESKU
(No.X1 District Depot CA)

Reference HQC 55-M-1597 (JAG/D-7) d/14 Mar 45.

1. The proceedings in the m/n case are enclosed herewith for safe custody.

2. This man has been sent overseas on a recent draft with sentence remitted from one day after embarkation.

Major-General,
G.O.C.-in-C., Pacific Command.

Encl-

N.D. 23
3900M—10-44 (5769)
H.Q. 1772-101-23

FORM OF PROCEEDINGS FOR A STANDING COURT-MARTIAL

Proceedings of a Standing Court-Martial held at Headquarters No. 11 District Depot, CA, Vancouver, B.C., on the 23d day of February, 1945, at 0900 hours, for the trial of B-117752, Pte. Roy Malesku, No. 11 District Depot, CA.

PRESIDENT:--Lt-Col.C.G.Beeston, Headquarters Pacific Command.

PROSECUTOR:--Capt.Russell William Kennedy, Headquarters Pacific Command.

DEFENDING OFFICER:--Capt.James Arthur Anderson George, No. 11 District Depot, C.A.

FINDING:--Guilty of the charges.

SENTENCE:--To undergo detention for ten (10) months, and to put under stoppages of pay until he has made good the sum of $42.25 in respect of costs of apprehension and return to his unit.

SIGNED AT VANCOUVER, B.C., THIS 23d DAY OF FEBRUARY 1945

Lt-Col.,
President, Standing Court-Martial.

Extracts entered as No. 3612 in the Record of Courts Martial kept in the office of the Judge Advocate General this 13 day of March 1945

QUESTIONS TO
THE ACCUSED

Q Do you object to be tried by me as President of the Court?
A No sir.

Q Do you object to K-57793, SM. J.R.Mahood, Headquarters Pacific Command, acting as shorthand writer?
A No sir.

THE SHORTHAND WRITER IS DULY SWORN.

QUESTION TO
PROSECUTOR

Q Has the accused elected to be tried by Standing Court-Martial?
A He was remanded.

The accused is arraigned upon each charge in the charge-sheet marked "B-2" and annexed to the proceedings after having been signed by the President.

QUESTIONS TO
THE ACCUSED

Q Is that your number, rank, name, and unit?
A Yes sir.

Q Are you guilty or not guilty of the first charge against you, which you have heard read?
A Not guilty.

Q Are you guilty or not guilty of the second charge against you, which you have heard read?
A Not guilty.

B-2H

Lt-Col.,
President, S.C.M.

CHARGE SHEET

The accused, B-117752 Pte Roy MALESKU, of No.11 District Depot, C.A., a G.S. soldier of the Canadian Army, placed on Active Service, is charged with:-

1ST CHARGE
SEC.12(1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at Camp Borden, Ontario, at 0600 hours on the 24th day of April 1944, absented himself without leave from A-22 C.A.M.T.C., C.A., and remained so absent until apprehended by Service Authorities at Kelowna, B.C., at 1700 hours on the 1st day of February 1945. DRESSED IN CIVILIAN CLOTHES.

COSTS OF APPREHENSION AND RETURN TO UNIT - $42.25

2ND CHARGE
SEC.15(1)
ARMY ACT

ABSENTING HIMSELF WITHOUT LEAVE

in that he

WHEN IN CLOSE ARREST, at No.11 District Depot, C.A., Vancouver, B. C., at approximately 2000 hours on the 9th day of February 1945, absented himself without leave from No.11 District Depot, C.A., and remained so absent until surrendering himself to Service Authorities at Vancouver, B.C., at 1645 hours on the 13th day of February 1945.

Vancouver, B. C.,
21 February 1945.

(J. Neish) Colonel,
Commanding,
No.11 District Depot, C.A.

PROCEEDINGS ON PLEA OF NOT GUILTY

QUESTION TO THE ACCUSED

Q Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

A No sir.

THE PROSECUTOR PROCEEDS TO CALL WITNESSES.

FIRST WITNESS FOR PROSECUTION

K-53087, Pte.P.J.Murphy, No.11 District Depot, CA, being duly sworn, is examined by the Prosecutor:

Q Give the court your number, rank, name, unit, and duty?

A K-53087, Pte.P.J.Murphy, No.11 District Depot, I am employed in the legal office and part of my duty is the preparation of documentary evidence for courts-martial.

Q I produce a document for identification?

A Certified true copy of MFB.375, signed Camp Borden, Ont., 18 May 1944, referring to the accused.

PROSECUTOR:--Present that document to the court.

PRESIDENT TO DEFENDING OFFICER:--Have you any objection?

DEFENDING OFFICER:--No objection.

M.F.B.375 is read, marked "F" signed by the President, and attached to the proceedings.

Q I produce another document for identification?

A MFM. 216, dated Vernon, BC, 2 Feb.45, referring to the accused.

PROSECUTOR:--Present that document to the court.

PRESIDENT TO DEFENDING OFFICER:--Have you any objection?

DEFENDING OFFICER:--No objection.

MFM.216is read, marked "G" signed by the President, and attached to the proceedings.

Q Here is another document for identification.

A Certified true extract Daily Orders PT.II, No.11 District Depot, No. 43, dated 20 Feb.45, referring to the accused.

PROSECUTOR:--Present that document to the court.

PRESIDENT TO DEFENDING OFFICER:--Have you any objection?

DEFENDING OFFICER:--No objection.

Certified true extract No.11 District Depot PT.II Daily Orders No.43, 20 Feb.45, is read, marked "H" signed by the President, and attached to the proceedings.

Q Here is another document for identification?

A MFB.1481, dated Vernon, B.C., 3 Feb.45, amount $42.25, referring to the accused.

PROSECUTOR:--Present that to the court.

PRESIDENT TO DEFENDING OFFICER:--Have you any objection?

DEFENDING OFFICER:--No objection.

MFB.1481 is read, marked "I" signed by the President, and attached to the proceedings.

Q Here is another document for identification.
A Certified True Extract No.11 District Depot, PT.II Daily Orders No.43, 20 Feb.45, referring to the accused.

PROSECUTOR:--Present that to the Court.

PRESIDENT TO DEFENDING OFFICER:--Have you any objection?

DEFENDING OFFICER:--No objection.

Certfied true extract No.11 District Depot PT.II Daily Orders 43, 20 Feb.45, is read, marked "J" signed by the President, and attached to the proceedings.

Q Here is another document for identification.
A MFM.216, dated Vancouver, BC, 14 Feb. 45, referring to the accused.

PROSECUTOR:--Present that to the court.

PRESIDENT TO DEFENDING OFFICER:--Have you any objection?

DEFENDING OFFICER:--No objection.

MFM.216 is read, marked "K" signed by the President, and attached to the proceedings.

Q What does the abbreviation App. on Exhibit "J" stand for?
A It means that the man is attached to Appraisal Wing.

THE DEFENDING OFFICER DECLINES TO CROSS EXAMINE THE WITNESS.

THE WITNESS WITHDRAWS.

THE PROSECUTOR HAS NO FURTHER WITNESSES TO CALL.

THE PROSECUTION IS CLOSED.

D_E_F_E_N_C_E

The President advises the accused of his rights in the general conduct of his defence.

QUESTIONS TO THE ACCUSED

Q Do you apply to give evidence yourself, or do you wish to make an unsworn statement?
A I wish to give evidence on oath.

Q Do you intend to call any witness in your defence?
A No sir.

FIRST WITNESS FOR DEFENCE

The accused, B-117752, Pte.Roy Malesku, No.11 District Depot, CA, being duly sworn, is examined by the Defending Officer;

Q How old are you?
A Twenty-one.

Q Are you the only member of your family in the armed services?
A No.

Q Who of your family are in he armed services?
A There was one in the Air Force overseas.

Q How long in the Air Force?
A Imagine 3-4 years.

Q Anybody else?
A A brother honourably discharged, died a few months after discharge.

Q Will you tell the court from the time you went to camp what you did and why you did it?
A Up to the time I went to Camp Borden I took basic training when I joined the army to get in the motorcycle corps. I saw a few different examiners and was kept more or less believing I could get in the motorcycles as that was all I had ever done in my life. When I got to Camp Borden I saw an army examiner, the last one, he told me to get on motorcycles, was taking basic training at the time, was in the Medical Corps at the time; the reason I left was to get out of the Medical Corps. Well, I had intentions of joining up or coming back and getting on the motorcycles. I was going to join up but got scared that more trouble. About the time I was making up my mind I was apprehended in Kelowna. The only proof I have I didn't want to stay away, I could, I escaped from the guard house and came back on my own. I could have stayed away for quite a while.

Q When in Camp Borden and you went to see the army examiner about this motorcycle business did you believe you could become a driver of a motorcycle?
A He didn't, that is when I left. I saw maybe half a dozen army examiners before that, all told me I would have to take my basic training, but would have a pretty good chance to get in.

Q How did you get in the medical corps?
A I don't know, was just put in.

Q Did you ask for it?
A No.

Q You wanted the motorcycle?
A Yes.

Q When you surrendered yourself here to the authorities why did you do it?
A I knew for sure then that if apprehended I would be a deserter.

Q Where did you give yourself up, here?
A Yes, right at the gate.

CROSS EXAMINED BY THE PROSECUTOR:

Q I understand from your evidence that you absented yourself from Camp Borden at 0600 hours, 24 April 1944?
A That is about it, I can't say for sure the exact date.

Q Would it be around that time do you think?
A Yes.

Q Did you remain away until 1 February 1945?
A Yes.

Q When you were apprehended by service authorities at Kelowna,B.C., at 1700 hours?
A Yes.

Q How were you dressed at the time of apprehension?
A Civilian clothes, I was workin .

Q Where was your uniform?
A When I left Camp Borden I went to Toronto, got myself a room there and these people where I stayed at didn't know anything about my being AWL, so they were being called upon by the Provost, so I thought the best thing I could do was send my uniform back to my unit so I wouldn't have it with me in my travels.

Q You lost your uniform?
A No, it was sent back to my unit, they sent it back.

Q What were you doing all the time you were away?
A Mostly motorcycle work.

Q Whereabouts?
A In Toronto, I have been in Kelowna along mechanical lines.

Q When did you come to Kelowna?
A Around 1 Nov.44.

Q What were you doing up at Kelowna?
A When I went there still a few apples left, worked on them and did a little bicycle and motorcycle work.

Q Are you married?
A No.

Q Did you intend to return to the army up to 1st Feb.when you were apprehended?

A Yes, I have a brother up there, he told me to turn myself in. Another brother in Vancouver drove me right up here as soon as he found out I was AWL.

Q What about this second absence, is it a fact that you absented yourself from No.11 District Depot, on 9 Feb.45 at 2000 hours?
A Yes.

Q And remained absent until 1645 hours, 13 Feb.45?
A Three days.

Q On that last date you surrendered yourself to service authorities here at Little Mountain, is that right?
A Yes.

THE DEFENDING OFFICER DECLINES TO REEXAMINE THE WITNESS.

QUESTIONED BY THE PRESIDENT:

Q What reasons, if any, were given you for your not being able to join some motorcycle corps?
A That they had a lot of them in the motorcycle corps already in the army I believe, no place for me.

THE WITNESS RESUMES HIS SEAT AS THE ACCUSED.

THE PROSECUTOR DECLINES TO MAKE A CLOSING ADDRESS.

THE DEFENDING OFFICER DECLINES TO MAKE A CLOSING ADDRESS.

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

The Court having arrived at its finding on the charges, and such finding having been communicated to the accused, the Prosecutor tenders to the court MFB.355 and certified true copy of MFM.6 relating to the accused.

The above documents are read by the President to the court, are marked "Y" and "Z", signed by the President, and attached to the proceedings.

QUESTIONS TO THE ACCUSED

Q Have you any statement to make concerning the documents which have just been read to you?
A No sir.

Q Do you wish to address the court?
A Yes sir. The reason I came back the second time was to make this remark even if I had to go overseas in handcufffs. I would be willing to do so, there is no yellow streak. I have another brother overseas and another died after discharge. The reason I joined the army in the first place was to get overseas.

DEFENDING OFFICER:--This soldier is a young man. These crimes that have been committed have all been committed in the East and I think he was influenced by people there. I think this is true when he says he joined the army to fight, I believe him, and I hope you do. The fact two brothers are in the army service still fighting and the other honourably discharged shows that he has the right background. He appears to me to be young man with a very ingenious mind but has taken the wrong course. I think properly handled and steered along the right channel and sent overseas he would make a good soldier and I would like to ask the court to recommend that this man be sent overseas at the earliest opportunity.

"F"

F17

President, S.C.M. Lt-Col.,

RECORD of the Declaration of a Court of Inquiry assembled at Camp Borden, Ontario. on the 18th day of May 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-117752

DECLARATION

The Court declare that No. B-117752 (Regt'l No.) Pte. (Rank) MALESKU R. (Full Name) "A-22" C.A.M.C. (TC) (Unit) illegally absented himself without leave from A.22 C.A.M.C. T.C. at Camp Borden, Ont (Place) at 0600 hours on the 24th day of April 1944, that he is still so absent, and that on the 26th day of April, 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES 75%	VALUE	ARTICLES	VALUE
Anklets, web.....(1)	.59		
Battledress blouses.....(1)	3.94		
Battledress trousers.....(1)	4.04		
Boots, ankle.....(1)	4.10		
Jersey, pullover.....(1)	1.15		
Drawers, woollen.....(1)	.90		
Shirts, woollen.....(1)	.90		
Socks, black.....(2)	.40		
TOTAL AMT OF DEFICIENCIES	$16.02		

Signed at Camp Borden, Ont.

this 18th day of May 1944

Lieut. W.L. Parcival, RCAMC., President
(Name) (Rank) (Unit)
A.22 C.A.M.C. T.C., C.A.

Lieut. W.H. Wellington, RCAMC., Member
(Name) (Rank) (Unit)
A.22 C.A.M.C. T.C., C.A.

Lieut. G.C.H. Coleman ll D.D., Member
(Name) (Rank) (Unit)
Att. A.22 C.A.M.C. T.C., C.A.

Signature of Commanding Officer Colonel C.V. Ward, RCAMC, A.22 CAMC TC.
(Name) (Rank) (Unit)

Certified true copy
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)
(D.F. Bleecker) Captain,
A.22 C.A.M.C. T.C., C.A.

M.F.B. 875
A.F.B. 115
150M—10-43 (8539)
H.Q. 1772-39-237

President, S.C.W. Lt-Col.,

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, C-1887 (Number) Sgt (Rank) Balyx D.J. (Name) No 3 Sec No 10 Pro Coy (Unit)

hereby certify that F-117752 (Number) Pte (Rank) Malesku Roy (Name in full)

of the R.C.A.M.P.C. Camp Borden Ont. (Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrendered to~~) A-56056 (Number) Cpl (Rank)

Paxman C.B. (Name) No 3 Sec No 10 Pro Coy CA(A) (Unit or appointment)

at Kelowna (Place) at 1700 (Hour)

on the 1st day of February 19 45

Strike out words not applicable } ~~a deserter~~ (or absentee without leave), and that at the time of his arrest he was wearing ~~military clothing~~ (dressed in civilian clothes).

Dated at Vernon B.C. this 2nd day of February 19 45

(Signature, Number, Rank, Unit or appointment)
Sgt Balyx D.J. N.C.O. i/c
No 3 Sec No 10 Pro Coy CA(A)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M.—11-43 (6869)
H.Q. 1772-39-1935

21

Lt-Col.,
President, S.C.M.

DAILY ORDERS PART II

BY

COLONEL J. NEISH

Commanding

NO II DISTRICT DEPOT C.A. (A)

ORDERS NO 43
20 February 1945
VANCOUVER, B.C.

LAST ORDERS ISSUED NO 42, dated 19 February 1945.

16 STRENGTH INCREASE

(dii) Having been SOS Des. A.22 C.AM.C.T.C. (C.A.) for A.W.L. 0600 hours 24 Apr 44 by a Court of Inquiry held 18 May 44 TOS (At Regimental rate of Pay $1.50) On Appreh fr. des. by Service Authorities at Kelowna, B.C. at 1700 hours 1 Feb 45 Dressed in Civilian Cloths.

1 Feb 45

B117752 Pte MALESKU, R. (App)

M. Hangerud Capt & Adjt.
for (J NEISH). Colonel.
O.C. No.11 District Depot, C.A.(A)

CERTIFIED TRUE EXTRACT

Captain,
Officer i/c Records,
No. XI District Depot, C.A.

23

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

"I"

Lt-Col.,
President, S.C.M.

(TRANSPORTATION ONLY)

Fill in complete description — I, Captain (Rank) R.E. Brophey (Name) R.C.A.S.C. (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~XXXXXXXX~~ the hereinafter itemized transportation for escort

Complete — to proceed from Vernon B.C. (Place) to Vancouver B.C. (Place)

and return to Vernon B.C. (Place) for the purpose of escorting

Full description of soldier being escorted — B117752 (Number) Pte. (Rank) Malesku R. (Name in full)

A22-C.A.M.C.T.C., (Unit) Camp Borden Ont. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~XXXXXXXXXXXXXXXXXXXX~~ and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
Officer Commanding, A22-C.A.M.C.T.C., Camp Borden Ont.	
ESCORTS: K897 Sgt. Matheison I.C., 317-C.S. of I., Vernon B.C.	
K69023 Pte. O'Neil W.H., H.Q., 16 C.I.B., Vernon B.C.	
ESCORTS: 2 return fares CNR-Vernon to Vancouver B.C.	$22.28
15% Revenue Tax	3.40
1 lower tourist berth-Vanc. to Kamloops B.C.	1.50
15% Revenue Tax	.35
1 upper tourist berth-Vanc. to Kamloops B.C.	1.20
15% Revenue Tax	.35
Breakfast on train-Vernon to Vancouver B.C. & Return.	3.00
Luncheon-Restaurant in Vancouver B.C.	1.50
Dinner- Restaurant in Vancouver B.C.	1.50
PRISONER: 1 single fare-CNR Vernon to Vancouver B.C.	5.57
15% Revenue Tax	.85
Breakfast on train-Vernon to Vancouver B.C.	.75
(Issued on TW C798702 d/3 Feb. 1945) TOTAL	$ 42.25

Dated at Vernon B.C. this 3rd day of February A.D. 1945

R.E. Brophey
(R.E. Brophey) Capt., C.S. & T.O., Vernon B.C.
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~XXXXXXXXXXXXXXXXXX~~)

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482

M.F.B. 1481
(Rev.—10-42 1000)
H.Q. 1172-99-891

25

"J" Lt-Col.,
President, S.C.M.

DAILY ORDERS PART II

BY

COLONEL J. NEISH

Commanding

NO.II DISTRICT DEPOT C.A.(A)

ORDERS NO 43
20 February 1945
VANCOUVER, B.C.

LAST ORDERS ISSUED NO 42, dated 19 February 1945.

---

20. ABSENCE WITHOUT LEAVE

(b) A.W.L. dates as shown.

B.117752 Pte MALESKU, R. (App) 2000 hrs 9 Feb 45

"M. B. Hangerud" Capt. & Adjt.,
for (J.NEISH). Colonel.
O.C. No.11 District Depot. C.A.(A)

CERTIFIED TRUE EXTRACT

W Clicher Captain,
Officer i/c Records,
No.11 District Depot, C.A.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

President, S.C.M. Lt-Col.

(~~XXXXXXXXXXXXXXXX~~ SURRENDER TO SERVICE AUTHORITIES)

I, Colonel (Number) J. Neish (Rank) Commanding (Name) No.11 District Depot (Unit) CA

hereby certify that B.117752 (Number) Pte (Rank) MALESKU, R (Name in full)

of the No.11 District Depot, C.A. (Unit and attachment, if any)

Strike out words not applicable } ~~XXXXXXXXXXXX~~ (surrendered to) K.52245 (Number) S/Sjt. (Rank)

SNYDER, E.E. (Name) No.11 District Depot, C.A. (Unit or appointment)

at Vancouver, B.C. (Place)

on the 13th day of February, 1945 at 1645 hours (Hour)

Strike out words not applicable } ~~XXXXXXXXXXXXXXX

29

"Y"

President, S.C.M. Lt-Col.,

M.F.B. 188
BGM—9-43 (3692)
H.Q. 1773-09-020
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (or unit)
B-117752	Pte	Roy MALESKU	No.11 District Depot CA

1. The following is a fair and true summary of the entries in the field ~~Service and General~~ Conduct sheets ~~Regimental and Squadron, Battery or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For		times	Sec.15(1) A.A.	4 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time,

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 18 days in military ~~Air Force~~ custody, making a total of 18 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 21 yrs 4 mos

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 5 October 1943.

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military ~~air force~~ decoration, or military ~~air force~~ reward (or is in possession of or entitled to). State any military ~~air force~~ decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the ~~regimental~~ Air Force rank of .....

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....

Permanent Force
unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number....., Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23 February 1945. day of

Officer i/c Records
No.11 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.M. 8 31

Sheet destroyed: 5 Apr 44
Date of last entry: Nil

President, S.C.M. Lt-Col.

Date of Birth

Reg. No. B117752 Name MALESKU, R. Date of enlistment or enrolment 5 Oct 43

Signature O.C. Company, etc. W.A. Wellington Lt.

Sheet No. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Toronto	19 Oct 43	Pte		AA Sec 15(1) AWL from 0800 hrs 19 Oct 43 to 1730 hrs 21 Oct 43	Sgt. Dewhurst	Admonished	22 Oct 43	Capt E.J. Hainsworth	Forf. 3 dys pay under FR&I 149(1)(a)
Peterborough	2 Dec 43	Pte.		AA Sec 15(1) AWL from 2359 hrs 7 Dec 43 to 2315 hrs 7 Dec 43 (4 dys, 23 hrs., 16 min)	Cpl. Caldwell Doc. Evid.	14 Dys C.B.	7 Dec 43	Lt.Col Walter Bapty	Forf 5 dys. pay under FR&I 149(1)a
Camp Borden	7 Feb 44	Pte		AA Sec 15(1) AWL from 0100 hrs 7 Feb 44 to 0230 hrs 10 Feb 44 (3 dys, 1 hr., 30 min)	L/Cpl. Gregory	14 dys C.B. & 14 dys penal forf AA Sec 46	10 Feb 44	Col. V.C. Ward	Forf 4 dys pay under FR&I 149(1)(a)
Camp Borden	16 Feb 44	Pte		AA Sec 15(1) AWL from 0600 hrs 16 Feb 44 until apprehended at Pauls 1535 hrs 20 Mar 44	L/Cpl.	28 dys Detn.	24 Mar 44	Col.C.V. Ward	Forf. 24 dys pay under FR&I 149(1)(a)

M.F.M. 8—30M—9-44 (3298)
H.Q. 1772-39-162

Place	Date of offence	Rank	Cause of detention	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Camp Borden				Blood Donor 12 Feb 44.					
				CERTIFIED TRUE COPY W. Sleeke Captain, Officer i/c Records, No. XI District Depot, C.A.					

MEDICAL OFFICER'S REPORT

I certify that No. B-117752 Pte Roy MALESKU

of No.11 DD CA is in a good state of health,

and fit to undergo Trial by Court martial.

D R Shannon Maj (RCAMC)

Medical Officer

No.11 District Depot C.A.

Station Vancouver, B.C.

Date 23 February 1945.

M. F. B. 246

MM—11-43 (3222)

H.Q. 1773-33-480

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Headquarters Pacific Command,
Vancouver, B.C.
13 April 1948

CENTRAL REGISTRY Army
APR 16 1948
Referred to JAG

Secretary,
Dept. of National Defence,
Ottawa, Ont.

306839

SOLDIERS UNDER SENTENCE - Trans fer
Military Detention Barracks

B.117752 Pte. MAIESKU, R.

In accordance with the provisions of C.A.R.O. 4567, para 15, the attached notification of transfer of the m/n S.U.S. is forwarded herewith.

for Major-General.
G.O.C. in C., Pacific Command.

DEPARTMENT OF NATIONAL DEFENCE
(ARMY)

File No. 2-14-D

Command Assistant Provost Marshal.
Headquarters, Pacific Command.
Vancouver, B.C.

6718

SOLDIERS UNDERGOING SENTENCE. - Transfer of between Military Detention Barracks.

1. In accordance with the provisions of C.A.R.O. 4567, para 15. it is notified that the undermentioned soldier has been transferred to Military Detention Barracks No.76 at Vancouver, B.C. w/e 5 Apl 45.

Authority for the transfer is quoted as D.A.A.G. Pacific Command.

Regt'l No.	Rank.	Unit	Name
B-117752	Pte.	No.X1 D.D.	MALESKU.R.

Geo M Durham S.M.(WO1)
(G.M.Durham) Commandant,
No.74 Military Detention Barracks.

Minute 11

The undersigned acknowledges the completion of the avove transfer and that the soldier mentioned above was received into Military Detention Bks. No.76 at Vancouver, B.C. w/e. 6 APR 1945

R. M. Day Lt
Commandant
76 Military Detention Barracks, B.C.A. Lieut.
37 & W Commandant, B.C.
Military Detention Barracks. No.76
Vancouver, B.C.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

N.D.H.Q. File No.....

District File No. 22-M-6718

PART I

No. B-117752 Rank Pte Name Roy MALESKU,

Unit No.XI District Depot,CA

PARTII

Date of Trial 23 Feb.45

Charge(s) &Sec. 12(1)(a) and 15(1)

Sentence Ten months detention sto pages $42.25

Date of Sentence 23 Feb, 45

Confirmation--(A)Authority: nil S.C.M.

(b)Date --

Part III

REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit (cccccxxxxxxxxxxxxx) the balance of the sentence of detention remaining unexpired onthe dayafter theembarkation of thissoldier at an Atlantic Port.

Signed at Vancouver,BC this 5th day of April,1945

Brigadier,
Brigadier i/c Administration,
Pacific Command.

To be signed by the Remitting Authority personally.

Part IV.

PROMULGATION

Remission(xxxxxxxxxxxxxxxxxxxxxxxxx) promulgated and extracts taken at No.XI District Depot,C

this 6th day of April 194

Officer i/c Documents
(1) No.XI District Depot,CA

(1) Unit, attachment and appointment to be stated.

Part V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. B-117752 Rank Pte Name Roy MALESKU

The sentence of Ten months detention and stoppages $42.25

awarded by (xxxx) (xxxxxxxxxx) Court-Martial of the 23 day of Feb 194 5 has been remitted by the balance of the sentence of detention remaining unexpired on theday after the embarkation ofthis soldier atan Atlantic Port.

on the 5th day of April 194 5 by Brigadier i/c Administration, Pac. Command

Certified true Extract of Daily Orders Part II of No.XI Disteict Depot,CA

No. 81 Vancouver,B.C. Date 6 April 45

x Strike out and initial if not applicable

Officer i/c Documents
No.XI District Depot,CA

Lt.Col. CLAYTON
Deputy Judge Advocate General
Inspector of Courts-Martial
APR 12 1945

HQC.55-M-1397 (JAG/D-7)
Your File 22-M-6716

14 Mar 45

General Officer Commanding-in-Chief,
Pacific Command,
VANCOUVER, B.C.

STANDING COURT-MARTIAL
~~B-117[illegible], Pte. Roy MILESKU~~
No. XI District Depot, CA.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

LJR/AB

(R.J. Orde), Brigadier,
Judge Advocate-General.

R.A.Y.

H.Q. C.55-M-1597
M.D. 22-B-6219
22-F-944
22-M-6716

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B.117752 Name MALESKU, Roy

Rank Pte Unit No. 11 D.D. C.A.

Charge (1st) A.A. 12 (1) (a) - Desertion

(2nd) A.A. 15 (1) - A.W.L.

Date of Crime (1) 24-4-44 (2) 9-2-45 Charge. Signed 21-2-45

Date of Arrest (1) 1-2-45; (2) 13-2-45

Orders for D.C.M.

Place and Date of Trial H.Q. No. 11 D.D. C.A. Vancouver B.C. 23-2-45

Sentence Det 10 mos; stoppages $42.25

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36112

Date 13-3-45

MEMO

Balance of sentence
remitted by Conf. Auth.

Pac Com - No. 11 D.D.

Absent	Sentence
(1) 9¼ mos	Det 10 mos
(2) 5 days	

R.J. Rae 2/Lt
for Judge Advocate-General

5M-11-44 (M-4511)

CANADA

IN REPLY PLEASE QUOTE
22-B-6219
No. 22-F-944
22-M-6716

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters Pacific Command,
Vancouver, BC, 6 March 1945

Judge Advocate General,
Dept.National Defence,
Ottawa, Canada.

C.55-M-1597

STANDING COURTS-MARTIAL
K-62960,Pte.Sicco Jack BYLSMA
L-36476, " Edward Alexander FLAMAND
B-117752," Roy MALESKU,
No.XI District Depot, CA.

In accordance with provisions of CARO 4565 forwarded herewith proceedings in the m/n courts.

(C.G.BEESTON) Lt-Col.,
President, Standing Courts-Martial.

36112

N.D. 28
3 Mil.—11-43 (979)
H.Q. 1772-101-23

H.Q.C. 55-M.598 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MANGOFF, PHILIP B-163094 PTE.

CONFIDENTIAL H.Q.C. 55-M.598

CENTRAL REGISTRY	DATE	P.A. OR S.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be conveyed on one line, add minute to file and enter here "See Minute")		
MAR 13 1945	17.4.45			J.A.G.	NEW FILE C.R. With Papers C.R. APR 5 1945		MAR 13 1945
				J.A.G.			
APR 7 1945				S.C.M.	To note & pass to admin	E.C.M.	6-4-45
APR 9 1945				admin	Panel Alone		APR 9-1945
APR 14 1945							
APR 18 1945	16.4.45	PA		J.A.G.	PER B.F. APR 17 1945		
APR 25 1945	17.4.45				PER B.F. APR 26 1945		
MAY 1 1945	30.4.45	PA		admin	APR 27 1945		
MAY 10 1945	10.5.45	P.A.		admin	With Papers C.R. MAY 9 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. L.28-M-1482(A2)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

312-86

HQ MD 1, London, Ontario, 7 May, 1945.

Secretary,
Department of National Defence,
OTTAWA, Canada.

MAY 9 1945
File PJS-7M-1598
Copy to Admin

B.163094 - Pte. MANGOFF, P.

Reference HQC 55-M-1598 Adm 3(b)(2) dated 30 April 45.

2. It is desired to advise that the Foot Specialist at Westminister Hospital has taken action to obtain special shoes for this soldier.

Advise Pte Mangoff
10/5/45 MG

(P. Earnshaw) Brigadier,
D.O.C. M.D. No. 1.

N.D. 23
300334—10-44 (5769)
H.Q. 1779-101-23

HQC 55-M-1598
Adm 3(b)2

30 Apr 45

District Officer Commanding,
Military District No 1,
LONDON, Ontario

R.163094 Pte MANGOFF, P

Reference L.28-M-1482 (A2) dated 24 Apr 45.

2. It is noted in MFB 1478 that the medical specialist has recommended special shoes for this SUS.

3. May this HQ be informed whether it has been possible to carry out this recommendation, pls.

(A E Walford)
Major-General
Adjutant-General

WOP:da

IN REPLY PLEASE QUOTE
No. L.28-M-1482(A2)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

309258 HQ MD 1, London, Ontario, 24 April, 1945.

CENTRAL REGISTRY Army
APR 25 1945

Secretary,
Department of National Defence,
OTTAWA, Canada.

B.163094 - Pte. MANGOFF, P.

Reference HQC 55-M-1598 (Adm 3(b)2) dated 13 April 45.

2. Enclosed herewith Specialist Report relative to the marginally named soldier.

RECEIVED
APR 25 1945
982

(P. Earnshaw) Brigadier,
D.O.C. M.D. No. 1.

30

N.D. H.
5000M-10.44 (5768)
H.Q. 4792-109-23

DOMINION OF CANADA—MEDICAL SERVICES

CASE SHEET (SPECIALIST REPORT)

Referred by: R.W. McCormick Lieut. Date April 2/45.

No. N-163094 Rank Pte. Name MANGOFF, Philip

Address 2 Briarcroft Road, Toronto, Ontario. Age 20

Unit or Ship No. 1 D.D. Trade Class or Category D.O.E. 13/7/44.

Referred to: Surgery Profile

	YOB	P	U	L	H	R	M	S
Army	24	1	1	1	1	1	1	1
Air								

History and Physical Findings (to be filled out by M.O. i/c case)

Please refer to letter L. 28/M-1478 (A2) of March 27/45. This man is complaining of pain across dorsum of feet and up backs of both legs. Also has vague complaints related to back of thighs, especially left.

Legs are well developed. Has very high arch in both feet. Could this account for this complaint.

CERTIFIED TO BE TRUE COPY OF ORIGINAL

JAN/

Major.
for (H. Buck) Colonel
D.M.O., M.D. No. 1.

SUGGESTED PULHEMS.

YOB	P	U	L	H	E	M	S
24	1	1	2	1	1	1	1

Opinion Requested Re: Pulhems, treatment.

Type of Case—Ambulatory, Wheelchair, Stretcher, Bed M.O. Signature R.W. McCormick, Lieut. R.C.A.M.C.

CONSULTANT'S REPORT

Hospital A.R.C. No. 1 D.D. Report No

X-Ray No.

Pre-enlistment he always had trouble getting shoes to fit. Now feet have felt since, he has his new shoes which were made for him with a high arch and wide forefeet according to measurements. Went A.W.O.L. because of feet Can walk five miles a day.

O.E. Pre pes cavus type with high long arches, lateral weight bearing with abduction of forefeet which are broad. Semi-flexion of toes. Transverse of arches are only moderately low and have slight callous over broad forefeet. Slightly short firsts. Legs have good musculature. Exam knees negative but some muscular of left leg on full extension when sitting.

X-ray B 8511 show bilateral pes cavus metatarsus, P.V. and bilateral peroneal sesamoids.

Opinion: Feet probably grade L4 though his metatarsal arches are fairly asymptomatic so far.

YOB	P	U	L	H	E	M	S	DOE
24	1	1	4	1	1	1	1	13.7.44

Diagnosis Pre pes cavus 1329

Is this man fit for his duty?

Recommendation Combine wear special type of shoes with possibly a metatarsal support added if necessary.

79

Date 3.4.45 Ray W. Cramer Major. Surgeon. (Specialist's or Consultant's Signature)

P. & H. 1174
R.C.A.F. M 34
Militor M.F.B. 1478 250M—4-44 (4019) H.Q. 1272-99-1432
R.C.N. M. 2004

USE REVERSE SIDE IF ADDITIONAL SPACE IS REQUIRED

HQC 55-M-1593
Adm 3(b)2

CONFIDENTIAL

13 Apr 45

District Officer Commanding,
Military District No 1,
LONDON, Ontario

B.163094 Pte MANCOFF, P

Ref L.28-M-1482, dated 4 Apr 45.

2. It is noted that this soldier is to receive a complete and thorough medical examination. When this examination is completed, may this HQ be informed the result thereof, pls, with reference to the above file number.

(A E Walford)
Major-General
Adjutant-General

WOP:da

28

MEMORANDUM

TO:
D. of Admin

Dept. of National Defence (Army)
HQC. 55-M-1598 (JAG/D-6)
Ottawa, 26 Apr.45

STANDING COURT-MARTIAL
B.163034, Pte. Philip MANGOFF
S-5 C.D. & M.S. (OA)

1. May your attention be drawn to the statements made by the m/n soldier and his Defending Officer, at pages CC-3 to CC-11 and at page 2 of Document "H" in the proceedings of the Standing Court-Martial held on 6 Mar 45, in relation to the trouble he alleges he has been having with his feet and legs, and in this connection to paras.4 and 5 of L.28-M-1482 dated 4th April, 1945, from D.O.C., M.D.1.

P Vaughan Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

REA/AB

Noted
Lt Col

L.H. CLAYTON
Lieut.-Colonel
Inspector of Courts-Martial
APR 9 1945

27

H.Q.C.55-M-1598(JAG/D)

6th April 1945.

District Officer Commanding,
Military District No.1,
LONDON, Ont.

Standing Court-Martial

B.163094 Pte. Phillip MANGOFF
S.5 C.D. & M.S. C.A.

Receipt is acknowledged of your L.28-M-1482 dated 4th April 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial. Paras. 4 and 5 of your letter have been noted.

E. L. M. Capt
for (R.J. Orde), Brigadier,
Judge Advocate-General.

WBB:ELM

26

IN REPLY PLEASE QUOTE No. L.26-M-1482

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

H.Q. MD 1 London, Ont., 4 Apr 45

304572

APR 5 1945
File 55-M-1598
Chief to
Referred to

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada

STANDING COURT-MARTIAL
B..183094 Pte. Phillip MANGOFF
3.8 C.D. & M.S. C.A.

Reference H.Q.C. 55-M-1598 (JAG/D-6) d/17 Mar 45.

2. The proceedings of the m/n Standing Court-Martial are returned herewith for custody as directed.

3. The attention of all Officers concerned has been drawn to the comments in Para. 3 of your letter above referred to.

4. This soldier in his statement in mitigation of punishment complained of failure on the part of Medical Officers to properly treat a disability which he had in his feet or legs.

5. A complete and thorough examination is now being made with a view to establish the present physical condition of this soldier.

(P. Earnshaw), Brigadier,
D. O. C. M.D. 1.

25

A

Form of Proceedings for a Standing Court-Martial

S.5 Edw. D. & M. School. CA.

Proceedings of a Standing Court-Martial held at Woodstock, Ontario

on the 6th day of March 1945 at 1000 hours,

for the trial of: B.163094 Pte Philip Mangoff,
Number Rank Full Name

S-5 C.D.& M. School, Woodstock, Ontario
Unit Attachment, if any

PRESIDENT: Lt-Col H.C.Cameron,M.C., President Courts-Martial MD 1

PROSECUTOR: Lieut W.D.Roberts, Permanent Prosecutor MD 1
Rank Full Name Unit Attachment, if any

~~COUNSEL~~
OR DEFENDING OFFICER: Capt J.L.McKnight, S-5 C.D.& M.School, CA
Rank Full Name Unit Attachment, if any

FINDING: Guilty

SENTENCE: to undergo detention for a period of ninety days, and to be placed under stoppages of pay until he has made good the sum of $4.35 in respect of cost of apprehension and return to his corps.

Extracts entered as No. 36160 in the Record of Court Martial kept in the office of the Judge Advocate General this 14th day of March 1945.
Actg Capt

24

Signed at Woodstock, Ontario this 6th day of March 1945

(H.C.Cameron) Lt-Col
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2286

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~ as interpreter?

Answer:

Question to the accused. Do you object to A.99632 SM (WO I) Hagen, G.B., CMSC HQ MD 1 as shorthand writer? No, Sir.

Answer:

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No, Sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read?

Answer: Guilty, Sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

Answer.

23

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B-2

Cameron Dr. Bde.
Pres. S.G.M.

CHARGE SHEET

The accused, R-163094, Pte. Kanaoff, Philip, S-5, Can. D. & M. School, C.A., a C.S. soldier of the Canadian Army, placed on Active Service, is charged with:

CHARGE
Sec 15 (1) A.A.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

At S-5, Can. D. & M. School, C.A., Woodstock, Ontario, on the 2 th day of December 1944, at 0001 hours, absented himself without leave from S-5, Can. D. & M. School, C.A., Woodstock, Ontario, until apprehended in Toronto, Ontario, by Military Authorities, at 0830 hours on the 23rd day of Feb 45. The cost of his apprehension and return to his corps being $4.35.

R. Bland Leach
R. Bland Leach, O.B.E., M.C., E.D.,
Colonel and Commandant
S-5, Can. D. & M. School

Woodstock, Ontario.
2 March 45.

22

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[x]

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, Sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. Yes, Sir.

(See Pages CC-3 – CC-11)

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, Sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, Sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

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CC - 3

Cameron D.B.
Pres. S.C.M

Statement by Accused

I am going to begin this story when I joined the Army in July: at that time I left my job to join the army, and I was as eager, I guess, as any other soldier that joins the army. I went to Cornwall to take my basic. At Toronto in the Q.M. Stores I was fitted with boots that the Q.M. Sergeant told me was the nearest possible fit he could give me. During the course of my training at Cornwall I realized the boots were not exactly what I needed, and I didn't do anything about it for the time. As a matter of fact, I did go to the Q.M. Stores and tried to get them exchanged, but I got the same story there; I was told that the boots I needed or should have had been discontinued. So I carried on.

During this time I had pains in my leg all the time; and one day there was a foot specialist from District Depot No. 2 in Cornwall. He was making a routine check on personnel that came from the Depot. At this time I told him about my legs, and he suggested I see the M.O. in the camp, which I did. It wasn't a very thorough inspection I got - a bottle of liniment to rub on. I told the M.O. there was one knee in particular had bothered me for years, and I had seen civilian doctors about it, and had taken medicine for it, but due to the nature of the work I was doing the knee didn't bother me at the time. After two or three visits to him and massage and treatment of this liniment, I went to him this morning, andhe took another look at my leg, and said I had some sort of foot condition; but seeing my period of training at Cornwall was almost ended, I would be best advised to tell my story to the M.O. at Camp Borden.

20

I did - at one of the routine check-ups they have. I told my story to the Medical Officer, that was there. They took a look at my legs, which are quite big, by the way: my legs look as if they are powerful; and they practically laughed at me. They told me I should come back on sick parade in the morning if my feet continued to bother me. I went along. Later on, three weeks later, I went to see the M.O. and he gave me quite a thorough check-up. Before this, during the three weeks training I found that it was impossible for me to keep up on the route marches, and such things as that, owing to the pain in my legs, and the tightening of my muscles in my legs. For that reason I went to the M.O. He made quite a thorough check on my legs, and between the two of them they decided my legs were rather short, and that was the reason I couldn't keep up.

I finished my advanced training and went into the Machine Gun Wing there. Just by chance I happened to ask one of the sergeants in the wing, and I told him I would like, if not a proper fitting boot, one that was larger to enable me to get two pairs of socks underneath them. He took me over to the Q.M.Stores, and the Quartermaster tried to fit me and he told me it was impossible to fit my foot with this stock, and I would have to have a special pair of boots. He took me over to the M.O. to get a signed slip stating what I needed.

After this time, the same foot specialist, this Major from District Depot No. 2 was at Borden with a staff of special experts from the firm that made boots for the army, and I was one of the group that

went over; and they also said I needed a pair of boots specially made. During my talk with the Major I reminded him about this knee, I had spoken to him about in Cornwall; and I think he remembered - he said he did. He said that when it was my turn to see him at his desk I should remind him that he wanted to speak to the M.O. My turn came along, and I told the Major about it, and he went off to get the M.O.; and came back a little later, and said he couldn't find him, but he would see him later. That was the last I heard of this.

During this period I developed varicose veins in the right leg, that I did not have when I joined the army. The cold weather was coming along, and the tight fitting boots were causing me considerable pain. A few days later I was measured for these boots in the Q.M. Stores, and promised I would have them within a week or two. I went on and did the best I could; a week passed and a month passed. I came down here on course, still no boots. I went over to see the medical officer who was here at that time. He told me there was nothing he could do about it. It was the responsibility of my unit at Borden to handle such things as that; but he did suggest I take these treatments they have after duty each night. I took it for a while - three or four nights, possibly longer - and I went over one night, and there was a fellow over there asked me what I wanted. I told him; and he said there was nobody to give them; I would have to forego them for that night. I was quite disgusted, and I didn't go back.

I carried on until Christmas time, a period of another two weeks, and still no boots; and when the cold weather was increasing, I found the pain was

unbearable. Each morning I would go out; my legs would hurt ; and at night I would get into bed, and they would ache. That was one of the reasons why I stayed away at Christmas time.

Also, when I joined the army my job with McColl-Frontenac, which carried with it post-ponement for the duration...I did so against the wishes of my father, who was a very nervous man, I should say; he was quite upset. He has taken since then on a number of occasions; he has seen quite a few doctors, which have done him no good. He has taken all kinds of pills and medicine. When I went home at Christmas my mother told me he had been off work a week, and was going to stay off another week, because of the pain in his stomach. She told me at that time - I think it was Dr. Copp, I couldn't say for sure - had told her on the side sort of, that there was nothing wrong with my father organically or any way like that, just caused through a nervous strain. I thought perhaps it might help a little if I stayed home for a while. I think it did.

On top of that, I was down at Cornwall taking basic, and I made a few friends down there, and I promised I would go back at sometime or other, and didn't get a chance to go until Christmas season. About a week before Christmas I applied for New Years, and was told what would happen; and I made arrangements by letter to go down to Cornwall between Christmas and New Years. Then on the afternoon of the 21st I was told that I would be going on Christmas week; therefore, my arrangements were all shot, and I couldn't possibly get down there.

I think that is just about my story; and it

17

gives the mental attitude I had

when I stayed away .

QUESTIONED BY PRESIDENT

Q Did you get the boots yet?

A Yes, Sir, I have them now.

Q Are they of any assistance to you?

A I would say they remedy part of theproblem; I still think I need something else; I have been told by a foot specialist that I need an arch-support.

Q The boots don't supply the necessary arch-support?

A That is what I have been told. The civilian doctor I have seen about my foot, my left foot in particular, he told me it was altogether a different thing. I have been told in the army it is a different thing - it is my feet .

Q What did the civilian doctor suggest?

A He said it was a nerve; the actual pain was in the hip, but seeing the nerve ran down into the leg, that is where I felt the pain and ache.

Q Does it only bother one leg or both?

A I have a knee--I couldn't bend over and touch my toes now without bending my left knee; and in a sitting position I can't strsighten up my leg. Both legs have an ache all the time.

Q Both of them have an ache?

A Yes, Sir.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

~~Question to the accused~~ ~~Have you any statement to make concerning the documents which have just been read to you?~~

~~Answer.~~ ~~No, Sir.~~

PROSECUTOR: Mr.President I have here a certified true copy of Part I Order, No. 45,dated 5 March. I draw the Courts attention to Para 10.

(See document marked "G" attached)

Question to the accused

PRESIDENT: Have you any statement to make concerning the document which have just been read to you?

Answer

No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. My Defending Officer will speak for me.

(See document marked "H" attached)

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

15

6

M.F.B. 155
50M—9-42 (4992)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-163094	Pte.	MANGOFF, Philip	S-5 C.D.&M. School

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For	Nil	times	Nil	times
For	Nil	times	Nil	times
For	Nil	times	Nil	times

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

A.F.A. 73

3. The accused is not under sentence at the present time.

or,

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 11 days in military custody, making a total of 11 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20 years 4 months

6. The date of his attestation specified in his attestation paper 13 July 1944

7.

8.

9. The accused is in possession of or entitled to no military decoration, or military reward

10.

14

11. ~~(In the case of an officer.) The accused holds a commission in the Regular Army, the Reserve, the Militia, the Regular Air Force, the Reserve Air Force, the Militia Air Force~~

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Air Force Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of March 1945

Officer detailed to have custody of original documents.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.B.122)
(Revd.—25-42 (7527))
(Pt. G. 1171-36-1452)

No. B-163094 Name MANGOFF, P.

Sqn., Battery, or Company } N/A

Corps C.I.C. (M.G.)

Date of enlistment } 13 Jul 44

G.C. Badges } N/A

Tradesmen's Rates of Pay }

No. and date of last drunk } 1N/A

Period not reckoning towards freedom from extra fine } N/A

Sheet No. one

Signature O.C. Company, etc. } K.A. Mac Rhyan, Capt

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				No entries					

CERTIFIED TRUE COPY
Officer Having Custody of Original Document

P.T.O.

Certified True Copy DeLorimel G
Regal Office
S-S-C N-M-S
Woodstock

Part I Orders
- By -
COLONEL R.BLAND CROUCH, OBE, ED
-Commandant -
S.S.5 Cdn. D. & M. School

G. A. Bumsted
Pres S&M

Woodstock, Ontario — Part I No. 45 — D/5 Mar/45

1. DUTIES

Orderly Officer	- 5 Mar -	Lieut. W.A. Glassford	(N)
" "	- 6 Mar -	Lieut. R.J. Shipley	(N)
" "	- 7 Mar -	Lieut. S.T. Coady	(N)
Orderly Sergeant	- 5 Mar -	Sgt. Ferguson, J.L.	
" "	- 6 Mar -	Sgt. Dent, B.A.	
" "	- 7 Mar -	Sgt. Zeigler, D.E.	

2. PICQUET - To report at Guard Room at 1845 hours
5 Mar - Sgt. Hine, C.R. and L/Cs. Taylor, P. and Williamson, H.
6 Mar - Sgt. McKellar, R.W. and L/Cs. Smith, E.S. and Welch, C.
7 Mar - Sgt. Aikins, H.L. and L/Cs. Worden, R. and White.

3. MESSING SERGEANTS

	West Kitchen	East Kitchen	North Kitchen
5 Mar -	Sgt. Frost.	Sgt. Fritz	Orderly Sergeant
6 Mar -	Sgt. Gillman	Sgt. Scall	Orderly Sergeant

4. CANTEEN CORPORALS

	5th Mar	6 Mar	7 Mar
West -	Cpl. Matheson, D.	Cpl. Marchand, L.	Cpl. McLean, J.C.
East -	Cpl. Ayers, M.	Cpl. Jacobson, J.	Cpl. Ennest, T.

5. M.T. AND FIRE PICQUET

Monday - 5 Mar - 1740 hrs.
The M.T. picquet for Mon, 5 Mar 45, will be supplied by Drv. Mech. (UC) Wing under L/Cpl. Barnes, H. and Sgt. Nixon, E.F.

Tuesday, 6 Mar - 1740 hrs.
The M.T. picquet for Tue, 5 Mar 45, will be supplied by "B" Group under L/Cpl. Pidgeon, C. and Sgt. Drouin, R.J.

Wednesday, 7 Mar - 1740 hrs.
The M.T. picquet for Wed, 6 Mar 45, will be supplied by Drv. Mech. (UC) Wing under L/Cpl. Beaudette, L. and Sgt. Kerr, J.E.

6. POSTINGS

B.163497 Pte. DOOLEY, H.	Posted to "D" Group until completion of S.of I. effective 28 Feb 45
B.163677 Pte. McKENZIE, J.	Posted to "D" Group until completion of S. of I. effective 28 Feb 45.
L.109180 Pte. WALTON, L.	Posted to "D" Group until completion of S. of I. effective 28 Feb 45.
M.2289 Pte. KINGHORN, R.R.	Posted to "D" Group until completion of S. of I. effective 28 Feb 45.
K.58023 Pte. MILLER, E.A.	Posted to Admin. Wing from Drvg. Wing I.C.(W) effective 2 Mar 45
A.20656 Pte. BOUCHNER, F.E.	Posted to Admin. Wing from Dvg. Wing I.C. (W) effective 2 Mar 45.

7. COMMAND
Colonel. R.Bland Crouch, O.B.E., E.D. again reassumes command of S.5 Cdn. D. & M. School, on return from duty.

8. JEEP HANGARS
Responsibility for the cleanliness of the jeep hanger for the month of March 45 will be as follows:-

4 to 10 Mar 45	"A" Group
11 to 17 Mar 45	"B" Group
18 to 24 Mar 45	"C" Group
25 to 31 Mar 45	Dvr. Mech. (UC) Wing.

12

9. MEN'S CANTEEN COMMITTEE MEETING
The Men's Canteen Committee and sub-committee will meet in the Library (Bldg. #22) at 1430 hrs., Wed, 14 Mar 45.

The sub-committee are requested to make suggestions at this meeting as to the expending of the profits for the general benefit of the men at this School.

Committee: Major M.P. Dean - President
Capt. J.L.McKnight, E.D. - Secretary
Lieut. G.J.B.Warwood - Treasurer.

Sub-Committee: Drv. I.C. (W) Wing -
A.108246 Cpl. Hammond, M.F.
A.10432 Cpl. Creasey, F.A.
B.12401 Cpl. Lindsay, W.C.

Dvr. Mech. (UC) Wing
A.28515 Cpl. Perry, A.W.

Admin. Wing
A.67741 Cpl. Pennock, M.F.
A.67734 Cpl. Clements, W.
W.1320 Cpl. Witiw, F.J. (CWAC)

CWAC Dvr. Wing
W.13549 Cpl. Cording, M.E.

10. ABSENCE WITHOUT LEAVE
It is brought to notice that A.W.L. has become a prevalent crime in M.D. No. 1. Under these circumstances O's C. will ensure that adequate disciplinary measures are taken in all cases of A.W.L.

11. USE OF TELEPHONES FOR LONG DISTANCE
No long distance telephone calls will be made from this School, with the exception of pay telephones, unless authorized by the Commandant of the Adjutant.

This also applies to the sending of wires. Under no consideration will any wires with respect to extension of leave, etc., be sent otherwise than collect to the party concerned.

12. HUT ORDERLIES
It is the direct responsibility of Hut Orderlies to clear and keep cleared, the snow from doorways and steps of the huts in which they are on duty, and any hut orderlies failing to comply with this order will be dealt with accordingly. It is most important that the coal not be scattered around the boal bins and hut orderlies will pay close attention to this order when filling their coal scuttles.

13. TRANSPORTATION
It has been found that a great number of students are arriving at this School with return transportation in their possession, which is contrary to instructions as laid down in C.A.T.M. 19 para. 4.

Upon examining this transportation, it has been inveriably found, in almost every instance, to be incomplete with some portion of it missing and especially meal tickets, which are out-dated, and are invalid to the soldier or officer on their return journey.

Any Officer or Other Rank who has return transportation in his possession, will turn it into the Battalion Orderly Room at once, in order that proper arrangements may be made for return transportation to his Unit.

THIS IS TO BE TREATED AS A MATTER OF THE UTMOST IMPORTANCE.

CARE AND CLEANING OF RIFLES
The rifle will be cleaned daily. All metal parts, including bayonet and scabbard will be covered with a light film of oil. After cleaning stock and butt, wipe off with a slightly oily rag. The bore will be cleaned and a light film of oil left on after cleaning. Breech covers will be left off and plugs or other articles will not be used to cover

14. CARE AND CLEANING OF RIFLES CONT'D
muzzle.

The Orderly Officer of the day will make a spot check in each hut, of rifles and any rifle which is not in good condition will be reported immediately to Wing or Group Commanders of man concerned.

On the bi-weekly inspection of rifles on parade square, inspecting officers, W.O's and N.C.O's will pay as much attention to the inspecting of all component parts of rifle, including bayonet and scabbard as is paid to the barrels.

15. LAWN MOWERS
All lawn mowers in possession of Wings will be turned in to the Admin. Wing orderly room immediately.

16. HEATING EQUIPMENT
No switch to do with the operation of heating equipment in this School will be touched or tampered with in any way by other than those authorized by the Engineers.

Any person touching such a switch will be severely dealt with.

for J.D. WILSON, Captain and Adjutant,
S.5 Cdn. D. & M. School.

LOST
Steel helmet belonging to A.111104 Sgm. Deckert, K.R. - marked name and no. inside. Lost between hut 1A or 37E on 3 Mar 45. Finder please return to Battalion Orderly Room.

STAGE SHOW

The "Alf Tibbs Originals" concert party will be playing here at 2015 hours tonight. Please be in your seats by 2000 hours.
A GOOD SHOW WITH A GOOD CAST!

DOCUMENT "H"

ADDRESS BY DEFENDING OFFICER IN MITIGATION OF SENTENCE

Mr. President,- The accused I believe has very ably explained his reasons for being absent from the army. However, in summing up his case I might say a few words; and I do believe that the accused has been a victim of circumstances. He more or less has had the run-around as far as the Quartermaster Stores or the authorities with regard to his proper fitting of shoes.

We all know how difficult it is to navigate with shoes improperly fitted. He has explained in detail the trouble he has had - the M.O. - the medical authorities, as well as the Quartermaster Stores, in trying to get the proper fitting shoes. The old slogan goes "The infantry marches on its stomach."...I think in this war that it marches on a good pair of shoes, which have been provided for every man in the army. He has been unfortunate that he has not been able to get a proper fit. The proof is that he did not have a proper fit, and that there were measures taken. The fact is that he now produces a pair of shoes that he is wearing. I think that alone is sufficient evidence to prove that he has had trouble, and they realized, and the specialist that has been called in did understand his case, and did try to get shoes for him; but it has been six months since he joined, or longer than that now - he joined the army back in the summer of 1944.

Pte Mangoff, you will recall in his statement, and it is proven, that he did voluntarily join the army on his own account. He left a good job; he left against the wishes of his father to join the army. He is young and as vigorous as any other young Canadian, and who had a feeling he should offer his servi ces.

10

He has a clean sheet, his M.F.M. 6; this proves he has been a good soldier until coming to this camp, to the point where he was "browned off" and a mental attitude was created, which drove him to go loose. He has returned. The new shoes that have been provided for him in the army may solve part of his problem. I strongly recommend that further steps be taken to correct his trouble. He is young; he is healthy. The trouble apparently has been with shoes that the army has supplied him.

He has, as I said before, covered his problem very thoroughly, and with those remarks before you, I would recommend that the court be lenient in the punishment handed out to the accused.

9

Adamson Sgt Col

MEDICAL OFFICER'S REPORT

Res. S.O.M.

I certify that No. B 163094 Pte Mangoff F.

of S.O.M. Woodstock Ont. is in a good state of health,

and fit to undergo Trial by Court martial.

G.D. Gow Capt.
Medical Officer
S.O.M. D.O.M. School, CA.

Station Woodstock Ont.

Date 6 Mar-45.

8

M. F. B. 246
SOM—11-42 (33221)
H.Q. 1772-99-490

PRECIS OF EVIDENCE

in the case of

No. B-163094 Pte. Mangoff, Philip, S.5 Cdn. D.&M. School, C.A., Woodstock, Ontario, a G.S. soldier of the Canadian Army, placed on Active Service:

CHARGE: WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

Sec. 15 (1) Army Act

To prove this charge the following documentary evidence is available.

(i) M.F.B. 375

(ii) M.F.M. 216

(iii) M.F.B. 273

(iv) M.F.B.1481 $4.35

(v) M.F.B. 355

(vi) M.F.M. 6

D.A. Carmichael Lieut.
(D.A. Carmichael) Lieut.
Legal Officer
S-5 Cdn. D. & M. School, C.A.

Woodstock, Ont.,
2 Mar 45

7

RECORD of the Declaration of a Court of Inquiry assembled at S.S Cdn. D.&M. School Woodstock, Ontario

on the 25th day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.163094 Pte. MANGOFF, P.

DECLARATION

The Court declare that No. B.163094 (Reg'l No.) Private (Rank)

MANGOFF, Philip (Full Name) att'd S.S Cdn. D. & M. School (Unit)

illegally absented himself without leave from S.S Cdn. D. & M. SCHOOL

at Woodstock, Ont. (Place) at 0600 hours on the 28th day of December 1944,

that he is still so absent, and that on the 25th day of January 1945 he was deficient, and

that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Badges, Cap	1		09	Overalls, Combination prs	1	$	52
Battledress, Blouses	1	6	50	Pins, Collar, Safety	1		06
Battledress, Trousers Prs.	1	6	55	Shirts, Khaki Cotton	1	1	54
Belts, Waist, Leather, Brown	1		35	Shoes, Leather Black prs	1	4	84
Brushes, Button	1		11	Spoons, Table	1		08
Brushes, Cloth	1		17	Knives, Table	1		18
Caps, Field Service	1		70	Covers, Camouflage	1		26
Caps, Winter Melton	1	1	05	Gloves, Woollen, Khaki	1		66
Combs, Hair	1		04	Greatcoats, Drab	1	15	54
Drawers, Cotton Short, prs.	2		84				
Forks, Table	1		08	TOTAL		$42	35
Neckties, Black	1		19				

D.A. Carmichael, Lieut. (Name) (Rank) (Unit) President

Signed at S.S Cdn. D. & M. School (Name) (Rank) (Unit) Member

this 25th day of January 1945 (Name) (Rank) (Unit) Member

Signature of Commanding Officer R.B. Crouch (Name) (Rank) (Unit)

Certified true copy (R. Blair Crouch, E.D., Colonel) (Name) (Rank) (Unit)

D.A. Carmichael, Lieut. (Signature of Officer having custody of original record)

M.F.B. 573
A.F.B. 116
150M—28-42 (6596)
H.Q. 1073-39-267

6

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major, F.E. McMAHON, No.31 Coy, CDN PROVOST CORPS, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that B.163094 Pte MANGOFF, P
(Number) (Rank) (Name in full)

of the Canadian S-5 DRIVING and MAINTENANCE, WOODSTOCK, ONTARIO.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~SURRENDERED~~) B.97741 L/Cpl GIBBARD, H.C.
(Number) (Rank)

B.97868 L/Cpl PENNER, J.H. No.31 Coy, C.PRO.C. C.A.
(Name) (Unit or appointment)

at 2 Briarcroft Rd., TORONTO, Ont., at 0830 hrs
(Place) (Hour)

on the 23 day of FEB 1945

Strike out words not applicable } as a ~~MEMBER OF~~ absentee without leave), and that at the time of his arrest he was wearing military ~~XXXXXX~~ uniform (~~XXXXXXXXXXXXXXX~~).

Dated at 339 George Street, TORONTO, Ontario this 23 day of FEB 1945
(SSOLDIER OF THE ACTIVE ARMY).

(F.E. McMAHON), Major,
(Signature, Number, Rank, Unit or appointment)

Officer Commanding, No.31 Coy, C.PRO.C. C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (5730)
H.Q. 1772-30-1936

5

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. J.W.Zimmerman - Issuing Officer for D.S.&T.O. M.D.1
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~(authorized)~~ the hereinafter itemized transportation for escort

Complete — to proceed from Woodstock, Ont. (Place) to Toronto, Ont. (Place)
and return to Woodstock, Ont. (Place) for the purpose of escorting

Full description of soldier being escorted — B-163094 (Number) Pte (Rank) Mangoff, P. (Name in full)
S-5 C.D. & M School (Unit) (Attachment, if any)

Strike out clause not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation required~~) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
TO COST OF T.W. # C 866925 d/24 Feb 45:	
One second class return Woodstock - Toronto	$ 2.90
" " " single Toronto - Woodstock	1.45
TOTAL	$ 4.35

Dated at Woodstock, Ont. this 24 day of Feb A.D. 19 45

(J.W.Zimmerman) Lieut.
Signature, rank, unit, attachment (if any) and appointment of officer
(issuing transport warrants) (~~authorizing transportation~~)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

M.F.B. 1481
125m—10-43 (1602)
H.Q. 177-49-185

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482

4

HQS.55-H-1598 (JAG/D-4)
Your File L.80-1-1498

17 Mar 45

District Officer Commanding,
Military District No. 1,
LONDON, Ontario.

STANDING COURT-MARTIAL
H.103034, Pte. Philip MAHONEY
S-5 C.D. & M.S. (GA)

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4065 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. The officer to certify that a document is a true copy or extract, so that such copy or extract may be admitted in evidence, is the officer who has the custody of the original document, record or book (A.A.165 (1) (h)). A Legal Officer is not a proper person to sign such a certificate unless he has the custody of the relevant original. Further, the certifying officer should, after his signature and rank, set out his appointment and unit and that he is the Officer having custody of the original document (or record or book, as the case may be). Some of the certificates endorsed on the M.F.B. 550, M.F.H. 6, copy of Part I Order (Exhibit "G") and M.F.B. 575, attached to the proceedings of the G/M Court-Martial, fail to set out certain of these particulars after the signature and rank of the certifying Officer, and some fail to set out others of these particulars.

(R.J. Orde), Brigadier,
Judge Advocate-General.

RWA/AB

3

THIS COPY FOR H.Q.C.55-M-1598
M.D.1.28-M-1482

C.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B.163094 Name MARGOFF, Philip

Rank Pte Unit S 5 C.D. & M.S. C.A.

Charge A.A. 15 (1) - A.W.L.

Date of Crime 28-12-44 Charge. Signed 2-3-45

Date of Arrest 25-2-45

Orders for D.C.M.

Place and Date of Trial S. 5 C.D. & M.S. C.A. Woodstock Ont 6-3-45

Sentence Det 90 days; stoppages $4.35

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36160

Date 14-3-45

MEMO

M.D. 1 - S 5 CD & MS CA

Absent	Sentence
1¼ mos	Det 90 days

2

R Elmglin Capt.
for Judge Advocate-General

5M-11-44(M-4511)

IN REPLY PLEASE QUOTE
No. L.28-M-1462

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

HQ MD 1, London, Ont., 9 Mar 1945

Judge Advocate-General,
National Defence Headquarters,
OTTAWA, Canada.

C.55-M-1598

STANDING COURT-MARTIAL
B.163094, Pte. Philip MANGOFF
S-5 C.D. & M. S. (CA)

Enclosed herewith are the proceedings of the m/n Standing Court-Martial, which took place at Woodstock 6 Mar 45.

2. It was noted that the accused was held in custody awaiting trial for 12 days. The accused was apprehended in Cornwall, Ontario, 23 Feb 45 and he was received at his Unit 25 Feb 45. His documents were not received at his Unit until 1 Mar 45.

(H.C. Cameron) Lt-Col.,
Pres.Standing Courts-Martial MD 1

Invoice
36160

N.D. 33
3000M—10-44 (5759)
H.Q. 3773-101-23

H.Q.C. 85-M-1599 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

DISTRICT COURT-MARTIAL

MULLER. FRED FRANK B-160485 PTE. -L-CPL-

CONFIDENTIAL
H.Q.C. 85-M-1599

CENTRAL REGISTRY	DATE	P.A. OR D.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on the line, add minute to file and enter here "With Minute")		MAR 1 3 1945
				J.A.G.	NEW FILE C.R.		
MAR 1 9 1945 MAR 20 1945	20/3/45	PA	LKC	JCM	To note please	AET	19 Mar 45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1599(JAG/D-1)

March 19, 1945.

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

District Court-Martial
B-160485, Pte. (L/Cpl.) Fred Frank Muller
No. 25 C.I. (B) T.C. C.A.

Receipt is acknowledged of your T-20-M-17930(AJAG), dated the 9th March 1945, under cover of which you forwarded for registration and custody the proceedings of the a/n District Court-Martial.

2. It is noted that the accused was found Not Guilty of the charge and the Finding read in open Court and the accused released.

3. The proceedings are retained for custody.

(R.J.Orde), Brigadier,
Judge Advocate-General.

ALZ/MB

Noted
L. M. CLAYTON
Lieut.-Colonel,
Director of Courts-Martial
MAR 20 1945

THIS COPY FOR: H.Q.C.55-[illegible]-1599
M.D. T.20-[illegible]-17030

C.S. MEMORANDUM - DISTRICT COURT-MARTIAL

No. B.160485 Name MULLER, Fred Frank

Rank Pte (L/Cpl) Unit No. 25 C.I.B.T.C. CA

Charge A.A. 40 - Conduct to the prejudice ...

Date of Crime 10-1-45 Charge. Signed 19-2-45

Date of Arrest

Orders for D.C.M. D.O.C. M.D. 2

Place and Date of Trial No. 25 C.I. (B) T.C. C.A. Simcoe Ont 26-2-45

Sentence Accused Released

Date of Confirmation N/A

Date of Promulgation N/A

Entered in Records of J.A.G. as No. 36163

Date 14-3-45

MEMO Not Guilty

H Thurlow Capt
for Judge Advocate-General

SM-11-44(M-4511)

IN REPLY PLEASE QUOTE No. T-20-M-17930(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
9th March, 1945.

CONFIDENTIAL

r.55-M-1599

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

District Court-Martial
B-160485, Pte. (L/Cpl.) Fred Frank MULLER,
No. 25 C.I. (B) T.C. C.A.

Reference H.Q. 405-M-37,009 Admin 4(b)4 dated 2nd March, 1945.

2. Enclosed herewith proceedings of the marginally-noted trial by District Court-Martial for the custody of and registration by the Judge Advocate-General.

3. It is considered that there is no further administrative action required in this matter.

(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

36163

NAT. DEF. B. 440
25000M 1-44-4320
H.Q. 1772 38-267

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for ~~General and~~ District Courts-Martial

Proceedings of a District Court-Martial held at No 25 Cdn Inf (B) Trg Centre, SMCOE Ontario, on the 26th day of February 19 45 by order of A.E. POTTS, Major-General CBE, ED District Officer Commanding Military District No 2 dated the 22nd day of February 19 45

President.

Major W.P. McClemont, E.D.
The Argyll & Sutherland Highlanders of Canada (P.L.) CA, Headquarters, Military District No 2.

Members.

Captain H.B. Henry,
Home War Establishment,
No 20 Canadian Infantry (Basic) Training Centre, CA

Lieutenant J.B. Centeno,
Home War Establishment,
No 20 Canadian Infantry(Basic) Training Centre, CA

~~Judge Advocate.~~

Trial of* B 160485 Private (Lance Corporal) Fred Frank MULLER, No 25 Canadian Infantry (Basic) Training Centre, C.A.

The order convening the Court, the charge-sheet and the summary ~~statement~~ of evidence are laid before the Court.

~~The Court satisfy themselves that xxxx

B

The President and members are duly sworn.

No 2 Det C.M.S.C. attached

Q.2 Do you object to W11059 S/Sgt I.C.Gobson C.W.A.C. No 49 Adm Unit C.W.A.C. acting as shorthand writer ?

A. No, sir.

W.11059 S/Sgt I.C.Gobson C.W.A.C., No 2 Det C.M.S.C attached No 49 Adm Unit C.W.A.C., is duly sworn as shorthand writer

Charge-Sheet

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The Prosecutor informs the Court that the accused has elected to be tried by this Court instead of being dealt with summarily by his Commanding Officer.

The accused is arraigned upon the charge in the above-mentioned charge-sheet.

Q.3 Is that your number, rank, name and unit? *Question to the accused.*

A. Yes, sir *Answer.*

Q.4 Are you guilty or not guilty of the charge against you, which you have heard read? *Question to the accused.*

A. Not guilty, sir. *Answer.*

~~Are you guilty or not guilty of the second charge against you, which~~ *Question.* you have heard read?

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

THE ACCUSED ELECTS TO BE TRIED BY DISTRICT COURT MARTIAL.

B-2
W. McClement
Pro. D.C. Re. Major

CHARGE SHEET

The accused, No. B.160485, Private (Lance Corporal) Fred Frank MULLER, No. 25 Canadian Infantry Basic Training Centre, C.A., SIMCOE, Ontario, a G.S. Soldier of the Canadian Army placed on Active Service is charged with:-

CHARGE
SECTION 40
ARMY ACT

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

at the Township of Wyndham in the County of Norfolk on the 10th day of January, 1945, improperly handled a No. 77 Smoke Grenade and thereby negligently injured himself, whereby His Majesty suffered loss or damage in the amount of $65.00 made up as follows:-

Cost of Hospitalization to No. B.160485 Private (Lance Corporal) Fred Frank MULLER, at Hamilton Military Hospital, from the 10th day of January, 1945 to the 5th day of February, 1945 - 26 days at $2.50 per diem - $65.00

TOTAL $ 65.00

19th day of FEBRUARY, 1945,
SIMCOE, Ontario.

J.M. Hunter
(J.M. Hunter) Major,
Officer Commanding,
No. 25 C.I.B.T.C., CA,
SIMCOE, Ontario.

TO BE TRIED BY DISTRICT COURT-MARTIAL

M. Drury
(M.H.A. Drury)
Lieutenant-Colonel
A.A. & Q.M.G. M.D. 2.
for D.O.C. M.D. 2.

SIGNED at TORONTO, Ontario, this 22nd day of February, 1945.

(This page to be removed from proceedings if plea to all charges is Guilty.)

C

*Instruction. (See R.P. 39 (A))

Question.

Proceedings on Plea of Not Guilty

Q.5 *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

A. No, sir.

(For statement of Prosecutor as to Legal Qualifications, see document marked "G")

(Strike out and initial words not applicable.)

The prosecutor makes an opening address [~~xxxx

A. He is an instructor.

Q.15 Have you any idea or any knowledge as to how long he spent in B Company as an instructor ?

A. I can't answer that except that he was with me for about a week.

Q.16 Do you recall the date of the 10th of January, 1945 ?

A. I do.

Q.17 What were you doing on that date ? How were you employed on that date ?

A. As Platoon Commander, I believe it was of 6 Platoon.

Q.18 Where was the accused on that date ?

A. He was one of my Lance Corporal instructors, employed with my platoon.

Q.19 Did anything happen on that date that was out of the ordinary ?

A. Yes, that is the date the accident occurred.

Q.20 To whom ?

A. To Lance Corporal Muller.

Q.21. Will you tell us what happened. Start from the time you left camp. First of all, did you leave camp ?

A. Yes, we left camp. It was about 1500 hours on that date .

Q.22 On what date ?

A. The 10th of January, 1945.

Q.23 Go on, please ?

A. It was about 1500 hours on the 10th of January 1945. I should say about half an hour before that I was called into the Orderly Room. At that time I was told to take No 5 and 6 Platoons on a route march. The 2 i/c of the Company, Captain Fonger, gave me three 77 Smoke Grenades. They were not primed, the detonators were handed me in a separate envelope. I was instructed to take along a 303 rifle, and at the same time I was handed six or seven live rounds, with instructions to take these platoons on a four mile route march. They were to be halted and during a break period I was to give them a short talk on these grenades and subsequently throw them in some spot that I might choose.

A.23 (cont) I gathered the platoons together, and found out that Mr Gordon, Lieutenant Gordon, was to come along with me and act as 2 i/c of the parade. Corporal Muller was attached to my platoon - was with No 5 Platoon.

We left the gate at approximately 1500 hours, and proceeded in a southerly direction towards Brantford. About a half hour later we had covered two miles. We stopped for the break at a place known as Wyndham Township. On the side of the road, on the left side of the road, there is a gravel pit. It is not exactly a gravel pit, but a depression in the ground. I broke the platoons off, let them smoke, and after about ten or fifteen minutes, I gathered them together on the side of the road, it would be the east side of the road, next to the gravel pit, and gave them a talk on the subject of grenades. While this was going on, I had instructed three or four of the Lance Corporals to gather some brushwood and place it some forty or fifty feet from the road, inside the pit, in the depression. I had intended using this as a target to throw the grenades.

After the talk I primed the first grenade and threw it in the direction of the target. My throw was short - about ten to fifteen feet short, and the grenade did not explode.

Incidentally, I might say, before throwing them, I warned them no one was to leave the bank where we were standing. I had the platoon lined up on the side of the road. I warned them they were not to leave the road. I then called Mr. Gordon over, he was about fifty feet from me. We had a large number of men, somewhere in the neighbourhood of a hundred. I asked him to throw the second one. He threw it a few feet in front of the target and it didn't explode.

Corporal Muller was a few feet from me and he asked me if he could threw the grenade. He had never thrown one before and he did; and it fell to the right of the target. It didn't explode.

Q.24 Can you tell us why the three didn't explode ?

A. Yes, I can. The snow cushioned them, with the result the striker didn't push down the creep spring, with the result the detonator didn't explode. I thought when I went there the hard crust was sufficient to give it the necessary impact, but it seems it wasn't.

Q.25 How deep would the snow be ?

A. It was during the heavy snow, three or four feet I would say.

Q.26 Would you say why you took the rifle with you ?

A. We had thrown these grenades in our area previously. We had had blinds before and we found it the most effective manner to destroy the blinds, to fire a 303 in them.

Q.27 May we take it you anticipated you would have some blinds?

A. Yes, we anticipated that.

Q.28 What county is the township of Wyndham in ? What county is this Training Centre in ?

A. It might be Norfolk.

Q.29 You don't know for sure ?

A. No, I don't know.

Q.30 I am sorry to interrupt you, I wanted to clear up those few points. Will you carry on please. You got to the point where you were telling us about the snow.

A. Yes, the snow cushioned the grenades, and they didn't explode. When that happened, it was imperative we destroy them as soon as possible. I called Mr Gordon over. He is a good shot. I first warned the platoons not to leave the embankment on the side of the road. I took the rifle from one of the men, and gave it to Mr Gordon. I had the rounds in my own pocket, and gave them to him, and told him to destroy the grenades. Mr. Gordon proceeded down the embankment towards the grenade and when he was approximately four or five feet from it, he seemed to walk to the left from where I thought the grenade had landed.

A.30 (cont) I attempted to lead him with my voice, in fact, I think my words were, "Go to the right." He was approaching the grenade very cautiously and carefully.

Q.31 Do you know which grenade he was approaching ?

A. Yes, I had thrown that one. It was the one that fell short. It was the closest to us.

Q.32 I see. You were going to do it closest one first ?

A. Yes, I had intended that in my mind. I didn't communicate my thoughts to Mr. Gordon, but it was logical for him to take the first, and second, and then the third one last.

Q.33 Go on, please .

A. Mr Gordon was approaching the first grenade very carefully, and all of a sudden Corporal Muller rushed down the bank, and said "I will show you where it is, sir".

Q.34 How far would it be from the grenade which you are speaking about to the place where the platoons were halted.

A. About thirty feet. Twenty-five to thirty feet, sir.

Q.35 After he said, "I will show you where it is, sir," what happened then ? What action, if any, was taken by you ?

A. I yelled out, "Come on back here, Corporal," and he might not have heard it or he just disregarded it. At that moment, his run was very fast, he was right behind Mr. Gordon, and when Mr Gordon could see he was there, I heard him say, "Get the hell out of here".

Q.36 How far would the accused be from Mr Gordon, when Mr Gordon said, "Get the hell out of here" ?

A. Not any more than four feet. He was immediately behind him.

Q.37 Did the accused do what Mr. Gordon told him ?

A. No.

Q.38 What did he do ?

A. He took a few steps forward, bent down, and said, "I will show you where it is, sir," and proceeded to remove the snow where ostensibly the first grenade was. Just then Mr Gordon said,

A.38 (cont) "leave that God damn thing alone."

Q.39 What did the accused do, if anything ?

A. The Corporal took the grenade in his hand, and in front of his body, and said, "Look sir, there is nothing to it. He made a motion as if he would throw it in the air, or possibly he did throw it in the air, things happened quickly after that. I saw Mr. Gordon make a left turn, and then I ran down the embankment and started to strip his (Muller's) clothing off. I stripped him to the waist and applied my first field dressing to his nose, that seemed to be the worst burns. I asked the boys for their first field dressings. I flagged a couple of civilian cars on the road and hailed a couple of civilians to help with Mr. Gordon. They went back to camp after that in the same motor vehicle.

Q.40 That is Mr. Gordon and Corporal Muller, the accused ?

A. Yes, about fifteen or twenty minutes after the accident occurred.

Q.41 That - up to that point, is that pretty well how the accident occurred ?

A. Yes.

Q.42 You told us the accused was with you about a week before the accident, is that right ?

A. That is right.

Q.43 Can you tell the Court anything you know about his hearing ?

A. As a Lance Corporal he does a bit of lecturing. I think I gave him the first aid to look after. I remarked to someone, I believe it was my Sergeant, but who it was I don't know , that the boy would address the squad of eight or nine usually gathered in a group in front of him - the boy spoke in an unduly loud voice; and I remarked I usually had to

A.43 (cont) repeat my instructions to him, sometimes twice, and it seems the remark was passed he was rather hard of hearing.

Q.44 Mr Bianco, have you anything to produce to this Court ?

A. Yes, when the accident occurred, I immediately formed the platoons up and returned them to camp, leaving a guard to watch the area where the grenades had been thrown, and when I returned the platoons to their quarters, I went over to theWeapon Training Office, and obtained a vehicle, and in company with the Weapon Training Sergeant, with a Thompson Machine carbine, some rounds, a 22 rifle, and the driver of that vehicle, we proceeded to the area where I left the guards where the grenades - to watch the blind grenades; as we came down the embankment, the driver previously referred to was right behind me, I picked up this object. I am quite sure it was this object, or something closely resembling it, and I said to him, "Take it as a souvenir. That is the grenade that exploded", and I identify it as such.

Q.45 What colour is it ?

A. I would say it is a metal colour.

Q.46 What colour are new smoke grenades ?

A. Green.

PROSECUTOR TO COURT: - I would like to offer it as an exhibit. I don't feel the Prosecution has proved that is the exact colour of a blown out grenade, but I would like to offer it for what it isworth. Either it was that one, or one similar to it.

Q.47 PRESIDENT TO WITNESS - There is no doubt in your mind it is the remains of a 77 exploded grenade ?

A. No, sir.

Q.48 PRESIDENT TO DEFENDING OFFICER: Have you any objection ?

A 48 No objection, as an exploded 77 grenade. Not any particular grenade, but just "a" grenade.

PROSECUTOR: I wish to put it in on that basis if the Court will accept it.

PRESIDENT: It is acceptable to the Court.

(Casing of an exploded No 77 Smoke Grenade, is tagged marked Exhibit "G" by the President)

Q.49 PROSECUTOR TO WITNESS - Mr Bianco, have you any other evidence to give to this Court-martial in this case, or is that all you have to say ?

A. As to the facts, yes, that is all I have to say.

CROSS-EXAMINED BY THE DEFENDING OFFICER -

Q.50 I would just like to clarify a couple of things first. Was this direction that you took your route march, was that north or south of the camp ?

A. In a northerly direction.

Q.51 I think you stated south in your evidence. It is not important, I just want to be sure of directions. This brush pile piled as a target for the grenades, was it east or west of the road ?

A. It was east.

Q.52 I believe Captain Downey referred to it as west. I just want to clarify it. It is not important. Merely to get that straight. You said in your evidence you carried a rifle and live rounds. Was it to be used to explode the grenades in the event they didn't explode when thrown ?

A. Yes, that is right.

Q.53 Was anything said by anyone, by yourself or anyone else, that would lead the platoon to believe the grenades might not explode ?

A. Yes, there was. I mentioned that fact after - just before throwing them, after I had covered the characteristics

A.53 (cont) of the weapon, there was a possibility they might not explode.

Q.54 Was there any reason for that ?

A. Yes, it is a creep spring bolted grenade, and the possibility of the snow cushioning it might have had that effect. In other words, it needed a sharp impact to explode the grenade.

Q.55 Have you any knowledge how long these grenades had been in stock or in the camp ?

A. Yes, I have knowledge.

Q.56 About how long would you say ?

A. These grenades had been in the camp since the early part of 1944. A shipment of one container, with possibly thirty-six grenades in that container had been sent to us in the early part of 1944. These had been the last of that container. These were given to me by Captain Fonger. He said, "These three are the last in stores."

Q.57 Would you say they should have been used before that date?

A. No.

Q.58 Was there anything about these grenades that by being a long time in stores, they might not explode ?

A. No, they have to be watched carefully to see that the container is not broken, otherwise the phosphorus would seep out, and on meeting with the air would ignite; then there is the matter of the creep springs. Not all creep springs have the same tension, but the target I had placed there, had it been struck, even on top of the snow, would have given a sufficient impact to explode. There was a crust on the snow that I thought was sufficient.

Q.59 How far would you say the target was from the throwing area ?

A. About forty feet

Q.60 Forty feet? Could it possibly have been a hundred feet ?

A. About 45 paces. That would be about forty-five yards.

Q.61 About forty-five yards, not forty-five feet. In other words, it could be a hundred feet ?

Mr. Bianco, you stated, I believe, that the three grenades were thrown; one by yourself; one by Corporal Muller; and one by Mr. Gordon, is that correct ?

A. Yes.

Q.62 Was there any effort made to destroy the first blind before the other two were thrown ?

A. No.

Q.63 Was that usual, do you know, to throw three blinds ?

A. It has been done before in a number of instances. Not with 77s, but with 36s. It is the usual procedure down at Long Branch. When a blind occurs it is marked in the mind of the officer in charge of the throwing bay, and he proceeds to destroy it. It is not an unusual thing.

Q.64 What happened after the grenade exploded and you rushed down to Corporal Muller and rendered first aid ? What did the rest of the platoon do, that is, the N.C.O.'s who were standing on the road ?

A. A number rushed down in the excitement and I think I yelled, "Get back on that road."

Q.65 But a number did rush down ?

A. Yes.

THE PROSECUTOR DECLINES TO RE EXAMINE.

Q.66 QUESTIONED BY MEMBER: Mr. Bianco, do you know whether this was a Mark I or Mark II 77 Grenade ?

A. I think it was a Mark I

Q.67 The Mark I is a phosphorus grenade. It was a phosphorus grenade ?

A.67 Yes, it was a phosphorus grenade.

Q.68 Then that is the Mark I Grenade; and you say that they had been in the camp since the early part of 1944 ?

A. These grenades, yes. Approximately early in 1944.

Q.69 Mr. Bianco, do you know of any special regulations regarding the useof the 77 Mark I Grenade and the issue of them ? Take the issue question first.

A. They are relatively new. The pamphlet doesn't even say the packing. In other words, I presume this: When the pamphlet was issued covering grenades and their method of packing, it wasn't even determined. In fact, I only found out myself when we received that box. I have issued 36 grenades with the detonators attached.

Q.70 Were they indented for in the regular way ?

A. No, sir. When we received them the 77 grenade was not on the Basic syllabus. I may be wrong there. The Quartermaster might have indented for them, but at that time I was Weapon Training Officer, and I didn't indent for them.

Q.71 Were you acquainted with any training regulations in the use of the Mark I ?

A. No, we didn't use them in training. Actually that was my first experience with throwing them. We threw a number last fall, not on syllabus, but on schemes out in the area. I had advised some officers these were available, and some who had had experience with them in Borden asked to throw them, and since they had been throwing them, I gave them permission. I know from my own knowledge some of them had to be destroyed with live rounds, because they failed to go off

(FOR MINUTE OF ADJOURNMENT AND REASSEMBLY SEE DOCUMENT "J" ATTACHED)

Q.72 QUESTIONING BY MEMBER CONTINUED: - I have one or two more questions I would like to ask you. Did you or did not not know of the scaleof issue of the 77 Smoke Grenades Mark I.

A. I did not know, sir.

Q.73 Did you or did you not know about their use being confined to authorized ranges ?

A. I had some knowledge of that. Where I obtained it, I do not know; but I did make that point when I was given instructions as I mentioned before. Before starting out on the route march with these grenades, my instructions were quite definite, and I had no alternative but to obey orders.

Q.74 Another question. Did you or did you not know of the only authorized method of destroying blinds ?

A. Yes, I did know, but the facilities - we have not the facilities in this training centre, and I was instructed as to what method to use, and was handed the instruments for such destruction before proceeding.

Q.75 Was there a qualified first aid man on the route march ?

A. There was not, sir.

Q.76 Had you taken the course in these 77 grenades at all ?

A. I took the course, the usual course in small arms at Long Branch. They were casually mentioned at the time, but they didn't have the grenade to show us.

Q.77 They didn't have the grenade to show you ?

A. No, sir. They did not.

Q.78 When these grenades and detonators were handed to you, they were handed to you personally weren't they ?

A. They were handed to me personally, yes.

Q.79 You say that you knew of this order about these 77 bombs, did you bring that information to your superior officer when he gave you these bombs ?

A. Yes, I did. In fact the situation was as follows: I was instructed to take these grenades and demonstrate how to throw them on the route march. I queried the wisdom of the order, by reason of the fact the platoons were only in the seventh or eighth day of training. This was their second route march, that would put them into their second week of training, and it was much too soon for them to take up the grenade. That was the conversation that took place between the onethat gave me the instructions and myself in the Orderly Room; and I brought up the fact there might be a possibility I would be unable to find a suitable locality to throw them. My objections were disregarded.

Q.80 You don't remember what your Commanding Officer told you in words, do you ?

A. Yes. "You will find a place out there." In fact the place that I did stop and throw them was taken into consideration as a likely spot for such throwing.

Q.81 Did you fire any of the 303 ammunition into these bombs ?

A. I personally fire any of the ammunition ? No, I didn't.

Q.82 Were they fired ?

A. Not at the time the platoons were there. Later when I returned to the scene.

Q.83 You were there when they were fired ?

A. Yes.

Q.84 Did you consider that a safe place to fire a 303 rifle ?

A. Yes, it was a safe place.

Q.85 Into a gravel pit ?

A. It wasn't a gravel pit. In the summer time it might be seen, but in the winter time it was covered with snow.

Q.86 What first aid did you give this Corporal ?

A. I stripped him to the waist, removing all burning clothing from his body. I took out his field dressing, the old type with two bandages in one container. That gave me two dressings. I applied one to his nose and one to his forehead, and one to his chin. I had to borrow from somebody else. I don't know who.

Q.87 With a phosphorus burn that is no good. That is not the proper cure or treatment for phosphorus burns.

A. I merely applied the first aid for burns that we were instructed to apply on all burns .

Q.88 Taking these phosphorus bombs out, didn't you think it was up to you to find out if a man did get burned with phosphorus what treatment should be proper ?

A. We have to conform with what is laid down with a Basic training centre. It is not usual to throw grenades on a four mile route march with troops so new in training. The accident was not anticipated

Q.89 An accident is never anticipated. In other words, the whole thing was: You took these bombs out. You didn't consider it necessary to find out the proper treatment in case an accident did occur ? They have just come out and they are so young in the Army, and in case of an accident you didn't have the proper cure for a remedy ?

A. I had my first field dressing.

Q.90 I still maintain that is not the one.

A. I am not in a position to answer that, not being a medical man. I was only using the knowledge which is

A.90 (cont) taught us, the first field dressing.

Q.91 QUESTIONED BY THE PRESIDENT: When did you tell the two platoons that they were not to move from the edge of the road ? Do you recall when that instruction or order was given ?

A. I think it was given in two instances, sir. Once just prior to the throwing of the grenade I ordered them all to remain on the road, and under no circumstances to go down into the gully; the second time when Mr. Gordon was instructed to go down and fire them off.

Q.92 Do you know whether - do you know where the accused was when you gave the first instruction ?

A. No, I wouldn't know, sir. He may have been right next to me and again he may have been at the other end. You see there were approximately a hundred lined up on the road.

Q.93 One or two deep, I suppose ?

A. One or two deep and covering a considerable frontage.

Q.94 Would he have been picking up brush at the time ?

A. No, he didn't. He wasn't one of those detailed. I don't remember who it was that was detailed, but I don't think he was one. In any event, if he didn't hear the original order, the second must have been heard when Mr. Gordon went down, because Mr. Gordon was some distance away from me when he was handed the rifle and on his way down the gully, I turned to the platoon and instructed them to remain on the road.

Q.95 Then, I take it, the instructions given to Mr. Gordon to go down and destroy these blinds were given some distance away from him ?

A. I don't for the minute remember whether I gave him the rounds at that time, because I had them on my person just a short time before, and just his exact position,

A.95 (cont.) I can't remember. I can't picture it for the moment.

Q.96 Were your instructions given in a clear tone, or that he could hear at the time ?

A. Yes, they were.

QUESTIONED BY THE DEFENDING OFFICER THROUGH THE COURT -

Q.97 Would the Court ask Mr. Bianco as to his opinion on what type of soldier - of N.C.O. Corporal Muller has been, to his knowledge ?

PRESIDENT: Would you answer that question, Mr. Bianco ?

A. Corporal Muller is a very keen, conscientious, and intelligent soldier. I did remark during the week he was with me, that when given work to do he did it just a little better than other N.C.O.'s would do it; and he was very eager. His eagerness sometimes took such a turn that he volunteered for too many things, there was the fear that he would work too hard, and I frequently refrained from giving him instructions or orders, so that I could spread the work out among the others.

Q.98 In other words, he would be the willing horse type ?

A. Yes, he was the willing horse .

Q.99 QUESTION BY THE DEFENDING OFFICER THROUGH THE COURT: Would theCourt ask Mr. Bianco if he considers that he has a loud voice ?

Q.100 Do you consider that you have a loud voice ?

A. I have a very loud voice, sir.

IN THE OPINION OF THE COURT, IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (B)

THE WITNESS WITHDRAWS.

2nd Witness for THE PROSECUTION — Lieutenant J.G. Gordon, A.10 Canadian Infantry Training Centre, C.A. attached No 25 Canadian Infantry (Basic) Training Centre, C.A. being duly sworn is examined by the Prosecutor:

Q.101 Mr. Gordon, you have given your Unit to the Stenographer as A.10 Canadian Infantry Training Centre, is that right ?

A. That is right.

Q.102 You are attached to No 25 Canadian Infantry Basic Training Centre ?

A. That is right, sir.

Q.103 What type of an officer are you here ? Are you a Reinforcement officer ?

A. I am a reinforcement officer

Q.104 What Company are you in ?

A. B Company.

Q.105 Do you know the accused ?

A. Yes.

Q.106 What is his name ?

A. Corporal Muller.

Q.107 What Company does he belong to ?

A. B Company.

Q.108 Do you recall the date of the 10th of January, 1945 ?

A. Yes, sir.

Q.109 What Company were you belonging to at that time ?

A. B Company.

Q.110 And the accused ?

A. The same Company, sir, B Company.

Q111 What happened on that date? Did you stay in Camp or did you go out of Camp ? What did you do ?

A. Wewent out of camp about 1500 hours - 3 o'clock, on a route march, on a four mile route march. We went north from camp on the highway, I believe going to Brantford.

Q.112 You say "we", who went out ?

A. I believe it was five and six platoons. At that time I was a supernumerary officer under Mr. Bianco. I went along as 2 i/c.

Q.113 Who was the officer in command ?

A. Mr. Bianco.

Q.114 You tell us that - we have got you going out of camp, you say towards Brantford ?

A. I don't know.

Q.115 Well, how far out of camp did you go ?

A. I think approximately two miles.

Q.116 Did you keep on marching ? What did you do ?

A. At the end of that time we stopped and Mr Bianco told me he was going to throw some grenades he had with him, for demonstration purposes, and he said they probably wouldn't go off.

Q.117 PRESIDENT - Did this conversation take place in the presence of the accused ?

A. WITNESS: I don't know, sir. I can't answer that.

Q.118 PROSECUTOR: Don't tell us the exact conversation that took place between you and Mr Bianco. You can say as a result of the conversation you did so and so. You found out there were going to be grenades thrown, is that right ?

A. That is true.

Q.119 Did you know before you left camp there was going to be grenades thrown ?

A. I don't believe so .

Q.120 That wa s the first you found out about it?

A. I believe so. It wasn't anything unusual grenades were going to be thrown, and I don't know.

Q.121 Did you have anything with you to destroy the grenades ?

A. Yes, I was told there was a 303 and shells; and I was going to handle that, because I am a very good shot.

Q.122 Will you tell the Court what your qualifications are ?

A. Not very high. I am an accurate shot. I have never scored anything less than a possible. I happen to be a left hander. I am able to handle the - either a 303 or 22 with a good deal of success.

Q.123 What has your experience been if anything, with reference to grenades ?

A. My experience has not been extensive. I have handled the 36 grenade at Camp Borden, and have destroyed blinds. I haven't had a great deal of experience with either the 69 or the 77 grenade; but I do know very, very well the mechanism of these grenades and I have handled them quite extensively. I have also done power exploding at a gold mine, and I have handled a tremendous number of detonators, and dynamite.

Q.124 Mr. Gordon, we had you at the point the platoon was halted. What was done next ?

A. Mr. Bianco called the platoon together and he spoke to them about the demonstration he was going to put on. He had somebody, I am not quite sure who, go down and get some bits of brush wood, thinking he could throw the grenades against that. I don't know what he did that for. He had some brushwood cut for a target, that's what he did that for; and then we put on the demonstration. We threw three grenades. Mr. Bianco three one; Corporal Muller threw one; and I threw one. All, if I remember correctly, were blinds. Mr. Bianco handed me the rifle, the 303 and four cartridges, and asked me to go down and destroy the grenades. I went down to do so.

Q.125 What happened next.

A. The grenades had been thrown into the snow, and none of them had exploded. Realizing the danger of stepping on such a grenade, I was taking quite a bit of care.

Q.126 Tell us about the snow, will you, Mr. Gordon . How deep was it.

A.126 The snow was about two feet deep.

Q.127 And the condition of the snow ?

A. The condition was such that there was a soft crust on it. The condition was such, the grenade, I realize now, would be cushioned by that sort of snow.

Q.128 Are you telling us then that may be the reason that they didn't explode, because of the soft snow ?

A. I believe myself now, that is the rea son they didn't explode. I'd like to make this statement here: that in spite of the fact that I know the danger of these grenades, Mr. Bianco had emphasized the fact that these grenades were duds. I think Corporal Muller knew that fact, at least was informed that way. I know I was.

Q.129 Now carry on, please. From the point you started down to destroy these blinds. What was the next thing that happened ?

A. I couldn't find the mark of the first grenade in the snow, and I heard Mr. Bianco say, "move over to your right" and I turned to look at him; he must have said that to me. I don't know - I don't remember him calling my name. I turned to the right and looked around, and Corporal Muller had found the mark of the grenade in the snow, and bent down and broke the little top covering there was on the snow and I saw the edge of the grenade in the snow.

Q.130 That's the first you tell us of Corporal Muller being there. Do you know how Corporal Muller got there ?

A. No, sir. I don't.

Q.131 How far would that be from where you saw Corporal Muller from where you saw the rest of the men ?

A. I would say twenty-five yards.

Q.132 Did you hear any conversation that might have taken place between Corporal Muller, the accused, and Mr. Bianco before that ?

A. No, sir.

Q133 Was there or was there not any conversation between the accused and yourself at the time when you first saw him at edge of the grenade in the snow ?

A. As soon as I saw the edge of the grenade, I said to him "Don't touch that God damn thing."

Q134 Did he touch it ?

A Yes, sir.

Q135 Did he make any reply to that remark ?

A He did say something. I am guessing at what he did, but I do consciously believe, he did say something.

Q136 Do you know what he said ?

A. I am not sure, sir.

Q137 Alright, what was the next thing that happened ?

A He took the grenade and I believe he tossed it.

Q138 Yes?

A And the grenade exploded.

Q139 How far would the grenade be from him when it exploded, can you tell us that ?

A N o, I can't exactly tell you that, no sir.

Q140 Were there any effects of that explosion?

A I saw the grenade explode and I dove in the snow, myself, not because I knew what to do; I thought of fire, and I thought of water, and the snow was the closest thing I could think of .

Q141 How far would the exploded grenade be from you ?

A I would say about fifteen feet.

Q142 Did you receive any injuries ?

A No, fortunately, I was very slightly burned about the face; that was all.

Q143 Did you have to go into the hospital ?

A I went into the hospital and had my face burn treated,

A143 (cont)I had some burn cream, I believe No 5, applied, that's all.

Q144 Were you kept in hospital ?

A No.

Q145 Did you lose any time ?

A No, sir.

Q146 What kind of duties did you perform ?

A Light duties, that is, I was allowed to perform my duties.

Q147 What were the effects, if any, of the explosion with reference to the accused himself ?

A When I got my head out of the snow and turned around, Mr Bianco had come down and was attending to Corporal Muller.

Q148 What was he doing with Corporal Muller ?

A He was putting out - the battle dress was on fire, and I think - and he was putting it out to the best of his ability.

Q149 What was he using, do you know ?

A He was using hishands, when I saw him

Q150 I asked you what were the effects of the explosion and you tell us Mr Bianco was putting out the fire, was that an effect of the ex losion ?

A No, as a result of the white phosphorus hitting his battle dress, it put it on fire .

Q151 Where did the white phosphorus come from ?

A The 77 grenade

Q152 Are you telling us the battle dress burn was a result of the explosion ?

A I understand, I am told that when white phosphorus is exposed to the air, it immediately creates a very, very, hot flame, so that after it had hit the battle dress, it would immediately break into flame.

Q153 Was or was not the accused burned as a result of this phosphorus ?

A I would say quite definitely he was burned.

Q154 Where was this phosphorus burn ?

A As I saw it, he was burned about the face, ears, throat and, I think that covers it.

Q155 What happened to the accused after you saw Mr Bianco putting the fire out on his battle dress ?

A Mr. Bianco applied his first field dressing to his face and had stopped the first civilian car that came along the highway. Corporal Muller and myself got into the car and we went immediately to the Simcoe Military Hospital.

Q156 I would like you to look at Exhibit "I". Will you look at that, please, and then tell us what it may or may not be .

A I believe that this is an original container of a 77 Grenade.

Q157 Of"a" 77 Grenade ?

A Of "a" 77 Grenade.

Q158 You are not in a position to say what 77 grenade it might be ?

A No, quite true.

Q159 Do you know what colour a 77 grenade is prior to its being burned out ?

A The ones we were using were green

Q160 Is there any other evidence you wish to tell the Court in connection with this case ?

A Just my personal feelings about the thing

Q161 If the Court wishes to hear them.

PRESIDENT: I don't know just how his personal feelings would have any bearing. He might be asked questions

in cross-examination or by the Court as to how he regards the accused, or something of that kind, but I don't think personal feelings are evidence either as to fact or character.

Q162 PROSECUTOR: Have you any other evidence as to fact that you wish to give the Court at this time ?

A No, sir.

Q163 Then, that's all for me.

Q164 THE DEFENDING OFFICER CROSS EXAMINES:- You stated that there were remarks made prior to the throwing of the grenades that would lead you to believe that they would be duds, is that correct ?

A That is true

Q165 Is it possible that remark could have been made in the hearing of Corporal Muller ?

A Yes, I believe so.

Q166 Is it possible this remark could have been made within the hearing of the platoons ?

A Yes.

Q167 Does it seem normal to you as an explosives man, that three grenades should be thrown and all duds, without any effort being made to destroy the first one ?

A No.

Q168 And does it seem normal to you as an explosives man that when the first grenade was a blind it should have been destroyed at once?

A It should have been.

Q169 Was it normal to leave it ?

A It was not normal.

Q170 When the grenades were thrown did you watch the flight of the grenades ?

A Yes.

Q171 Did you see the tapes come off ?

A Not consciously, no, sir.

Q172 You didn't see the tapes come off ?

A No, sir.

Q173 You wouldn't know when they hit the ground, whether the tape had become unwound, or the safety pin come off ?

A No

THE PROSECUTOR DECLINES TO RE EXAMINE

QUESTIONED BY MEMBER:

Q174 You know the regulations laid down regarding the treatment of blinds, don't you ?

A Yes, sir.

Q175 Do you think the correct regulations were followed out in connection with these blinds ?

A Yes, sir. I do.

Q176 You do ?

A Yes, sir. I do. As far as I was personally concerned, yes, sir.

Q177 I understand that the regulations regarding the blinds of the 77 Mark I Grenade, which is a phosphorus grenade are the same regulations that apply to the 36, that is they are only to be destroyed with a demolition set ?

A If that is true, then I do not know the regulations. My believe was that with a grenade that explodes on instantaneous combustion you demolish it the same as you do a 69.

Q178 Or a 36 you mean ?

A No, I don't mean a 36. A 36 has the time fuse.

Q179 Do you know of any such instructions issued by the Director of Military Training regarding the throwing of these grenades on safe ground ?

A No, sir.

Q180 That has not been drawn to your attention ?

A No, sir.

Q181 When Mr Bianco told you he had an idea these grenades were duds, blinds, you don't know what made him make that remark, do you ?

A No, sir. I don't.

Q182 As far as you know, he just made that out of a blue sky ?

A No, I know a little more than that. He told me he was sure they had been in stores a long time. I remember that very clearly. He said he didn't think they would work .

Q183 That doesn't say they won't go off if they have been in storage a long time ?

A Oh, absolutely not, sir.

QUESTIONED BY THE PRESIDENT: -

Q185 I gather that you had reason to believe that these grenades would be blinds before you actually threw them ?

A Oh, absolutely. There was certainly that possibility.

Q186 And you had been informed ?

A Absolutely, and that eventuality had been taken care of. We had the rifle and the shells.

QUESTIONED BY THE DEFENDING OFFICER THROUGH THE COURT:-

DEFENDING OFFICER: Would the Court ask Mr Gordon the size of the target area ?

Q187 PRESIDENT: Mr. Gordon, what was the size of the target area, in your estimation ?

A187 The actual brush pile, or whatever it was, - all I could do is guess that ?

Q.188 PRESIDENT: An estimate ?

A Ten feet square. Oh, no, it wouldn't be that.

DEFENDING OFFICER: I might say here, it has been measured. It was nine feet square, so that is a very good estimate. Would the Court ask Mr. Gordon how far from the throwing area was the target ?

Q189 PRESIDENT: How far from the throwing area was the target ?

A I think it would probably be twenty-five yards.

DEFENDING OFFICER: That's close enough. Another question, would a nine foot square target make a good target for throwing at a hundred feet. Would it be large enough is what I mean ?

WITNESS: Give me that again.

Q190 PRESIDENT: Would a target nine feet square be large enough to hit with a grenade at approximately a hundred foot range ?

A A hundred feet would be about thirty yards, wouldn't it ? It would be a fair target.

DEFENDING OFFICER: But none of the grenades hit the target.

WITNESS: That is true.

DEFENDING OFFICER: That has been already brought out in evidence. One other thing. What is your opinion as to the type of soldier, the type of N.C.O. Corporal Muller has been ?

Q191 PRESIDENT: Will you answer that please ?

A I was a stranger in the camp. Even before I had been out with him, I heard nothing but the highest remarks about

A191 (cont) him.

Q192 DEFENDING OFFICER: Was there anything definite you did hear about him. For instance did you hear he had bad hearing ?

A I heard him give a lecture on first aid, and I asked somebody because he impressed me

Q193 DEFENDING OFFICER: But you didn't hear any remarks as to his hearing ?

A No, I don't believe I heard that.

Q194 DEFENDING OFFICER: Did you hear any remarks as to his enthusiam ?

A I heard people say he was a hell of a good man, if that's enthusiasm.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH R.P. 85 (B)

THE WITNESS WITHDRAWS

PROSECUTOR: I think it is only fair for the accused as well as the Prosecution, that consideration be given to the recalling of Mr Bianco under Rule of Procedure 86, for the purpose of definitely establishing from his own mouth, whether he did make any statement as to these grenades being duds. If you will notice Rule of Procedure 86 A or B, that gives us permission to recall witnesses providing the Court is of the opinion it is the proper thing to do. Rule of Procedure 86 D also may be applicable.

PRESIDENT: If Mr. Bianco is there, we might have him now.

PROSECUTOR: I believe, sir, that this is to be done by the Court.

PRESIDENT: Questions are to be put by the Court, yes.

1st Witness for THE PROSECUTION (RECALLED) — Lieutenant Alphonse BIANCO, Home War Establishment, No 25 Canadian Infantry Basic Training Centre, C.A., being recalled, is questioned on his former oath, by the President:-

Q195 There has been evidence given by the last witness, Mr. Gordon, that he understood that these grenades, these 77 grenades, were quite likely duds, that is, they might not go off, and I gathered that he had been so informed by you ?

A Yes, I got..

Q196 Is that correct, or not ?

A Yes, that is correct, sir.

Q197 What was the basis of your reason for considering they might be duds ?

A As a result of the conversation I mentioned before, I had in the Orderly Room with Captain Fonger, my Officer Commanding; when he handed me the rifles and rounds, I asked him the reason, and he said they might not go off.

Q198 Did he give any reason why they might not go off ?

A I don't remember about that.

Q199 Did you yourself have any reason why you thought they would not go off ?

A The only suspicion I had sir, that they might not go off was with experience I have had in our west area with a like type of grenade from the same packing, where we had to fire on them.

Q200 In other words other 77 grenades ..

A Other 77 grenades that came from the same packing

Q201 Had not gone off?

A Had not gone off, and we had to fire them. This

A 201 (cont) experience had occurred before there had been snow on the ground. It lead me to believe that possibly the creep spring might have been a little taut.

PROSECUTOR: Would the Court consider it advisable to ask the witness if the witness did make any statement to the effect that these might likely be duds ?

Q202 PRESIDENT: Had you said anything in the presence of the accused as to these being duds ?

A I don't think I used that word. I think I said they might not go off.

Q203 Was that in the general instructions to platoons ?

A Yes, and I think I spoke personally to him.

Q204 Was that before he threw the one he threw ?

A During the route march, sir, I think he walked next to me.

Q205 And your recollection is you may have then told him that they might not go off, is that correct ?

A Yes, sir.

Q206 And your reason would be based on your own experience plus what you had been told before you left, is that right ?

A That is right, sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH R.P. 83 (B)

THE WITNESS WITHDRAWS.

3rd Witness for THE PROSECUTION — Captain A.D. KONKIN, Royal Canadian Army Medical Corps, Hamilton Military Hospital, being duly sworn, is examined by the Prosecutor:-

Q207 Captain Konkin, you are R.C.A.M.C. ?

A Yes.

Q208 Where are you employed now, Captain Konkin ?

A At the Hamilton Military Hospital .

Q209 In what capacity ?

A I am in charge of surgery in Hamilton Military Hospital

Q210 Do you know the accused ?

A I do.

Q211 What is his name ?

A Lance Corporal Muller.

Q212 Will you tell theCourt how it came about you knew the accused in the first instance ?

A He was admitted to Hamilton Military Hospital on the 10th of January, 1945, at 2100 hours.

Q213 Yes ?

A Suffering from burns to his face and neck.

Q214 While you are at it, Captain Konkin, will you tell us what date he was discharged ?

A He was discharged on the 5th of February.

Q215 That would make it how many days ?

A That would make it twenty-six days

Q216 What is the rate - the cost of hospitalization in Hamilton Military Hospital ?

A $2.50 a day.

Q217 What is the total amount of the cost of hospitalization ?

A $65.00

Q218 Tell us what he was suffering with ?

A He had burns which involved his face, forehead, front and sides of his neck, and his left ear. He had received previous treatment at the local hospital, and he had a treatment of medication on his face when I first saw him.

Q219 What treatment did you give to him ?

A We cleansed the whole area, removed what medication was there, so that we could better determine the extent

A219 (cont.) of the burns and following that, we simply repeated the medication that had been started by the Medical Officer here. It was adequate.

Q220 While in Hamilton Military Hospital, was he kept there by reason of anything else that might have happened to him or exclusively for these burns ?

A For the burns

Q221 In other words, are you telling us the time was spent there by reason of these burns ?

A Yes

Q222 What would you say as to his recovery ?

A I think hehas made a remarkable recovery. There is very little scar, as you can see. The pigmentation you see there, I am afraid will be a permanent disfigurement, if you want to call it that; however, I don't want to be to precise, because my experience with phosphorus burns is limited, but from what I have read on the subject, the discolouration, such as you see may be a permanent factor.

Q223 Can you tell the Court as to whether or not there is any relation between the injuries received, and any other fact, that is, what may or may not have caused the injury? You mentioned something about phosphorus burns.

A That I took from the statement given me by Corporal Muller himself. I didn't, I may make an admission, make that diagnosis of a phosphorus burn, but I got that information from him. To me, it was a burn only. When I said a phosphorus burn, it was on information that I got from him, and I think now, that someone who came in with him gave me the story of the type of burn it was.

Q224 Could they have been caused by some other methods ?

A They could have been caused by many other methods.

Q224 (cont.) But I don't think they would have left the pigmentation that we see there, if they were caused by some other fact.

THE DEFENDING OFFICER CROSS EXAMINES:

Q225 Would you say that these burns were painful ?

A Yes

Q226 There is a possibility they would be painful ?

A Yes, burns to the face are painful

Q227 Do you think there is a possibility of a permanent effect on the hearing of the leftear ?

A No, I don't.

Q228 Did you find anything in your examination to show that Corporal Muller was or is, hard of hearing in that ear ?

A No, I didn't test his hearing. The burn is not likely to cause - the burn is a superficial thing, involving the first part of the canal of the ear, the external ear, and did not effect the hearing apparatus, in my opinion, that is.

THE PROSECUTOR DECLINES TO RE EXAMINE

Q229 QUESTIONED BY THE PRESIDENT: I understand that at the time - we are told, that at the time of the accident, a first field dressing was applied to his nose, and I think possibly to his face; would that be a beneficial treatment or otherwise ?

A Purely a protective thing. I don't know if the face, or if that dressing had not been applied, I don't think he could have come to any harm. It was apparently a neutral thing . It didn't effect it one way or another.

Q 230 Is there any procedure laid down for phosphorus burns ?

A Yes, but it cannot be carried out in the field, a weak solution of copper sulphate.

Q231 Would it normally be carried in a first aid kit by a medical orderly, had one been present ?

A I am afraid I cannot answer that. I am not acquainted with the setup of a first aid kit at the time. He had received adequate treatment by the officer here in camp.

Q232 That was apparent to you ?

A Yes

QUESTIONED BY THE PROSECUTOR THROUGH THE COURT:

Q233 Would the Court consider asking the Medical Officer if the accused's Pulhems Profile might be changed in any way as a result of the accident ?

A. No, there will be no change. It would remain the same.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (B)

THE WITNESS WITHDRAWS

4th Witness for THE PROSECUTION Captain M.P. TOWNSEND, Royal Canadian Army Medical Corps, Officer Commanding Simcoe Military Hospital, being duly sworn is examined by the Prosecutor -

Q234 You have given your Unit as Royal Canadian Army Medical Corps, is that right ?

A That is right

q235 You are Officer Commanding Simcoe Military Hospital, is that right ?

A Yes.

Q.236 Do you know the accused ?

A I do

Q237 What is his name ?

A Corporal Muller, I don't recall his first name, I believe it is Frederick.

Q238 Do you ever remember seeing him in Simcoe Military Hospital ?

A Yes, sir. He was brought in on the 10th of January.

Q239 Of what year ?

A 1945

Q240 Do you recall the time ?

A It was approximately 1630 hours.

Q241 Why was he brought in to your hospital ?

A He was suffering from extensive burns about the face, neck and ears

Q242 What appeared to have caused these burns ?

A It was obviously phosphorus. The material was still smoldering on his face and ears.

Q243 Could you see phosphorus on his face and ears ?

A Yes.

Q244 Can you tell us what extent the burns were ?

A In my opinion they were first, second and third degree burns; first degree burns over the temples, and by the ears. He was wearing a winter Melton cap; it was up to that; second degree burns across his forehead, and third degree burns across his nose.

Q245 Was there any treatment given ?

A Yes, the dressings on him were removed and he was placed over a basin of water and water applied lavishly, over the area, because that prevents the burning of the phosphorus; and the skin that was hanging in shreds was removed.

Q246 What else was done.

A246 After I had done this I felt particles of phosphorus on the skin. I applied a wash of potassium permanganate diluted. This caused a chemical reaction - it caused the phosphorus to go black and any remaining particles could be removed.

Q247 Does the potassium permanganate neuteralize it ?

A No, it produces a copper phosphate, I believe, which is black in appearance and I could see it and pick it off.

Q248 Was any other treatment given ?

A After that No 9 burn cream was applied and he was transferred to Hamilton Military Hospital.

Q249 What time was that ?

A At night. About - it was after the evening meal, I presume about 1900 hours.

Q250 Do you know yourself how long he was in Hamilton Military Hospital.

A He was admitted on the 10th of January, 1945, and he reported to me on the 5th of February, same year. About 26 days.

Q251 Would you say that this would cause any change in his Pulhems Profile, the injuries sustained ?

A N o, sir.

Q252 What can you tell us as to whether or not this will be a permanent disability ?

A There will be some disfigurement as far as the pigmentation on his face; and his ear won't be as pretty, but I think that's all the permanent damage.

Q253 Are you in a position to say what may have caused the injries sustained by the accused ?

A I think all I can say it was caused by phosphorus.

Q254 You don't know where the phosphorus came from yourself ?

A Just from hearsay.

Q255 Did you have occasion to examine Mr. Gordon - Lieutenant Gordon ?

A Yes, he came in at the same time.

Q256 Did behave any injury ?

A He had a few spots of phosphorus on his right jaw. He had fairly superficial burns, treated in the same manner.

Q257 Was there any cost of hospitalization for Mr Gordon ?

A No, sir.

Q258 What have you to say as to his injuries being serious enough to cause him to be off duty ?

A No, they wouldn't be serious enough.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE

Q259 QUESTIONED BY MEMBER:- Do you think, Captain Townsend, that the treatment the Corporal received on the spot where the grenades were thrown - where he received these burns was adequate or in other words, were the burns he received, or the injuries aggravated by the fact he did not receive adequate treatment between the time he received the burns, until you saw him ?

A I think the situation they were in, there was no water. It was a cold day and they would be unable to obtain water where they were. If they had applied snow, it might have helped a little, but outside of that, I can't think of any treatment he could have had.

Q260 The Director of Military Training Circular Letter 1321 states this: that these grenades are highly inflammable and great care must be taken to counteract the fire hazard they cause. They should be thrown in a recognized grenade area, properly fenced so that no one may wander over the ground after the practice, or

Q260 (cont) that serious burns may result. There is also the danger of serious burns to personnel. In case of accident where some burning phosphorus lights on the individual, a damp cloth or mud should be used to cover the phosphorus or if the area affected permits, the injured member may be immersed in water. The burn will thus be smothered, but on removal of the cover, there is a possibility of reignition. The Medical Officer should pour a quarter percent copper sulphate solution over the phosphorus, which forms a non inflammable crust. The phosphorus may then be picked out of the burn with tweezers, and the burn having been freed of phosphorus is then treated.

What I was getting at was the question of whether the injury was aggravated between the time he received it and you saw him for treatment. What would you say as to this treatment ?

A The treatment described there ? It is perfect, but as I said before, it was quite a cold day, without any mud or wet cloths. If they had applied snow, that would have had the same effect. The first field dressing, while it didn't harm it, had no beneficial effect. It was not beneficial or detrimental, one way or the other. It might help a bit to prevent the air from getting at the phosphorus too readily. I don't think it had any detrimental effect.

The phosphorus itself burns; in the matter of phosphorus burning, something causes the phosphorus itself to burn when it strikes the air.

Q 261 It wouldn't ignite the first field dressing ?

A No, sir.

Q262 Had there been a first aid kit available at the time this accident occurred, would it have contained one quarter percent copper sulphate solution in the first aid kit, that is, if it had been known that phosphorus was going to be used, would it have contained that solution ?

A I don't believe at the present time that is required. The first aid kit as outfitted for route marches contains no copper sulphate solution

Q263 QUESTIONED BY THE PRESIDENT: - Would you not consider it proper if there were an area for the throwing of these 77 grenades, in any kit they might have a solution of copper sulphate ?

A I don't know the properties of copper sulphate as a first aid. I think that measure would be taken by the medical officer taking the case. After we black it off with - copper sulphate is applied to see the presence of phosphorus. The best thing is to use water; profuse use of water to wash it off. The copper sulphate as it is used, is to pick up small particles we miss in our cursory examination. Although it does form a coating over the phosphorus, in my opinion, it does not ease the sensation - the burning.

Q264 In other words, water and lots of it is the thing

A. Yes; snow would have been the thing in this case.

PROSECUTOR: Another suggestion I have. Possibly meaning copper sulphate solution, I think Captain Townsend said he used something else. He said permangenate potash, or - what was it he said ?

WITNESS It was copper sulphate. If I said potassium permanganate, it is incorrect.

PROSECUTOR: In other words, then the witness did use the proper treatment.

WITNESS: Yes, it was copper sulphate, a quarter percent.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH R.P. 83 (B)

THE WITNESS WITHDRAWS.

PROSECUTOR: The Prosecution has no further witness, sir, and is therefore closed.

(This page to be removed from proceedings if plea to all charges is Guilty.)

D

The prosecution is closed.

Defence

Question to the accused. Q265 Do you apply to give evidence yourself as a witness?

Answer. A Yes, sir.

Question. Q266 Do you intend to call any other witness in your defence?

Answer. A Yes, sir.

Question. Q267 Is he a witness as to character only? *Answer.*

A No, sir.

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

~~*(The following question must be asked where the accused states that he does not intend to give evidence himself as a witness).*~~

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[Hands in a written address which is read, marked signed by the President and attached to the proceedings.]

The Defending Officer declines to make an opening address.

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† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

1st Witness FOR DEFENCE The accused B 160485 Pte (L/cpl) Fred Frank MULLER, No 25 Canadian Infantry Basic Training Centre, C.A., being duly sworn, is examined by the Defending Officer:-

Q268 Corporal Muller, you have heard the evidence for the prosecution in this particular case; there is no need to go over it, or refer to it. We know the particular date and the particular event we are talking about.

D o you feel everything possible was done at the time of the injury to stop your suffering, and get you medical attention ?

A Yes, sir, I do.

Q269 No one made any mistakes; you are quite satisfied ?

A Yes, sir.

PRESIDENT: Put the question this way: Are you quite satisfied ?

Q270 DEFENDING OFFICER: - Are you quite satisfied that everything was done ?

A I am, sir. One thing that neither of the M.O.'s mentioned was that they immediately buried me in the snow and smothered the flame that way and I don't think that Captain Konkin was aware of that fact. Everything possible was done and they did apply snow.

Q271 Snow was applied ? Was there anything more they could do ? They did theprescribed thing; exactly what the Medical Officer said they should do. Now, Corporal Muller, who threw the first grenade ?

A The firstgrenade was thrown by my platoon commander.

Q272 Who was your platoon commander ?

A Lieutenant Bianco.

Q273 A nd what happened immediately after the first grenade was thrown, do you remember ?

A As soon as the first grenade was thrown without an explosion, I began to wonder what the cause of it was.

Q274 Was there any effort made to destroy that grenade at that time ?

A No, sir, none whatsoever.

Q275 How many grenades were thrown altogether ?

A Three grenades were thrown.

Q276 Did any of them hit the target ?

A No, sir. One grenade was short, one behind, and one grenade very close, but no grenade actually hit the target.

Q277 Whose grenade was the one you speak of that almost hit the target ?

A The 2 i/c of the platoon .

Q278 Who was that ?

A Lieutenant Gordon.

Q279 What did the grenade fall into ?

A It fell into what appeared to me to be an old gravel pit.

Q280 Did it fall into the gravel ?

A No, sir. It didn't.

Q281 What did it fall into ?

A It fell into about eighteen inches of snow.

Q282 Did you expect the grenades to go off when they were thrown ?

A Sir, I had some doubt as to whether they would go off or not.

Q283 What caused you to have that doubt ?

A From the previous knowledge I had heard, that since the grenades had been in the stores for a period of many months, that they might fail to explode.

Q284 You were actually told that, were you ?

A284 Yes, sir. I was.

Q285 At the time you heard that, would it be possible for the other members of the platoonsto have heard the conversation ?

A Yes, I am definitely sure some members must have heard the same as I did.

Q286 Did you at any time hear a command given by Mr. Bianco to you personally ?

A No, sir. I didn't.

Q287 What I mean is while theplatoons were - I am not talking about during the route march, after the platoons were lined up at the side of the road. Did you hear any specific command given to you by Mr Bianco ?

A No, sir, if he did make any such command, I did not hear it, sir.

Q288 You did not hear it ?

A I did not, sir.

Q289 Why, Corporal Muller, did you elect trial by Court-Martial? I understand the cost of hospitalization is $65.00. I might ask if you have any outside income other than your Army pay ?

A. Yes, I have, sir; but it is all taken up for hospitalization for my family.

Q290 Would the payment of $65.00 have been a great hardship to you ?

A No, sir, it would not.

Q291 Did you realize if you did pay the $65.00 and not elect trial by Court-Martial that would have been all there would have been to it ?

A I surmised it, but I didn't know positively that that was all the O.C. could have done.

Q292 Why did you elect trial by Court-Martial ?

A Sir, the reason why I elected trial by Court-Martial: I had no crime sheet to my knowledge, and I wanted to keep a clean record.

Q293 That was the reason you elected trial by Court-Martial ?

A Yes, sir.

Q294 Corporal Muller, supposing you were, let's say overseas in action as an N.C.O. in charge of a small group of men, and you received work of a very dangerous mission for one man, with the possibility of being dangerously injured, or killed; what man of that platoon would you select for that mission ?

A N aturally myself .

Q295 Yourself ?

A Yes, sir.

Q296 What made you run down the bank to find this grenade ?

A Sir, I don't recollect running down the embankment. The reason I did join Mr Gordon was for the simple reason I followed the flight of the grenade and I knew within a perimeter of three feet where the grenade was, and when I noticed Mr. Bianco directed Mr. Gordon over to the right, I knew then Mr. Gordon could not know just the exact spot where the grenade lay; and knowing this myself, I thought I would show him just exactly where it was, so he wouldn't step on it himself. There was a possibility he might have stepped on it, because he didn't know the exact location and I did.

Q297 You knew the exact location ?

A Yes, I did.

Q298 And you went right to the location ?

A Yes, sir. I did.

Q299 What did you do when you got to where the grenade was ?

A299 I removed the crust on the snow; groped and probed around with my right hand and I felt the grenade in my right hand.

Q300 What made you pick the grenade up ?

A Mr Gordon - as soon as he saw the grenade exposed, he did tell me, "Leave that thing alone," or words to that effect, and at that instant I realized the possibility of danger; but up to this time I hadn't. I had no fear of danger because three grenades were thrown and not one exploded. I didn't realize the danger there really was. At that instant when Mr Gordon told me, "Leave that God damn thing alone," My own instinct made me want to get rid of the grenade as fast as I could. Without thinking, I picked it up and threw it. It only left my hand, I would say a yard in front of my hand, when it exploded.

Q301 Have you had any experience in the handling of blind grenades ?

A No, sir. It was my first experience.

Q302 You never handled them before? It was your first experience ?

A Yes, sir. It was.

Q303 If there was a grenade in the same area - in the west area, would you volunteer ?

A Yes, sir. I believe it would be my duty. If I was told to do a certain thing, I would carry out the command. It would be my job

Q304 At the time the first aid was given to you, what were the men in the platoon doing ?

A There was a great deal of confusion as soon as the grenade exploded. I dove into a snow bank and then I heard shouts from everywhere. I naturally couldn't see, but I knew there were fellows running in all directions because I heard their voices, and there seemed to be, they seemed to come from the very same vicinity as I

A304 (cont.)was myself because they were applying first field dressings at random wherever they could get one. I would say at least eight were assisting Mr. Bianco. Eight privates.

Q305 Are yousaying then that there would be Privates milling around in the area where there were still blinds

A Yes, sir. That is correct.

Q306 I notice Corporal Muller in speaking to you myself in outlining the defence for you, that was really the first time I have known you, but I noticed you are hard of hearing. I noticed you spoke very loudly. I asked you if something was wrong with your hearing. I thought it was an effect from the injury you received that you didn't hear well. Were you hard of hearing before your injury ?

A Sir, to my knowledge, I had always had trouble with my left ear, but I didn't want that known by the M.O. for fear my category was lowered.

Q307 Why do you not want your category to be lowered ?

A I couldn't go overseas.

Q308 You want to go overseas?

A Definitely, sir.

THE PROSECUTOR CROSS EXAMINES:-

Q309 It is my duty to ask you a few questions now. This accident, or did this accident happen in the township of Wyndham ?

A Yes, sir. It did.

Q310 In the county of Norfolk ?

A Yes, sir.

Q311 Was it on the 10th of January 1945 ?

A Yes, sir, it was.

Q312 Was the grenade you handled a 77 smoke grenade ?

A Yes, sir, it was.

Q313 You have seen the one, what is left of one, in Court today ?

A Yes, sir.

Q314 Similar to that ?

A Yes, sir.

Q316 You were in hospital for sixty-five days ?

A Twenty-six days.

Q317 I mean twenty-six days ?

A Yes, sir.

Q318 Is there any question about the $65.00 as hospital expenses ?

A No, sir.

Q319 And you did handle the grenade, didn't you ? You did have it in your hands ?

A. How do you mean, sir.

Q320 You did pick it up ?

A Yes, sir, I did.

Q321 You are quite satisfied everything was done to get you the proper medical aid ?

A Yes, sir

Q322 And that you were buried in the snow ?

A Yes, sir.

Q323 You have heard the evidence given as to the condition of the snow, and everything, is that pretty well correct ?

A Yes, sir. It is.

Q324 Soft snow ?

A Yes, sir.

Q325 You say about eighteen inches, with a slight crust on top ?

A Yes, sir.

Q326 You had a doubt as to whether the grenades would go off because of what you heard Mr. Bianco say ?

A326 Partly, sir. Previous to that, grenades were thrown in our own area. I did know that even last fall that when these grenades were thrown some failed to go off. I had that knowledge from last fall from the people who worked in the W.T.O. office.

Q327 Did you not hear that, or if you had heard these grenades were likely to go off, do you think you would have gone down after this one ?

A If I had been instructed to, yes, sir.

Q328 Were you instructed to go down after it ?

A No, sir, I was not.

Q329 You did it voluntarily ?

A Yes, sir. I did.

Q330 No officer or N.C.O. ordered you to do it ?

A No, sir.

Q331 I am suggesting that you did it because you were over zealous or because you were anxious to help out ?

A Yes, sir. I believe that's a good way of putting it.

Q332 It is sort of your nature always to be in there helping out with things ?

A Yes, sir. Especially if there is something new to be learned, and in this case there was.

Q333 Did you hear Mr Bianco tell the members of the platoons to stay on the side of the road ?

A Yes, sir. I did.

Q334 Did you feel that that included you as well as them ?

A Sir, I knew he said it to everyone as a whole, but I didn't think he meant the N.C.O.'s as much as he did the rest of the platoon.

Q335 Were there any other N.C.O.'s in the platoon as well as yourself ?

A Yes, sir, there were.

Q336 Sergeants ?

A No, sir.

Q337 Any corporals ?

A Yes, there were, sir.

Q338 And in view of the fact you had been allowed to throw the grenade, that would more or less put you in the picture with the rest of them; is that why you went down there ?

A Yes, sir. I would say so.

Q339 Was ~~was~~ specific command given to you to stay back or was it a general command to the whole platoon ?

A No specific command was given to me.

Q340 You heard the evidence given by Mr Bianco this morning ? I am just going to go over it breifly. Mr Bianco said something to the effect that you said to Mr. Gordon "I will show you where it is, sir." Did you say that ?

A. I said something to the effect, sir.

Q341 Did or did not Mr Gordon say to you, "Get the hell out of here" ?

A He did warn me, I don't remember the exact words; but the time he warned me was when I already knelt over this grenade.

Q342 You are telling us he didn't warn you prior to your getting to the place where the grenade was ?

A No, sir. If you remember, Mr. Bianco asked Mr. Gordon to look over to his right side; as he was looking over to his right side, I proceeded to where the grenade was and knelt over it.

Q343 Did Mr. Gordon say to you words to the effect, "leave that God damn thing alone ?

A Yes, he did.

Q344 That was after you had knelt down ?

A Yes, sir.

Q345 You say Mr. Bianco did not himself, give you any specific orders to stay away ?

A If he did, I didn't hear him.

Q346 You can't say yes, or no ?

A No, I can't sir.

Q347 Did you say to Mr. Gordon words to this effect, "Look, sir, there is nothing to it" ?

A I don't remember saying that, sir.

Q348 You may have said it or you may not have, is that right ?

A Yes, sir.

Q349 When Mr. Gordon said don't touch it, or leave it alone, did you reply, "It's okay, sir," ?

A. I don't recall just what I did say, but I did reply to Mr. Gordon when he ordered me not to touch it.

Q350 Now, which grenade was this that exploded ? Was it the one you threw, or the one that who else - the one that who threw ?

A I believe, sir, it was the one Mr Bianco threw.

Q351 The first one ?

A Yes, sir.

Q352 Of the three ?

A Yes, sir.

Q353 That was the first one you would reach in going towards the three grenades from where you stood ?

A Yes, sir.

Q354 Would you not agree that you knew at the time you did this that it was a dangerous operation, or it might have been a dangerous operation ?

A I certainly do admit it today, but at the time I did it, I didn't realize the danger involved.

Q355 You knew it was phosphorus ?

A Yes, sir.

Q356 Had you ever seen one explode or burn before ?

A No, sir.

Q357 Was it because you were so interested or just tell us why you did it ? There must have been some reason ?

A Do you mean why I proceeded down there ?

Q358 Yes, why you proceeded down the bank, in spite of the fact you were told to stay back, and in spite of the fact Mr Bianco told you not to go down ?

A I do recall Mr. Bianco warning both platoons to stay back on the

Q358 (cont) road, and then the three grenades were thrown, and there was a lapse of time, I would say approximately four or five minutes; and then as I said before, Mr. Gordon proceeded down the bank with the rifle and the 303 rounds, and he did not appear to me as if he knew where the first grenade had landed; and when Mr. Bianco directed him over towards his right, I was positive in my own mind, he didn't know where the grenade was; and thinking that I could assist him and prevent him from stepping on the grenade before he found it, I proceeded down the bank. I didn't hear Mr. Bianco give me any warning to come back or stay back, or anything to that effect. As I said before, when I reached Mr. Gordon, I immediately proceeded ahead of him to the spot where the grenade lay; got down on one knee and exposed the grenade. Then Mr. Gordon told me to leave that God damn thing alone and in my excitement I suddenly realized that there was danger there. Then the next thing that came into my mind was to get rid of the grenade, so I stepped up and tossed the grenade and it exploded about a yard from my head.

Q359 Would you say Corporal Muller, that your handling of the grenade at that time was proper ? Do you think it was the proper thing for you to do ?

A I can see today, sir, that it was certainly not the proper thing to do.

Q360 You admit - you now admit that your handling of that grenade was improper ?

A Yes, sir. I do.

Q361 But at the time you didn't think ?

A I believe it was excitement or over-enthusiasm that caused it.

Q362 In other words, you should not have done it, should you ?

A Yes, sir. I admit that today.

Q363 Had you ever had previous experience with any kind of grenades ?

A No, sir, only instructional grenades .

Q364 In other words, no live grenades ?

A No, sir. I never had.

PROSECUTOR: That is all the questions I have of this witness.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (B)

THE ACCUSED RESUMES HIS SEAT .

2nd Witness FOR ~~WITNESS~~ DEFENCE

B-168197 Private R.L. MAIST, No 25 Canadian Infantry Basic Training Centre, Reinforcement, being duly sworn is examined by the Defending Officer:-

Q365 Private Maist, do you remember the date of January 10th, of this year ? Did you have any occasion to particularly remember that date ?

A Yes, sir. That was the date on which we went on a route march, and Corporal Muller was injured.

Q366 Do you know Corporal Muller ?

A I met him on coming into the Army. I didn't know him before that.

Q367 You could recognize him if you saw him ?

A Yes, sir.

Q368 Do you see him in the Court room ?

A Yes, sir.

Q369 Where is he ?

A There (indicating the accused)

Q370 It has been brought out that five and six platoons of B Company left the camp in the afternoon and proceeded north in the direction of Brantford, approximately two miles, and stopped. Would you go on from there? What happened after ?

A370 To my knowledge, we all stopped, and formed up on the left side of the highway, and Mr. Bianco had three of these 77 grenades and gave a short talk describing the grenade and the effects it would have. I am not sure whether he threw all the three of them, there were three thrown, and none of them exploded.

Q371 Did you at any time believe that the grenades would not go off ?

A Mr. Bianco said that - to the best of my knowledge - that they had been in the stores quite some time, and that they were taking them out more or less to get rid of them.

Q372 What did that make you think ? They were sure to go off, or not to go off ?

A It was putting a little doubt in my mind, I wouldn't be quite sure. When three grenades were thrown and none of them exploded, that sort of cinched it in my mind.

Q373 That the three were duds ?

A Yes, sir.

Q374 You have told us that three grenades were thrown and that none of them exploded, what happened after the grenades were thrown ?

A Mr. Gordon went down the bank with a rifle, and rounds, and going down he seemed to veer away from the place where the grenades were, and Corporal Muller, I imagine wanting to help him find them, went down the bank and stopped where they were.

Q375 He went down the bank towards the grenades ?

A Towards Mr. Gordon.

Q376 Did you, or did you not, hear any command at that time, right at that moment, being given to Corporal Muller ?

A No, no I didn't.

Q377 Did you hear Mr. Bianco give any command at that time ?

A No.

Q378 How far were you away from Mr. Bianco ?

A I would say approximately eight feet.

Q379 Were you as close to him as you are to me now ?

A Yes, a little closer .

Q380 Closer ? And you didn't hear him give any command ?

PRESIDENT: The distance between you and the witness being ten feet.

Q381 DEFENDING OFFICER: He was closer than ten feet to you ?

A Yes.

Q382 And you didn't hear any command ?

A No, sir.

Q383 At the time that Corporal Muller went down the bank towards the grenades, what did he do immediately after that ?

A Corporal Muller went straight to the spot where this one grenade was, knelt down and brushed the snow away from the grenade.

Q384 Did you hear any conversation that Corporal Muller had with anyone ?

A No, sir.

Q385 Was he close enough to you that you could overhear any conversation ?

A No, sir. I don't think so.

Q386 Would you say he was out of earshot, out of hearing ?

A Yes, sir.

Q387 Did you hear any conversation between Mr. Gordon and Corporal Muller ?

A No, sir.

Q388 You didn't hear anything at all ?

A No, sir.

THE PROSECUTOR CROSS EXAMINES

Q.389 Were you listening for any conversation, Private Haist ?

A Well, I was paying very strict attention to it. I knew there was live grenades down there and men around, so I was watching pretty closely.

Q.390 Do you remember Mr. Bianco telling the whole platoon to stay where they were ?

A Before he threw them he said he didn't want anyone to go down the bank.

Q391 And after that too ?

A Yes, sir.

Q392 And after did he say - did he turn around to the platoons and tell them not to move from there, do you remember ?

A Yes, sir. I think he did.

Q393 Then Mr. Bianco on two occasions told the platoons to stay where they were ?

A Yes, sir.

Q394 So you did hear some conversation ?

A Yes, sir.

Q395 But it didn't apply specifically to the accused ?

A No, sir.

Q396 Did you hear the accused say to Mr. Gordon, "I will show you where it is, sir" ?

A No, sir. I didn't.

Q397 Did you hear Mr. Gordon say, "Get the Hell out of here" ?

A No, sir.

Q398 Did you hear Mr. Gordon say, "Leave that God damn thing alone" ?

A No, sir.

Q399 Did you hear the accused say "Look sir, there is nothing to it" ?

A No, sir.

Q400 You heard no conversation at all ?

A None whatsoever, no, sir.

THE DEFENDING OFFICER DECLINES TO RE EXAMINE

Q.401 QUESTIONED BY THE PRESIDENT: How far away were you from Mr. Gordon and the accused at the time he picked up the grenade ? Put it this way, were you still on the side of the road ?

A. Yes, sir.

Q402 You would be approximately twenty-five yards away ?

A At least.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (B)

THE WITNESS WITHDRAWS

3rd Witness FOR DEFENCE B-166146 Pte G.A. HYNDMAN, Headquarters Company, No 25 Canadian Infantry Basic Training Centre, being duly sworn is examined by the Defending Officer:-

Q403 What platoon were you a member of on the 10th of January, this year ?

A I was in 6 Platoon, B Company.

Q404 Do you remember that date, the 10th of January ?

A I do, sir.

Q.405 What happened particularly on that date that would make you remember ?

A There was an accident.

Q406 Do you know the person that was injured ?

A I do.

Q407 What was his name ?

A Lance Corporal Muller.

Q408 Do you see him in the Court room ?

A Yes, sir.

Q409 Whereabouts is he ?

A Sitting between these two escorts here.

Q410 It has been brought out in evidence the two platoons were out on a route march; went two miles and stopped and had a short lecture on the 77 Grenade, by Mr. Bianco, and three grenades were thrown. Did you have any reason to believe the grenades might not go off ?

A I did, sir. I was under that impression.

Q411 What gave you that impression ?

A I was told to take my rifle with me. I was told they would use the rifle to explode the grenades, if they didn't go off. It was the only one in the platoon.

Q412 It has been brought out in evidence Corporal Muller, after the grenades were thrown, went down the bank to try and find it. Did you hear any command given to Corporal Muller at that time ?

A I don't remember any being given.

Q413 Did you hear any specific command given by Mr. Bianco to Corporal Muller ?

A I did not.

Q414 At the time he was bending over the grenade, didyou hear any conversation between Mr. Gordon and Corporal Muller ?

A I believe there was a little. I don't remember, but I didn't hear anything.

Q415 Is your hearing normal ?

A It is.

Q416 You didn't hear anything ?

A I didn't hear anything.

Q417 At the time, immediately after, when first aid was being administered to Corporal Muller, where was the rest of the platoon chiefly ?

A Most of them were on the bank.

Q418 Where were the rest of them ?

A A few of them were down the bank, surrounding Corporal Muller.

Q419 But at that time they were in the vicinity of one grenade anyway, the one that had exploded ?

A That's right, sir.

Q420 About how far away were the other grenades ?

A Not too far. I couldn't say.

Q421 Some of the members of the platoon were in the immediate vicinity of two blinds, is that right ?

A That is right, sir.

Q422 Have you noticed this particularly: Mr. Bianco in giving a command, is his voice unusually loud, or normal, or soft ? How would you describe his voice ?

A He has quite a loud voice.

Q423 How far would you say the throwing area, that is the place the grenades were thrown from, how far was that from the throwing area of the target? Have you any knowledge of that distance ?

A I have.

Q424 What knowledge ?

A I paced it off myself.

Q425 How far was it ?

A It was approximately forty of my own paces.

Q426 When you are on a march, what size step do you take? With a platoon, do you march the same pace as any of them ?

A I do, sir.

Q427 Would be a hundred feet exactly. That establishes the throwing area a hundred feet from the target. How large was the target ? How large an area would it cover ? Did you measure that ?

A I would roughly say six or eight feet.

Q428 If you paced the distance, you must have walked right up to the target ?

A Yes, sir. I did.

Q429 How do you mean, long or high ? Do you mean six or eight feet across ?

A Yes, sir.

THE PROSECUTOR CROSS EXAMINES.

Q431 When you say that you didn't hear any conversation, you are only saying that, you are not saying that none took place, are you ?

A No, sir. I am not.

Q432 It is possible that you didn't hear it ?

A Yes, sir.

Q433 Did you hear Mr. Bianco say to the whole platoon - order the whole platoon to stay on the road before the grenades were thrown at all ?

A I believe I did, sir.

Q434 After the grenades were thrown and the three proved to be blinds, did you again hear Mr. Bianco order the whole platoon to stay on the road ?

A Yes, sir.

Q435 In other words he ordered the platoons to stay there on two occasions ?

A Yes, sir.

Q436 Can you tell us what he said ?

A No, I can't remember.

Q437 What did you take from what he said, he was to stay there ?

A He didn't say anybody specifically, just told all of us to.

Q438 You don't remember Mr. Bianco telling the accused specifically to stay back on the road ?

A No, sir I don't remember that.

Q439 When did Mr. Bianco say to you that the grenades being old were not likely to go off ?

A I remember he said that they had been kept in stores for some time, and were not likely to go off, that's all I remember.

THE DEFENDING OFFICER DECLINES TO RE EXAMINE

QUESTIONED BY THE PRESIDENT:

Q.440 When the Lance Corporal went down the embankment to help out in locating this grenade, how far were you from Mr. Bianco then ?

A Not very far. I took my rifle and gave it to Mr. Gordon, and Mr. Gordon and Mr. Bianco were standing close together, and I didn't move very far away from the place. I'd say eight or ten feet.

Q441 At that distance you heard no special command from Mr. Bianco ?

A I did not sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (B)

THE WITNESS WITHDRAWS.

4th Witness FOR DEFENCE B-108502 Sgt J. McCONNELL, Home War Establishment, No 25 Canadian Infantry Basic Training Centre, being duly sworn, is examined by the Defending Officer:-

Q442 Sergeant McConnell, do you know Corporal Muller ?

A I do, sir.

Q443 Do you see him in the Court Room now ?

A Yes, sir.

Q444 Where is he ?

A That is Muller sitting right in the centre here.

Q445 How long have you known him ?

A Since approximately last April or May when he came into this Camp.

Q446 Approximately ten or eleven months ago ?

A Yes, sir.

Q447 How have you found him in that time, as a soldier, or N.C.O. ?

A Very competent, very enthusiastic, and I would say, sir, very trustworthy.

Q448 When you say trustworthy, what do youmean ?

A If you gave him a job to do, you could depend on it. I didn't have to check up on him afterwards. I knew his job would be done.

Q449 You are his Sergeant ?

A I was the Sergeant in charge of S of I Corporal Muller attended here in this camp.

Q450 What Company ?

A B Company.

Q451 You say he is enthusiastic. Would you say he is over-enthusiastic ?

A Yes, sir. I believe you would say that at time he was over-enthusiastic.

Q452 What would you say about his wanting to learn ?

A In compiling the records of the S of I, I was in charge of, Corporal Muller had the highest marks in that S of I, I believe out of twenty-five men.

Q453 Would you say from your remarks, that he isa good soldier ?

A A very good soldier.

Q454 A good N.C.O.

A Yes, sir.

Q455 Would you be willing to trust Muller on any important or dangerous job ?

A Well, sir, that is a hard question to answer. If a man knows what he is handling, or the job he is doing, and Corporal Muller did know that job, yes, sir, I would trust him with that job.

Q456 Would you hesitate at all if you needed a good N.C.O. for a very special job and you had Corporal Muller, and several otherCorporals in your platoon, would be likely to select Corporal Muller for that job ?

A Yes, sir. I would sir.

THE PROSECUTOR DECLINES TO CROSS EXAMINE

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83 (B)

THE WITNESS WITHDRAWS.

THE DEFENCE HAS NO FURTHER WITNESSES.

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS

(See document marked "K" attached)

THE PROSECUTOR MAKES A CLOSING ADDRESS

(See document marked "L" attached)

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

E

Finding*

The Court is closed for the consideration of the finding.

The Court find that the accused B 160485 Pte (Lance Corporal) Fred Frank MULLER No 25 Canadian Infantry Basic Training Centre, C.A., is not guilty of the charge and acquit him of the same.

The finding is read in open Court and the accused is released.

Signed at SIMCOE, Ontario, this 26th day of February, 1945.

W. P. McClement Major,
The Argyll & Sutherland Highlanders of Canada (P.L.) C.A.
Headquarters Military District No. 2
President, D.C.M.

*When the Court is already open this sentence will be struck out.

~~Proceedings on Conviction~~ *Before Sentence*

*The Court being re-opened, the accused is again brought before it.

Evidence of character, etc.

Question by the President.

is duly sworn.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the Defending Officer (accused) (Counsel for the accused).

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Extracts entered as No. 36163 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 14 day of Mar 1945

Question to the accused.

Do you wish to address the Court?

Answer.

~~The Court is closed for the consideration of the sentence.~~

W.P. McClemont
Pres. D.C. No. Major

ORDERS BY

Major-General A.E. Potts, C.B.E. E.D.,
District Officer Commanding,
Military District No. 2.

Toronto, Ontario, 22nd February, 1945.

District Court-Martial
No. B-160485, Pte. (L/Cpl.) Fred Frank MULLER,
No. 25 Canadian Infantry (Basic) Training
Centre, C.A.

The detail of Officers mentioned below will assemble at No. 25 Canadian Infantry (Basic) Training Centre, C.A., SIMCOE, Ontario, at 10.30 a.m. (EDST) on MONDAY the 26TH day of FEBRUARY, 1945, for the purpose of trying by District Court-Martial the accused person named in the margin (and such other persons as may be brought before them).

PRESIDENT

Major W.P. McClemont, E.D.,
The Argyll & Sutherland Highlanders
of Canada (P.L.) C.A.,
Headquarters,
Military District No. 2.

MEMBERS

Captain H.B. Henry,
Home War Establishment,
No. 20 Canadian Infantry (Basic)
Training Centre, C.A.

Lieutenant J.B. Genteno,
Home War Establishment,
No. 20 Canadian Infantry (Basic)
Training Centre, C.A.

WAITING MEMBER

Major S.C. Brennan,
Home War Establishment,
No. 25 Canadian Infantry (Basic)
Training Centre, C.A.

PROSECUTOR

Captain J.L. Downey,
No. 2 District Depot, C.A.,
attached S-8 Canadian Army Trades
School, C.A.

DEFENDING OFFICER

The Commanding Officer of each soldier brought before the Court for trial will detail a Defending Officer for the trial of such soldier.

.....P.T.O.

X-1
W. McClement
Pres. S.C.M. Maja

DAILY ORDERS PART I
BY
MAJOR J. M. HUNTER
COMMANDING
NO. 25 C. I. B. T. C., CA.
(Last Order Issued No. 47, d/24 FEB 45).

D.O. Part I, No. 48
24 FEB 45.
SIMCOE, Ontario.

1. DISTRICT COURT-MARTIAL
No. B-160485, Pte. (L/Cpl.) Fred Frank MULLER,
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PROSECUTOR

Captain J.L. Downey,
No. 2 District Depot, C.A.,
attached S-S Canadian Army Trades School, C.A.

DEFENDING OFFICER

Lieutenant A. Beck,
Home War Establishment,
No. 25 Canadian Infantry (Basic) Training Centre, C.A.

COURT ORDERLY

B.100561, Sjt. Runnalls, E.N.
Home War Establishment,
No. 25 Canadian Infantry (Basic) Training Centre, C.A.

Authority: District Orders dated 22 FEB 45, by:-
Major-General A.E. Potts, C.B.E., E.D.,
District Officer Commanding,
Military District No. 2.

(E.S. FROST) Capt & A/Adjutant
No 25 CIBTC, CA, SIMCOE, Ontario.

CERTIFIED TRUE COPY

(E.S. Frost) Capt. & A/Adjt.
for Officer Commanding,
No. 25 C.I.B.T.C., CA, SIMCOE, Ontario.

W. P. McClement Major,
President, D.C.M.

STATEMENT BY PROSECUTOR :

PRESIDENT: Captain Downey, what about seven days' notice of legal qualification, has that been given to the accused ?

PROSECUTOR: The summary of evidence was taken by myself exactly one week ago to-day in this very room. It is true the summary was not taken until after lunch. He has not had seven full days notice. The seven full days will not be up until after lunch to-day.

At the time the summary was taken, the accused was warned he would be prosecuted by an officer with legal qualifications in civil life and he signed a document to the effect: "acknowledge that should an order for trial be granted that I have been warned that an Officer may be named as Prosecutor at my trial who has legal qualifications in civil life". He has had that warning, but he has not had the full seven days. The full seven days will expire after lunch today.

PRESIDENT TO ACCUSED: Corporal Muller, you have heard the explanation given by Captain Downey. Are you willing to waive the full seven days notice to which you are entitled ?

ACCUSED: I am, sir.

W. P. McC

"H"

W. McNeil Major,
President, D.C.M.

OPENING ADDRESS BY THE PROSECUTOR.

I believe that in this case it is advisable for me to give a short opening address:

The accused is what is called a 4½ Lance Corporal at this Training Centre. I consider it is not necessary for me to explain what a 4½ Lance Corporal, owing to the fact, the Court is composed of officers who know better than I do what a 4½ Lance Corporal is.

In any event, he was acting as an instructor in B Company, and on the 10th of January, 1945, he accompanied a Platoon, Platoons No 5 and 6, on a route march. The officer in charge of the route march, was Lieutenant Bianco of this Training Centre, and the 2 i/c was Lieutenant Gordon.

The route march took them out of Camp in a northern direction, on the highway to Brantford.

After leaving, about two miles out on the road, they were halted and it appears that before they left, Mr. Bianco was supplied with three No 77 Grenades and detonators, and he was instructed he was to throw them some time during the break period which would occur in the march.

Mr Bianco also took with him a 303 Rifle, and some 303 rounds which were to be used in the event the grenades did not explode.

They arrived at a gravel pit in the township of Wyndham, in the County of Norfolk about two miles north of this camp.

The two platoons were halted and Mr. Bianco gave a talk to all concerned with respect to the No 77 Smoke Grenades. Then, it appears, that certain N.C.O.s collected and piled branches some forty or fifty feet on the west side of the road where they had stopped in a gully; and it was proposed then to throw the grenades on these branches. It appears there was very deep snow there and, subsequently, the grenades were thown, one by Mr. Bianco, one by Lieutenant

Gordon, and one by the accused, Corporal Muller. All three of the grenades failed to explode and they were, I believe the term is "blinds".

Mr. Bianco, I believe, will give evidence that he gave orders no one was to move from his position, and he instructed Mr. Gordon to take his rifle down and destroy the blinds.

Evidence will be given that Mr. Gordon did go down to destroy these blinds. It appears the grenades became pillowed in the snow. It appears they missed the brush and fell in the snow.

Evidence will be given that when Mr Gordon approached the grenades under the direction of Mr. Bianco, the accused, who appeared on the ascent from the road, rushed down the slope from the road towards Mr Gordon, saying, "I will show you where it is, sir".

Evidence will be given by Mr. Bianco, I believe, that he raised his voice and told the accused to come back to the road. Evidence will be given by Mr. Bianco that he heard Mr. Gordon say "Get the Hell out of here."

The accused , as will be shown by evidence, paused a few feet in front of Mr Gordon and knelt down and brushed the snow away from the spot where the grenade was.

I believe evidence will be given Mr Gordon again said something to the effect: "Leave that God damn thing alone". The accused continued to burrow in the snow and held the grenade in his hand a fraction of a second, and said, "Look sir, there is nothing to it", and then threw the grenade. It exploded in his face. His neck, ears, and face were burned by what I believe will be shown to the court, are phosphorus burns. First aid was then applied and the accused was returned to Simcoe Military Hospital. Mr. Gordon was only injured superficially and lost no time, nor was he hospitalized. There are no costs of hospitalization as far as Mr. Gordon is concerned. The costs incurred by Corporal Muller refer to costs of hospitalization incurred by the accused himself.

There will be evidence given, in fairness to the accused, he has been noted to be a little hard of hearing.

We will endeavour to produce to the Court an exhibit which may or may not be, the exact grenade that did explode, but at least will show what type of grenade it was, in a burnt out condition.

As a result of all this, the accused has been charged with conduct to the prejudice of good order and Military discipline in that he improperly handled a No 77 Smoke Grenade and thereby negligently injured himself, whereby His Majesty suffered loss or damage in the amount of $65.00. That is the charge on which he is being tried to-day.

I ask permission of the Court to call as my first witness, Mr. Bianco.

"J"

W. H. McClemont, Major,
President, D.C.M.

At 1200 hours on the 26th day of February, 1945, the Court adjourned until 1330 hours on the 26th day of February, 1945.

On the 26th day of February, 1945, the Court reassembles pursuant to adjournment, presents the same members as when adjourned.

K

W.P. McClement Major,
President, D.C.M.

CLOSING ADDRESS BY THE DEFENDING OFFICER : -

Sir, there is very little to be said in this case. It all has been said already.

Corporal Muller, as has been brought out in evidence, was given to understand these grenades were duds, and at only the very last minute when it was too late, realized that there was a danger. I think any ordinary person who had no experience with this particular type of thing and was told they were duds would be inclined to act the same way, I might take it as a sort of a game myself, and not attach anything to it; and probably somehow, or something in Mr. Gordon's voice when he said, "Leave that damn thing alone" made him do the first thing, the natural instinctive thing, to throw it. Though it didn't come out in evidence, I believe he was trying to throw it towards the target at the time.

The Manual of Military Law says If neglect is wilful, that is intentional it is clearly blameworthy. If it is caused by an honest error of judgment and involves no lack of zeal and no element of carelessness or intentional failure to take the proper action it is equally clear that it is blameless and cannot be a ground for conviction.

This man's very attitude and the evidence that has been given in Court would show that he is notguilty of neglect. He might be guilty of an error of judgment, because of over-enthusiasm; but I don't think that the Court would say that he is guilty of wilful neglect. I don't think any intelligent person would deliberately handle a live grenade, if he knew there was any danger.

I think Corporal Muller is guilty of being over-enthusiastic being a darn good N.C.O., and he may be guilty of making an error of judgment, but he is definitely not guilty of this charge against him. He is not guilty of neglect as laid down in the Army Act

and I think the Court will see that.

Mr. Bianco's voice, as he said, was loud when he gave that command, but the command was not heard by two members of the platoons eight or ten feet away from him I personally noticed his voice in Court is very soft - very quiet. I do not say he did not give that command, but I do say the accused did not hear him.

Corporal Muller, as I say, may commit these errors of judgment; he may act on the spur of the moment, but it is caused sometimes just by being tooanxious, but personally, if I were overseas in a field of action, and I was in a tough spot, I think I would want a bunch of men following me, behind me like Corporal Muller. Corporal Muller is too darn anxious to get in and be in the thick of things, which to my mind makes a good soldier.

L

W. H. McClement Major,
President, D.C.M.

CLOSING ADDRESSBY THE PROSECUTOR:

First of all, gentlemen, I wish to point out that there is some discrepancy in the evidence.

For one thing, Mr. Bianco states he heard Mr. Gordon say, "Get the Hell out of her," whereas, I gather from Lieutenant Gordon's evidence he doesn't remember saying that.

Also, Mr. Bianco says that he ordered the platoons to remain where they were on the side of the road, right before the grenades were thrown, and after the grenades were thrown. The two witnesses called for the defence in cross-examination corroborate this testimony.

I am trying to get for the Court the number of times he, the accused was told not to go down to the danger zone. He was told once. According to Mr. Bianco, he said he raised his voice and told him to go back to the side of the road. According to Mr. Bianco's evidence, he heard Mr. Gordon say, "Get the Hell out of here. Leave that God damn thing alone", and he heard the accused say "Look, sir, there is nothing to it." And in Mr. Gordon's evidence he told the accused, "Don't touch that God damn thing", but that was after the accused was already at the point of danger beside the grenade.

There has been lots said for the accused. Apparently, he is an excellent soldier, and an excellent N.C.O, and we wish we had more like him in the Army; but, nevertheless as a matter of Military law, my duty as Prosecutor as I see it, is not to press for a conviction, but to endeavour to be fair about it; therefore, I have to talk as I intend to speak now:

I submit this accident was caused by the accused himself. He had had no previous training in connection with grenades, although it is true the officers allowed him to throw one. After being told

twice what to do, I think we have proved that, he did not do it. He went down and placed himself in danger beside the grenade, lifted it up, threw it, and it exploded. His own act. He was not ordered to do it; it was against orders. He was with the platoon and was ordered to stay back, and Mr. Bianco says he told the accused himself to stay back. In other words, if the accused had not gone down there, he would not have been injured. The accused apparently through his over-zealousness or over-enthusiasm, put himself in a position where he was very seriously injured.

Something has been said with reference to some fault that may lie on the heads of other people in the case as to why these grenades were in use in a Training Centre. That is not the issue in this case. In view of the fact they were used and the accused put himself in the position of danger, he didn't know what the result of these bombs might be, and therefore, I submit he may be found guilty of negligence or neglect, negligently injuring himself.

There was some conversation between Mr. Bianco and the accused on the way out where Mr. Bianco told the accused they might not go off. These grenades, I suggest to the Court, are something that are, and the accused should have considered that they are, something inherently dangerous in themselves, and this grenade was.

I carefully went over the charge sheet when the accused was cross-examined to prove these essential ingrediants w hich are necessary for the Prosecution to prove in order for the accused to be found guilty. In the long run the Court must decide if the conduct of the accused was such that it was against good order and military discipline. Not one, but both. Whether or not what the accused did was conduct to the prejudice of good order and military discipline; but on checking and going over the charge-sheet with the accused, he did admit it was in the county of Wyndham, in the Township of Norfolk; the date was the tenth

of January; it was a 77 Smoke Grenade that he was injured by; and as a result of his injury His Majesty suffered loss in the amount of $65.00. I had him admit his handling of the grenade was improper. The only thing I did not ask him was whether or not he was negligent. I am leaving that to the Court. The question is negligence. Whether he was negligent in improperly handling the grenade. The accused himself admitted he heard Mr. Bianco order the platoon to remain on the road, or words to that effect. He admits he improperly handled the grenade. The question is: Does over-zealousy or desire to help amount to negligence under the circumstances of this case. We have to have discipline in the Army. Certain men have certain jobs to do, and if one man undertakes a job that is not his job, and thereby injures himself, I submit that may be grounds for conviction. I have made some notes on the evidence of the accused: "My own instinct made me want to get rid of it, without thinking I picked it up and threw it. It was my first experience with live grenades."

There is some question as to whether he heard the orders, any orders. It is just a matter for the Court. He states: "I removed the crust of snow carefully, then probed around with my right hand and picked it up with my right hand and all this time, I didn't realize the possibility of danger." I submit that this in itself is negligence. He knew Mr. Gordon was there with a rifle and rounds for the purpose of destroying the grenade. In connection with that fact, he knew that a blind grenade was a dangerous thing.

I would like very much to read to the Court the full definition of neglect in the Army Act, that is, an amendment to the Army Act. Thereby hangs the decision.

It will be noted that Note 1 to Army Act Section 40 has been amended and these are the notes under that Act. "Neglect to be punishable under this section must be wilful or culpable, and

not merely the result of forgetfulness, error or judgment, or inadvertence." Those words have been stricken out and these words have been put in place of them, and I submit that neglect and negligence mean the same thing. " Neglect to be punishable under this section must be blameworthy. If neglect is wilful, that is, intentional, it is clearly blameworthy. If it is caused by an honest error of judgment and involves no lack of zeal and no element of carelessness or intentional failure to take the proper action it is equally clear that it is blameless and cannot be grounds for conviction. Where it is not thus completely blameless the degree of blameworthiness naturally varies, and a court trying such a case must consider the whole circumstances of the case and in particular the responsibility of the accused. For example, a high degree of care can rightly be demanded of an officer or soldier who is in charge of an armoured vehicle or an aircraft or is responsible for its condition, or who is handling explosives or highly inflammable material, where a slight degree of negligence may involve danger to life. In such circumstances, a small degree of of negligence may be so blameworthy as to justify conviction and punishment. On the other hand, such a slight degree of negligence resulting from forgetfulness or inadvertence, in relation to a matter that does not rightly demand a very high degree of care, would not be judged so blameworthy as to justify conviction and punishment. The essential for the Court to consider is whether in the whole circumstances of the case as they existed at the time of the offence the degree of neglect proved is such as having regard to the evidence and their military knowledge as to the amount of care that ought to have been exercised, renders the neglect so substantially blameworthy as to be deserving of punishment."

My submission is a smoke grenade such as this demands a high degree of care and is a dangerous thing and that the whole circumstances of this case demand a high degree of care. The Court

may well find that the actions of the accused, while they may have been prompted by a motive of the highest type, that is trying to help, nevertheless the result is - as a result of his actions, he was hospitalized - he was severly injured and the government has lost time; and it cost $65.00 to hospitalize him.

W.R.Mc

MEDICAL OFFICER'S REPORT

I certify that No. B.160485 Pte. (L/Cpl.) Fred Frank MULLER of No. 25 CIBTC, CA is in a Good state of health, and Fit to undergo Trial by Court martial.

A S Tauber Capt.
Medical Officer
(A.S. Tauber) Capt. RCAMC, CA,
Att'd No. 25 CIBTC, CA, SIMCOE, Ont.

Station Simcoe, Ontario.

Date 26 Feb 45

M. F. B. 246
20M—2-43 (3820)
H.Q. 1772-30-480

W.P. McClement
Pres. D.C.M. Major

SUMMARY OF EVIDENCE

in the case of

The accused, No. B.160485, Private (Lance Corporal) Fred Frank MULLER, No. 25 Canadian Infantry Basic Training Centre, C.A., Simcoe, Ontario, a G.S. soldier of the Canadian Army, placed on Active Service.

CHARGE:

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE (Negligently Injuring Himself).
SECTION 40 Army Act.

The Commanding Officer has directed that the evidence be taken on oath.

W.130582, Private (Lance Corporal) Masters, M.S., Canadian Women's Army Corps, Home War Establishment, No. 25 Canadian Infantry Basic Training Centre, C.A., Simcoe, Ontario, is duly sworn as shorthand writer.

FIRST WITNESS:

Lieutenant Alphonse BIANCO, Home War Establishment, No. 25 Canadian Infantry Basic Training Centre, C.A., Simcoe, Ontario, having been duly sworn states:-

"I am a Platoon Officer in "B" Company of this Training Centre. The accused, here present, whom I now recognize and identify, is a four percent (4%) Lance Corporal who has been employed in "B" Company as an Instructor for some time. On the 10th of January, 1945 I was Platoon Officer of No. 6 Platoon and the accused was one of my Instructors. On 10th January, 1945 together with Lieutenant J.G. Gordon I took Nos. 5 and 6 Platoons out on a four mile route march. Before starting out I had been supplied by Captain A.H. Fonger, the 2 i/c of the Company with three No. 77 Grenades and Detinators, and with instructions to throw the same during the break period which would occur on the march. I carried with me a 303 rifle and a number of 303 rounds to be used in the event that these grenades did not explode. We marched out some two miles from Camp in a northerly direction, leaving at 1500 hours. At or about 1550 hours the Platoons were stopped at the side of the road, which runs from Simcoe to Brantford, and the place, I understand, where we stopped was in Wyndham Township in the County of Norfolk. I instructed certain N.C.O.s to collect and pile branches some forty or fifty feet from the west side of the road where we had stopped, in a gully, with the intention of using these branches as a target at which the grenades would be thrown.

I gathered both Platoons together at the edge of the road, facing the gully, and gave them a brief talk on the characteristics of the No. 77 Grenade. Three grenades were then thrown and failed to explode. I then issued orders that no one was to move from his position at the edge of the road. I then instructed Mr. Gordon to take the rifle which he had been carrying and the 303 rounds, and go down and destroy the blinds. Mr. Gordon went down the gully towards the first grenade, which was not visible by reason of the fact that it was buried in the snow. As he approached the object I attempted to direct him to the spot

FIRST WITNESS (cont'd)

where it had struck the ground, when at this moment the accused dashed down the slope from the edge of the road towards Mr. Gordon, saying:-

'I will show you where it is, Sir.'

At the moment the accused dashed down the embankment, I raised my voice and told him to come back to the edge of the road. Either he did not hear, or if he did, he paid no attention, for he continued to run towards Mr. Gordon, and when within three or four feet of Mr. Gordon, I heard Mr. Gordon say:-

'Get the hell out of here'

The accused dashed ahead a few feet in front of Mr. Gordon, knelt down, and I observed him brushing the snow away from the spot where I was sure the grenade lay. As he was brushing the snow away I distinctly heard Mr. Gordon say:-

'Leave that God damn thing alone'.

The accused continued to burrow in the snow. Then I saw him pick up the grenade, hold it in his hand for a fraction of a second, when I heard the accused say these words:-

'Look Sir, there is nothing to it'.

Then he tossed the grenade in the air, and it went off in his face. I noted that the accused had been injured, and I dashed down the bank, and by the time I reached him I had extracted my first Field Dressing out of my pocket. I applied that on his forehead, and called for two or three other First Field Dressings, which I applied on his nose and mouth. While this was being done the burning clothing was ripped off him, and I sent someone on to the road to commandeer the first car that would pass. While dressing the accused I gave instructions that Mr. Gordon was to be attended to, and this was being done. I believe that we had the accused back at Simcoe Military Hospital within ten minutes after the accident happened. I believe that this accident happened at approximately 1600 hours on 10th January, 1945.

From what I can see the injuries sustained by Mr. Gordon were not very serious, but he was returned to Simcoe Military Hospital in the same vehicle that brought the accused back.

The accused had been with me for about a week before this accident happened and it came to my attention that he, when lecturing or speaking to the men, spoke in an unusually loud voice. Frequently when giving my instructions to him, I would have to repeat myself. As a result of that he appeared to me to be hard of hearing.

I now produce and offer as an Exhibit at this Summary of Evidence a tin casing of a No. 77 Smoke Grenade which is similar to the grenade which exploded as before set out, and thereby injured the accused. The original colour of this was green, but when they are burned out, they are of a natural metal colour, similar to this one. I cannot say that this is the exact container of the grenade that exploded as before stated, but I believe that it is the one."

.....

(A. Bianco) Lieutenant,
Home War Establishment,
No. 25 C.I.S.I.C., CA,
SIMCOE, Ontario.

The Grenade Container No. 77 above referred to in the evidence of Lieutenant A. Bianco is marked "Exhibit A" in this Summary of Evidence.

The accused declines to cross-examine this Witness.

SECOND WITNESS

Lieut. J.G. GORDON, A.10 Canadian Infantry Training Centre, C.A., Camp Borden, Ontario, attached No. 25 Canadian Infantry Basic Training Centre, C.A., Simcoe, Ontario, having been duly sworn states:-

"I am a Reinforcement Officer at this Training Centre and am in "B" Company. On 10th January, 1945 I was a member of "B" Company. The accused herepresent, whom I now recognize and identify was also a member of that Company, and a member of No. 6 Platoon. Nos. 5 and 6 Platoons on that date went on a route march under the command of Lieutenant A. Bianco, and I went along to assist him as 2 i/c. We marched out of Camp along the highway between Simcoe and Brantford for a distance of approximately two miles, which I understand is in the Township of Wyndham. The Platoons were halted and Mr. Bianco gathered them around him at the side of the road. He had with him three No. 77 Grenades and he told me that he had been instructed to put on a demonstration for the men. He had with him also one 303 Rifle and several cartridges. He brought the rifle and cartridges with him for the purpose of exploding any blind grenades should they occur. Mr. Bianco gave a short talk to the men, explaining the use of the grenades. The grenades were thrown and all were blind. Mr. Bianco called me over, gave me the rifle and four cartridges and instructed me to go down and explode the blinds. I took the rifle and the cartridges and walked down towards the spot where the first grenade had landed. I have had a great deal of experience with high explosives, and have destroyed blind grenades on several previous occasions. I was intently concerned with the job at hand, because I realized that if I stepped on the grenade it would explode. I heard Mr. Bianco call to me to look over to the right. Cpl. Muller, apparently desiring to help me locate the grenade, came down and did so. He located the mark of the grenade in the snow, broke the crust of the snow carefully, and when I saw the edge of the grenade in the snow, I told him to leave it alone. I said:-

'Don't touch that God damn thing'.

I believe Cpl. Muller said:-

'It's O.K., Sir.'

Then he picked the grenade up and tossed it up in the air and it exploded. As a result of the explosion Cpl. Muller was rather seriously burned about the face, ears and neck. I received superficial burns on my face and jaw. Mr. Bianco, after applying First Field Dressing to Cpl. Muller stopped the first civilian vehicle that came along, and Cpl. Muller and myself proceeded immediately to the Simcoe Military Hospital, and received attention from Capt. Townsend. My face was washed off for approximately twenty minutes, and No. 5 burn ointment applied, and I returned to my quarters, and was fit for light duty. I was not hospitalized.

Now produced to me is Exhibit "A" already produced at the taking of this Summary of Evidence, and after examining same I say that Exhibit "A" is a tin container of a No. 77 grenade which has been burned out, and this is similar to the tin container of the No. 77 Grenade that was burned out on the

SECOND WITNESS -(cont'd.)

occasion of the accident which resulted in the injuries to the accused.

.....
J.G. Gordon Lieutenant,
A.10 Canadian Infantry Training Centre, C.A.,
Camp Borden, Ontario.

The accused declines to cross-examine this witness.

THIRD WITNESS

Capt. M.P. TOWNSEND, RCAMC, CA, Officer Commanding Simcoe Military Hospital, having been duly sworn states:-

"I am the Officer Commanding Simcoe Military Hospital. The accused here present, whom I now recognize and identify, was admitted to Simcoe Military Hospital at approximately 1630 hrs. on 10th January, 1945. At the time he was suffering from extensive first, second and third degree burns on his face, neck and ears, due to phosphorus. He was immediately put over a basin of water and all areas washed thoroughly to prevent continued ignition of the phosphorus, and to remove all that was still adhering. He was later bathed with dilute copper sulphate and the particles of phosphorus then appearing as black specks were removed. No. 9 burn ointment was applied and he was transferred to Hamilton Military Hospital. At approximately 1900 hours on the same day he left Simcoe Military Hospital for Hamilton Military Hospital via ambulance. I know that the accused was in hospital at Hamilton Military Hospital from 10th January, 1945 until he was discharged therefrom on 5 th February, 1945, a total of 26 days, and that he was admitted to that hospital by reason of having suffered burns on his face and neck and ears caused by phosphorus. The cost of hospitalization in Hamilton Military Hospital is $2.50 per day, making a total cost of $65.00.

The injuries sustained in my opinion were not serious enough to cause any change in his Pulhems Profile, and I expect no permanent disability to follow. In my opinion the injuries sustained by the accused were a direct result of some sort of an accident involving phosphorus.

I examined Lieut. J.G. Gordon, and found that he had a slight phosphorus burn on his right jaw, but this was not at all serious. He was not hospitalized and the burns were not serious enough to cause him to be off duty.

In my opinion I can say that the 26 days that the accused spent in Hamilton Military Hospital were necessitated as a result of these phosphorus burns.

.....
(M.P. TOWNSEND) Capt., RCAMC, CA,
Officer Commanding,
Simcoe Military Hospital,
SIMCOE, Ontario.

The accused declines to cross-examine this witness.

At this point in the proceedings I explained to the accused that a written statement of evidence signed by Jas. McKeown, Lieutenant, will be included in this Summary of Evidence under Rule of Procedure 4(G), and he appeared to understand my explanation.

I hereby certify pursuant to Rule of Procedure 4(G) that owing to the exigencies of the service, and expense and loss of time involved, the attendance of Lieutenant Jas.McKeown could not in my opinion be readily procured and a written statement of his evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence, and is attached hereto marked "Appendix "B"".

STATEMENT BY THE ACCUSED

I do not require the attendance of this Witness for the purpose of cross-examination.

F.F. Muller L/Cpl.
.....
B.160485, Private (Lance Corporal) MULLER,F.F.
No. 25 Canadian Infantry Basic Training Centre, C.A.,
SIMCOE, Ontario.

QUESTION
TO THE ACCUSED

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give may be taken down in writing and may be given as evidence."

ANSWER BY THE ACCUSED

"I do not wish to make a statement or give evidence at this time".

QUESTION
TO THE ACCUSED

"Do you wish to call any witnesses on your behalf?"

ANSWER BY THE ACCUSED

"I wish to call Pte. Hyndman and Pte. Haist".

F.F. Muller L/Cpl.
.....
B.160485, Private (Lance Corporal) MULLER,F.F.
No. 25 C.I.B.T.C., CA,
SIMCOE, Ontario.

FIRST WITNESS FOR THE DEFENCE:-

B.165197, Private HAIST, R.L., No. 25 Canadian Infantry Basic Training Centre, C.A., Simcoe, Ontario, Reinforcement Stream, having been duly sworn states:-

"I am a soldier undergoing training at this Training Centre and a member of No. 6 Platoon, "B" Company. I know the accused, Lance Corporal MULLER. On 10th January, 1945 we

FIRST WITNESS FOR THE DEFENCE - (cont'd.)

were on a route march and Lieutenant Bianco was explaining to us the uses of the No. 77 Grenade, and three grenades were thrown, but they failed to explode."

CROSS EXAMINATION BY THE ACCUSED

Q-1 Pte. Haist, when I proceeded down the bank to join Lieutenant Gordon, did you hear Lieutenant Bianco say to me to get back or any phrase to that effect?"

A-1 No, I didn't hear him say that.

Q-2 Were you standing close enough to Mr. Bianco that you would have heard him had he made such a remark?

A-2 I was standing approximately 8 feet from him.

Q-3 Did you see me kneel over the spot where the grenade was, and see me pick it up?

A-3 Yes, I saw you do that.

Q-4 Were you close enough to hear any conversation that might have taken place between myself and Mr. Gordon at that time?

A-4 No.

Q-5 After I had picked the grenade up, what to your knowledge was the next thing that happened?

A-5 When you picked it up it seemed as though you were going to throw it, but it blew up right out of your hand.

The accused declines to further cross-examine this witness.

R. L. Haist .....
B.168197, Private HAIST, R.L.,
No. 25 Can. Inf. Basic Training Centre, C.A.,
SIMCOE, Ontario.

F. F. Muller L/Cpl.
B.160485, Pte.(L/Cpl.) MULLER, F.F.,
No. 25 Can. Inf. Basic Training Centre, C.A.,
SIMCOE, Ontario.

SECOND WITNESS FOR THE DEFENCE

B.166146, Private Hyndman, G.A., No. 25 Canadian Infantry Basic Training Centre, C.A., Simcoe, Ontario, having been duly sworn states:-

"I am a member of No. 6 Platoon, "B" Company, this Training Centre, and I am a soldier here undergoing training. On 10th January, 1945 my platoon, together with No. 5 platoon,

SECOND WITNESS FOR THE DEFENCE - (cont'd.)

went on a route march along No. 24 Highway in the direction of Brantford, north from the Camp. We marched for about 2 miles, and then halted near a gravel pit in the Township of Wyndham. After halting, our Officer, Lieutenant Bianco gave us a talk on the No. 77 Grenade, and then three of them were thrown at some branches that had been laid in the snow, but they missed their target and failed to explode."

CROSS EXAMINATION BY THE ACCUSED

Q-1 Were you close enough to Mr. Bianco that you would have heard him tell me not to proceed down the bank?

A-1 I was close enough as I had just given my rifle to Mr. Gordon, and that was the one they were going to use.

Q-2 Did you hear Lieutenant Bianco say to me, or order me not to proceed down the bank?

A-2 I did not hear him order you not to proceed down the bank, but I did hear him tell the platoon not to go down the bank.

Q-3 Were you close enough that you could hear anything that was said between Lieut. Gordon and myself?

A-3 I did not hear any of the conversation between yourself and Lieut. Gordon.

Q-4 Just tell us in your own words what happened after I knelt over the spot where the grenade was.

A-4 You leaned over the spot where the grenade was and proped around with your hand, and then you picked it up, and it looked as if you tried to throw it into the air. It looked about two or three feet from you , and then there was a sharp crack and a puff of smoke, and I could not see anything else until the smoke cleared away.

Q-5 Do you recall who threw the grenades and in what order they were thrown?

A-5 I recall who threw the grenades but I don't recall what order.

Q-6 Well, who threw them?

A-6 Lieut. Gordon, Lieut. Bianco and yourself.

Q-7 Did you have any knowledge of the fact that grenades might not explode since they had been in the Stores for a long time?

A-7 Yes, I did.

SECOND WITNESS FOR THE DEFENCE (cont'd)

CROSS EXAMINATION BY THE ACCUSED - cont'd.

Q-8 How did you get this knowledge?

A-8 Well, for onething I took my rifle with me, and I was told that if the grenades did not go off they would use my rifle to explode them.

Q-9 Did Mr. Bianco in his talk before the grenades were thrown, say anything about the grenades being old, and that they might be likely not to go off?

A-9 Yes in his talk I remember him saying that they might not go off as they had been kept around for a while.

.....G.A. Hindman.....
B.166146, Private HINDMAN, G.A.
No. 25 C.I.B.T.C., CA,
SIMCOE, Ontario.

.....F.F. Muller L/Cpl.
B.160465, Private (L/Cpl.) MULLER, F.F.
No. 25 Gen. Inf. Basic Training Centre, CA,
SIMCOE, Ontario.

The accused declines to further cross-examine the witness.

I certify that Rule of Procedure 4 (C), (D), (E), (F), and (G) have been complied with.

Taken down before me in the presence of the accused at SIMCOE, Ontario, this 19th day of February, 1945.

J. L. DOWNEY
CAPTAIN
Prosecutor, Courts-Martial
#2 District Depot, C.A.,
A.H.Q. C.A.T.S.C.
Hamilton

Officer Detailed to Take
this Summary of Evidence

H.Q.C.55-M-1600

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT FIELD GENERAL COURT-MARTIAL

MC-ANULTY. W.J. G.51108 PTE.

C.55-M.1600

CONFIDENTIAL
H.Q.C.55-M-1600

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				J.A.G.	NEW FILE	C.R.	MAR 14 1945
MAR 14 1945				LCM	To note	LCM	15-3-45
MAR 16 1945				Admin	To Note + p.a.		16/3/45
JUN 11 1946 APR 6 1946				DAB			
JUN 5 1947				WGR		MAY 12 1948	

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

JAG BRANCH - REVIEW RECORD

Accused

B 1106 Spr. McAnulty W.J.
5 C.E.R.U. on attch.
from 1 C.E.R.U.

Remarks | Date

Trial in (Country) Eng. 9 Nov 45

Charges 15 (1)

Sentence 90 days. 9 Nov.

Rec'd from CR at JAG Branch 22 Nov

To D.W. for (~~pre~~)(post) rev 22 Nov

Recommendations by DW

(1) Pass and record.
~~(2) Ltr on irregularities.~~
~~(3) Quash~~ _____ charge(s).
(4) _____

Ret'd to JAG Rev 1 by DW 22 Nov

Passed to _____

Passed to _____

To AG 5 for _____

Ret'd from AG 5 to JAG Rev 1

Instrs by JAG Rev 1 on disposal

Record file Blot 22 Nov

Instrs completed by _____

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : G.51106 Sapper William James McANULTY, R.C.E., 1 C.R.E.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
KAT 1st AA Sec 15(1)	Guilty	Guilty.	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

KAT ~~As present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or MF B296.)

KAT Time in confinement awaiting present trial—a total of 35 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or MF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo detention for a period of (90) ninety days & to be placed under stoppages of pay in the amount of £2-1-5 being cost of prosecution.

(Sgd) W.R. Marshall Capt, Judge-Advocate, if any. Date awarded: 9 Nov 43. (Sgd) H. A. Cherbald major, President. (RP 45, 50.)

(See back of Convening Order as to assembly and dispersal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(E), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 4.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1)

(1. AA 57A. Delete if not used.)

Date 10 Nov 43 (Sgd) J. Stewart Lough Lt-Col, Commanding ..... Commanding "G" Gp, Canadian Army. Confirming Officer.

~~PART IV. PROMULGATED AND EXTRACTS TAKEN.~~ (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G.51106, Spr. McAnulty, W. 1 C.R.E. - 5th G. CIRU	10 Nov. 43	J. Stewart Lieut A/Adjutant 5 C.I.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AF A3) (C.P.R.E.1898 (C664))

Convened by Order of Brig J.R. Stewart Lough Comd "G" Gp C.R.E. dated 2 Nov 43.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G.51106	Sapper		William James	McANULTY	R.C.E. 5 CIRU

Proceedings Reviewed

R. Beaulieu Capt. 22 Nov 43 Reviewing Officer (J.A.G.) C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 9 Nov 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

KAT A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)

KAT The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

KAT A3. The Court is opened. The accused is (are) brought before the Court. At 0950 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

KAT ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

KAT A5. ~~President to accused : Do you object to ..... as interpreter ? Ans .....~~

KAT ~~The interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~

KAT ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

KAT Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

KAT President	Major	H.A. Cherbald (Hastings R)	5 C.I.R.U
KAT Member	KAT ~~Capt~~ Major	W. Dick	Cdn Provost Corps 1 C.G.R.U
KAT Member	Lieut	A.H. McMullen	Calgary Highrs 1 C.I.R.U
KAT Judge-Advocate	Capt	W.R. Marshall	H.Q. C.R.U.
KAT Prosecutor	Lieut	W.G. McLean	5 C.I.R.U
KAT Defending Offr	Lieut	J.C. Kirby	5 C.I.R.U

KAT Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans Yes (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

KAT A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

KAT A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B*.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No. .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(these)~~ plea~~(s)~~ of Guilty to Not Guilty on the first charge~~(s)~~. The accused is ~~(are)~~ so informed, and he ~~(they)~~ ~~change(s)~~ his ~~(their)~~ plea~~(s)~~ on ..... charge~~(s)~~. Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge~~(s)~~ to which the plea~~(s)~~ of Guilty is ~~(are)~~ not changed the President records finding~~(s)~~ of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. .....
Ans. ..... Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes (see attached statement) .....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A). KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5). MML p 130. When accused already under sentence of imprisonment or detention see AA 44(15), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. G.51106, Sapper McANULTY, William James, Royal Canadian Engineers, attached to 5 Canadian Infantry Reinforcement Unit for all purposes from No. 1 Canadian Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Army Act
Sec. 15 (1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

did absent himself without leave from 5 Canadian Infantry Reinforcement Unit, Farnborough Hants, from 0600 hours on the 6th day of October 1943 until arrested by the Military Police at Cardiff at 1210 hours on the 31st day of October 1943. Thereby incurring a cost of apprehension in the amount of Two Pounds, One shilling and Five Pence (£2.1.5.)

Total time absent 25 days 6 hours 10 minutes.

A.S. Pearson
(A.S. Pearson) Colonel
Commander
5 Cdn Inf Reinf Unit.

In the Field
5th day of November
1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

J. Stewart Lough
(J.S. Stewart Lough) Brigadier
Commander "C" Group
CANADIAN REINFORCEMENT UNITS

8 Nov 43.

Convening Officer

L.D.J.

Medical Officer's Certificate
K. R. (Can) para 557

I certify that I have this morning examined No. G.81106

Pte McAnally W. W. and in my opinion he is

fit ~~unfit~~ to undergo trial by Court Martial.

Station: 6 C.I.R.U.

Date: 9 Nov 43

Capt.
(Medical Officer) RCAMC
5 Cdn Inf Reinf Unit.

H. S. T.

(199)

FIELD GENERAL COURT-MARTIAL

CFAAS (In lieu of AFAS) 40/7/8/1037 (1943)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see NML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G.51106	Sapper	William James	McAULIFFE	R.C.E. 1 CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and endorsed by me, ~~for by an offr of my staff for me~~, "To be tried by Field General Court-Martial". (date) 8 NOV 43

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) an Fd Offr as President, for the reason I have attached hereto~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Name.	Unit.
Major	N.D. THEOBALD M.C. (WESTMR R.) (Must be named. RP 106.)	5 C.I.R.U.

MEMBERS.

Rank.	Name.	Unit.
hdq A Major	W. Dick (Must be detailed by O.C.)	Cdn Provost Corps 1 C.C.R.U.
hdq. A Lieut	A.H. McMullen (Must be detailed by O.C.)	Cdy Arty 1 C.I.R.U.

(Named or detailed. RP 106.)

WAITING MEMBER.

Rank.	Name.	Unit.
	(Named or detailed, if any. RP 106.)	

JUDGE-ADVOCATE.

Rank.	Name.	Unit.
hdq Capt.	W.R. Marshall (Must be named, if any. RP 106.)	HQ CRU

On Active Service in the Fd

in England (Country.)

Date 8 Nov 43.

J.R. Stewart Lough (Signed personally. RP 108 fn 2.)
(J.R. Stewart Lough)
Commanding "G" Group, C.R.U.
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

h.d.g.

Statement in Mitigation by No. E 51106
Sapper McAnulty, W. J., R.C.E.

I am 30 years of age, married and my wife resides in Montreal. I joined the Army on July 14, 1941 and arrived overseas in June, 1942. I am with the R.C.E. as carpenter, class B. At the time I went A.W.L. I was attached to 5 C.I.R.U. from my unit for the purpose of renovating a building to be used as a Visual Training Hut. At the time I was sent to 5 C.I.R.U. I was next in line to go on draft to a field unit for which I had been waiting a long time and which I had been promised three times. Naturally this disappointed me because I would lose my opportunity to go on draft and away from Holding Units in which I had become fed up. But as my stay in 5 C.I.R.U. was to be only for three weeks I was determined to make the best of it. While I was at 5 C.I.R.U. I received a letter from a friend in

~~I do~~ verifying my suspicions of the unfaithfulness of my wife. I had suspected something of the sort for the past two months from the fact that I received no letters from her and from rumors of the unfaithful conduct of my wife. This letter, added to the fact that I was disappointed in being sent to #5 CIRU & thus losing my opportunity of going on draft, made me unhappy and very depressed. I consoled myself by going ~~on leave~~ A.W.L and doing a considerable amount of drinking. After 19 days absence I returned to my own unit for the purpose of giving myself up; but, on finding that there was no mail for me at the Post Office, I left again. Then I proceeded to 5 CIRU with the same intention in mind, but on finding no mail there either I decided to continue my illegal absence.

Witness:
Kirby
R.S.P.

G 51106 Sapper.
W. J. McAnulty.

SUMMARY OF EVIDENCE

In the case of No. G.51106, Sapper McANULTY, William James, Royal Canadian Engineers, attached to 5 Canadian Infantry Reinforcement Unit for all purposes from No. 1 Canadian Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

FIRST WITNESS FOR THE PROSECUTION. Lieut. W.W.Thom, Royal Canadian Artillery, Assistant Records Officer, 5 Canadian Infantry Reinforcement Unit, having been duly sworn states:

I am Lieut. W.W.Thom, Royal Canadian Artillery, Assistant Records Officer, 5 Canadian Infantry Reinforcement Unit. I produce a certified true extract from 5 Canadian Infantry Reinforcement Unit Part II Order No. 193 dated 15 October 1943 showing the accused, whom I now recognize, as being absent without leave from 0600 hours on the 6th day of October 1943. This document purporting to be signed by Capt. J.L. Henslowe, Records Officer, 5 Canadian Infantry Reinforcement Unit, is marked Exhibit "A". I also produce certificate in accordance with the Army Act Sec. 163(i)(j) showing the accused, whom I now recognize, as being arrested at Cardiff at 1210 hours on the 31st day of October 1943. This document purporting to be signed by Officer Commanding, Mendy Barracks, South Wales District, is marked Exhibit "B". I also produce Expense Voucher in the amount of Two Pounds, One Shilling and Five Pence (£2-1-5) relating to the accused, whom I now recognize, purporting to be signed by L.S.Grayson, Capt., Officer Issuing Railway Warrants and Expence Monies. This document is marked Exhibit "C".

W.W. Thom
(W.W.Thom) Lieut.

The accused declines to cross examine this witness.

The accused having been warned according to Rules of Procedure 4 (E), reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C),(D),(E),(F) and (G) have been complied with.

J E Pope Lieut
(J. E. Pope) Lieut.
Officer detailed to take Summary of Evidence.

In the Field
5th day of November
1943.

Exhibit A K.D.J.

Exhibit "A"

5 CANADIAN INFANTRY REINFORCEMENT UNIT SHEET 3

Last Order 192 PART II ORDERS This Order 193

d/14 Oct 43. ISSUED BY d/15 Oct 43.

COL. A.S. PEARSON, O.B.E., E.D. OFFICER COMMANDING.

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15. **ABSENTEES**

(a) AWL from hrs. and dates as shown and now absent after 8th day.

G51106 SPR. McANULTY W.J. (RCE) 0600 hrs 6 Oct 43.

CERTIFIED TRUE EXTRACT AS TAKEN FROM D.O. 193 d/15 Oct 43.

J.L. Henslowe

(J.L.HENSLOWE) CAPT & RECORDS OFFICER
5 CANADIAN INFANTRY REINFORCEMENT UNIT.

h.d.g.

Exhibit "C" B-

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 6-51106 Rank Spr. Name McCaulty, W.T. Unit 5 C I R U

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Cardiff

Date	Particulars	Amount		
2 Nov. 43	Escorts return fare from LONDON To Cardiff	1	3	6
	Prisoners single fare to LONDON From Cardiff		11	9
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~BBd~~, Meals, Bus fares		6	2
	Total £	2	1	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L.S. Grayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1002/55
40(P & S/488(3)971)

H.A.V.

The Y/m Officers under instruction were duly sworn.

Lieut A. C. Lambe 1 C I R V.
Lieut R. W. H. Pallin 1 C I R V.

9. Nov 43.

H. D. Chestatd Major
President.

Exhibit "B"
to
H.A.T.

Certificate in accordance with the Army Act, Section 163 (1) (jj)

I certify that No. [illegible] Rank [illegible] Name [illegible]
No. S.C.R.O.
Unit [illegible] was arrested at [illegible] at [illegible]

on [illegible]

Signature of Provost Marshal, A.P.M. or other officer into whose custody the above named person was taken in arrest [illegible] Manly Barracks South Wales Brigade

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Tournay Barracks, Farnborough Hants on the 5th day of November 1943, preliminary to My Court Martial.

I further acknowledge that I have been served with a true copy of the Charge under which I am being brought to Court Martial.

G.51106 SPR McAnulty W.J.
(G.51106, Spr. McAnulty, W.J.)

Dated at Tournay Barracks
this 5th day of November 1943

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.
I desire the services of Lieut J. C. Kirby C.I.C.
if he is available.

G.51106 SPR McAnulty W.J.
(G.51106, Spr. McAnulty, W.J.)

Dated at Tournay Barracks
this 5th day of November 1943.

L.D.T.

No G51106 Name McAULTY W.J. Sqn, Battery, or Company 3 Corps R.C.E.

Date of last entry in Company Conduct Sheet NA No and date of last drunk 15 Dec 42 Period not reckoning towards freedom from extra fine

Date of enlistment 14Jul41 GC Badges Service or Proficiency Pay

Sheet No 1 Signature OC Company, etc

MFM 6 (AFB 123) 40/P&S/136 (3488)

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	ORIGINAL SHEET DESTROYED 14 Jan 42 ON COMPLETION OF SIX MONTHS SERVICE								
CAN	29Mar 42	Spr		A.A. Sec 15 (1) AWL from 2200hrs 29 Mar to 2000 hrs 13 Apr 42. (14 days 22 hrs)		14 days C.B.	15Apr42		
Field	18Aug 42	Spr		A. A. Sec 15 (1) AWL from 1700hrs 18 Aug to 1030 hrs 21 Aug 42 (2 days 17 hrs 30 mins)		Forf.9 days Pay 149 (2)	24 Aug42		Forf.15 days 149 (1) (a)
Field	8 Dec 42	Spr		A. A. Sec 19. Drunkenness		Forf £0-30-0.	5 Dec 42		Forf. 3 days 149 (1) (a)
Field	31Mar 43	Spr		A.A. Sec 15 (1) AWL from 2200hrs 30 Mar to 0815 hrs 2 Apr 43. (2 days 10 hrs 15 mins)		3 Days F.P.& 3 days pay	5 Apr 43		
Field	16May 43	Spr		A. A.15 (1) AWL from 2359 hrs 16 May to 0600 hrs 18May43 (1day6hrs)		2 Days F.P.& 2 days pay	19May43		Forf 3 days 149 (1) (a)
									Forf 2 days 149 (1) (a)

Entre B. H.

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Field	1 Jun 43	Spr		A.A. Sec 15 (1) AWL from 2359hrs 1 Jun to 0700 hrs 7 Jun 43. (5 days 7 hrs 1 Min)		14 days Detn.	7 Jun 43		Forf.6 days 149 (1) (a)
Field	1Jul 43	Spr		A.A.Sec 15 (1) AWL from 2300hrs 1 Jul to 0400 hrs 2 Jul 43(5hrs)		14 days C.B.	6 Jul43		Forf 7 days 149 (1) (a)
Field	7Jul 43	Spr		(1) A.A. Sec 10 (4) (2) A.A. Sec 15 (1) AWL from 7Jul to 2140 hrs 13 Jul 43.(6 days 13 hrs 55 mins) Granted no remission.		21 days detn	16Jul43		

CERTIFIED TRUE COPY AS TAKEN FROM DOCUMENTS IN MY CUSTODY

RECORDS OFFICER
5 CDN INF RFT UNIT.

9 Nov 43

No G51106 Name McAULTY W.J. Sqn, Battery, or Company | Corps R.C.A.S. | Date of enlistment 14Jul41 GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 41/P48/126 (3488)

Date of last entry in Company Conduct Sheet | No and date of last drunk 7Jul43 4 3Dec42 | Period not reckoning towards freedom from extra fine | Sheet No 2. | Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9Aug 43	Spr		(1) A.A.Sec 15 (1) AWL from 0745hrs 9 Aug to 2315 hrs 23 Aug 43 (14 days 15 hrs 30 mins) (2) Losing by neglect-Value £0-9-7. A.A. Sec 24 (2)		14 days F.P.& 14 days pay Deduction of £0-9-7.	25Aug43		Forf 15 days 149 (1) (a)
Field	31Aug 43	Spr		(1) A.A. Sec 15 (1) AWL while a defaulter from 1930 hrs 31Aug to 2300 hrs 31 Aug 43.(3½ hrs) (2)A.A.Sec 15 (1) AWL while a defaulter from 1830 hrs 1 Sep to 0930 hrs 2 Sep43.(15½hrs)		10 days F.P.& 10 days pay to run concurrent with present sentence	4 Sep 43		Forf. 1 day 149 (1) (a)
Field	19Sep 43	Spr.		A.A. Sec 15 (1) AWL from 2359 hrs 19 Sep to 2340 hrs 22 Sep 43. (2 days 23 hrs 41 mins)		14 days C.B.	24Sep43		Forf 3 days 149 (1) (a)

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25Sep 43.	Spr		A.A. Sec 40-Cond.to the prej.etc- Failed to answer defaulters calls		3 days C.B. to commence 3 Oct 43.	28Sep43		

CERTIFIED TRUE COPY AS TAKEN FROM DOCUMENTS IN MY CUSTODY.

W.C. Shaw
RECORDS OFFICER
5 CDN INF RFT UNIT.

9 Nov. 43 - [illegible]

M.F.B. 353
22M—5-41 (372-3)
H.Q. 1773-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G. 51106	Spr.	Mc Crutty W. J.	5 C.I.R.U

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. Sec 15 (1)	Nine (9) times	A.A. Sec 15 (1)	Eleven (11) times
For	A.A. Sec 10 (A)	One (1) times	A.A. Sec 10 (4)	One (1) times
For	A.A. Sec 24 (2)	One (1) times	A.A. Sec 24 (2)	One (1) times
For	A.A. Sec 40	One (1) times	A.A. Sec 40	One (1) times
	A.A. Sec 19	One (1)	A.A. Sec 19	Twelve (12) times *

Number of instances of gallantry or distinguished conduct Nil.

* These cases of Drunkenness occurred within the first 6 mths of the war service and therefore have no record of the dates, W.J.

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 35 days in military ~~Air Force~~ custody, making a total of 35 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 31 yrs.

6. The date of his ~~commission~~ specified in his ~~record of service~~ is attestation attestation paper 14 Jul 41

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 3 mos.

8. The accused is entitled to reckon 2 yrs. 3 mos. service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). ~~State any air force decoration or reward.~~ ~~military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ ~~Air Force~~

Exhibit C. L.D.9

11. ~~(In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force ..... dated ....., and in his ~~regiment~~ unit (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of November 1943 L. W. Hay Capt. Officer.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G51106 Pte William James McANULTY - CIC - 2 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th	N		
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for No ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which NO days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for six (6) months and be kept under stoppage of pay until he has made good the sum of £5-7-2 costs of return

(Sgd) Judge Advocate, if any. 27 Dec 44 Date awarded. (Sgd) E M Meyer Major President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally, AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

Date 30 Dec 44 (Sgd) R Blackader Brig Comd 18 Cdn Inf Bde Commanding Troops

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G.51106, Pte. McANULTY, W.J.	8 Jan 45.	(AJK BAXTER) Maj. Adm Offr, 2 CITR.

9 Jan 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4L·67

CFA90 (To Gen of AFAB) 40/P&R/1688 (8164) 4/38B

RECEIVED 20 JAN 1945 G.M.H.Q.

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 23 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G51106	Pte		William James	McANULTY	CIC 2 CITR

PROCEEDINGS REVIEWED 22 Jan 45 JAG BRANCH G.M.H.Q. REVIEWING OFFICER

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 27 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JAs if any,~~ and Offrs under instr, ~~if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 12.50 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to ..... as Interpreter? Ans .....~~ ~~The Interpreter is sworn.(1)~~ Do you object to Capt J B Ahrens as shorthand writer? Ans No The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JAs if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E M Meyer EDKC	HQ CRE
Member	Capt	H B Wenn	2 CIJR
Member	Lieut	A Gagnon	4 CIJR
~~Judge Advocate~~			
Prosecutor	Lieut	P Lapenia	2 CIJR
Defending Offr	Lieut	H J Filion	2 CIJR

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a) plea~~ ..... (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so ~~informed~~, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Wish to make a Statement
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No, of course
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RD 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

Sec 15(1) ARMY ACT

The accused, G.51106, Pte. W.J. McANULTY, CIC, on strength of 2 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:-

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, at 1330 hrs. 2 Sep 44, illegally absented himself without leave until he was arrested by the Civil Police at Hamilton at 2200 hrs, 13 Oct 44, thereby incurring costs of apprehension and return in the amount of £5-7-2.

(Total time absent: 41 days, 8 hrs., 30 min.)

Laurentide Camp,

21 Dec 44.

(J A Wilson) Col
Comd
2 C I T R

To be tried by Field General Court Martial.

In the Field
23 Dec 44

(K G Blackader) Brig
Comd
13 Cdn Inf Trg Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G51106	Pte		William James	McANULTY	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~were~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 23 Dec 44 endorsed by me, ~~as an officer of the rank~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to detail the rank for a minor or a major to preside~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~A minor or major to preside in the Court to be a judge or President under the rank of colonel~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~Also appoint as judge advocate the officer hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

MAJOR (Rank.)	E M MILLER (Must be named. RP 106.)	HQ CRU (Unit.)

MEMBERS.

Captain	to be detailed by Commanding Officer	2 CITR
Lieutenant (Rank.)	to be detailed by Commanding Officer (Named or detailed. RP 106.)	4 CITR (Unit.)

WAITING MEMBER.

Captain (Rank.)	to be detailed by Commanding Officer (Named or detailed, if any. RP 106.)	4 CITR (Unit.)

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 23 Dec 44

K G Blackader (Signed personally. RP 105 fn 2.)

(K G Blackader)

Commanding 13 Cdn Inf Trg Bde Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFAGS (In lieu of AFA3) 40/P & S/1697 (4001)

MED OFFRS CERTIFICATE 2 CITR/11

K.R.Can Para 557

I certify that I have this morning examined No. [illegible]

PTE. MC. [illegible] W.V. and in my opinion he

is FIT ~~UNFIT~~ to undergo trial by Court-Martial.

Station: Lauren[illegible]de Can[illegible],
Date: 27 Dec 44.

[signature] Capt
RCAMC) Attached to 2 CITR

Plea of Mitigation - G-51106 Pte. McAnulty, W.S.

Pte. McAnulty enlisted 14 Jul 41 and proceeded overseas as a tradesman Carpenter, with 7 Construction Coy. R.C.E. He was with the unit from the time they came overseas 14 Jun 42 until 22 Mar 43 during this period he had but two minor charges laid against him. On March '43 he transferred to No. 1 CGRU in the hope of being posted to a more active unit. This he seemed unable to do until he managed to transfer voluntarily to the Canadian Infantry Corps, and it was during this period that he developed a feeling of discontent. ~~that order of~~ more or less inactivity but lately severe mental anguish due to the fact that his wife's brother had gone into Japanese on D day and he seemed unable to get going.

I believe that these feelings finally culminated in the present charge. McAnulty obviously wanted and still wants to get into battle. I ask the court for leniency so that he may fulfil his desire to fight as soon as possible.

H. F. Filson Lt.

F.G.C.M. IN THE CASE OF

STATEMENT BY THE ACCUSED (NOT UNDER OATH) E-1

Sir,

I was in the Engr and drafts were so slow that I thought I could get into action sooner by going to the inf. I had a pretty bad conduct sheet and wished to start over again and so transferred to the inf. I was on two drafts, the first one I was taken off and the second time I was not allowed to go. After D-Day I became parttularly anxious to go as my younger brother had gone, he is in the artillery.

I was a carpenter in the Engrs with the 7 Constr Coy. I received trades pay until I asked to come into the CERU with a view to going to the inf or to some other more combatant unit. I am still anxious to go to France or Italy and hope to get that opportunity before long.

PLEA IN MITIGATION WAS READ BY THE DEF OFFR AND IS ATTACHED E-3

SUMMARY OF EVIDENCE

In the case of G.51106, Pte. W. J. McANULTY, CIC, on strength of 2 Cdn. Infantry Training Regiment, a soldier of the Cdn. Army Overseas.

By direction of the Commanding Officer, this Summary is taken on oath.

FIRST WITNESS
Prosecution

Lieut. H. J. Boake, Regimental H.Q., 2 CITR, having been duly sworn, states as follows:

"I am Lt. H.J. Boake, Regimental H.Q., 2 CITR and I produce the following exhibits for the prosecution:

EXHIBIT "A": Certif. True Copy of Record of Decl. of C. of I. held on 25 Sep 44, showing that G.51106, Fus. McAnulty, W.J. illegally absented himself without leave from 1330 hrs, 2 Sep 44 and that he was still so absent on the date of the Court, which exhibit pertains to the accused herein."

EXHIBIT "B": Expense Voucher purported to be signed by Capt. R.E. Birch, Admin. Officer D.P.M's BR, C.M.H.Q., relating to G.51106 Pte. W.J. McAnulty, which shows the expenses incurred in apprehending and returning to London from Glasgow to be £5-7-2.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

H.J. Boake .....Lieut.
(H.J. Boake)

SECOND WITNESS
Prosecution

Thomas G. SMITH, Chief Constable, Burgh Police Office, Hamilton.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix "A".

The accused does not demand the attendance of this witness for cross-examination.

Having regard to the expense and loss of time involved, attendance of this witness cannot in my opinion be readily procured.

P. Saperia .....Lt.
(P. Saperia)

Officer detailed to take Summary of Evidence.

(Continued on Page 2)

(2CITR/15)

SUMMARY OF EVIDENCE

In the case of G.51106, Pte. W. J. McANULTY,
CIC, on strength of 2 Cdn. Infantry Training Regiment,
a soldier of the Cdn. Army Overseas.

(Continued)

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C) (D) (E) (F) & (G) have been complied with.

Laurentide Camp.

21 Dec 44

P. Saperia Lt.
(P. Saperia)
Officer detailed to take the Summary of Evidence.

Exhibit A

RECORD of the Declaration of a Court of Inquiry assembled at United Kingdom on the 25th day of September 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. G.51106 Fusilier McANULTY W.J.

DECLARATION

The Court declare that No. G.51106 Fusilier McANULTY W.J. illegally absented himself without leave in the United Kingdom at 1330 hrs on the 2nd day of September 1944, that he is still so absent, and that on the 25 Sept 44 he was deficient, and that he is still deficient of the following articles :—

ARTICLES	Full Value	Worn Value		ARTICLES	Full Value	Worn Value	
Anklets web prs 1	99		72	Braces right 1	30		25
Badges cap 1	09		06	Sheets ground 1	294	2	24
Battle dress, blouses serge 1	5.25	3	93				
Battle dress trousers segge prs 1	5.39	4	03	TOTAL	22.79	17	10
Boots ankle prs 1	5.46	4	11				
Braces prs 1	28		22				
Caps field service 1	56		42				
Combs hair 1	04		03				
Drawers cotton short prs 1	43		33				
Dressing First field 1	24		18				
Forks, table 1	07		06				
Knives table 1	15		12				
Mugs enamel 1	13		09				
Spoons 1	07		06				
Braces left 1	30		25				

Capt. A.S.Grandon President

Lt. K.W.Shields Member

Signed at United Kingdom

Lt. J. Trudeau Member

this 26 day of Sept 1944

Signature of Commanding Officer Lt-Col . C.M.MacMillan

Certified true copy (C.R.Corey)Captain

Signature of Officer having custody of original record

3/60B MFB 375-AFB 115 40/P&S/392 (6610)

Expense Voucher Re—

Ref. K.R. & O. (Can) 539 Exhibit B

Reg. No. G 51106 Rank Spr. Name McNulty, W.J. Unit 2 C I T R.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit from~~ London from Glasgow

Date	Particulars	Amount		
28 Nov 44	Escorts return fare from LONDON To Glasgow	3	1	2
	Prisoners single fare to LONDON From Glasgow	1	10	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		14	9
	Total £	5	7	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Officer Issuing Railway Warrant and Expense Voucher

No. 6 Area Provost Company, Canadian Provost Corps

W. Birch

CAPT. BIRCH, Capt.
A/ADJ. & D.P.M's BR.
C.M.H.Q.

C.M.H.Q. 1000:55
60/P & R/483(2287)

TELEPHONE No. 1.

Appendix A

BURGH POLICE OFFICE

HAMILTON, 26th Octr., 1944.

THOMAS G. SMITH
CHIEF CONSTABLE

Dear Sir,

G. 51106 Fusilier McAULTY, W.J.

In reply to your letter of 23rd inst. I beg to inform you that the above named was arrested at Hamilton at 2200 hours on 13th October. He is serving his sentence in H.M. Prison, Barlinnie, Glasgow.

Yours faithfully,

Thomas G. Smith

Chief Constable.

Officer Commanding,
1 Bn. Canadian Fusiliers,
Canadian Army,
England.

RECEIVED
OCT 30 1944
CANADIAN FUSILIERS C.A.(A)

M.F.S. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G.51106	Pte.	W.J. McANULTY	2 CITR

1. The following is a fair and true summary of the entries in the Service and ~~General Regimental and Squadron, Battery~~ ~~Conduct sheets~~ ~~or~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment ~~or appointment~~	
For	A.A. Sec. 15(1)	4 times	A.A. Sec. 15(1)	15 times
	A.A. Sec. 15(3)	1	A.A. Sec. 15(3)	1 times
For	A.A. Sec. 10(4)	0 times	A.A. Sec. 10(4)	1 times
For	A.A. Sec. 11	1 times	A.A. Sec. 11	1 times
	A.A. Sec. 19	0	A.A. Sec. 19	1
For	A.A. Sec. 24(2)	0 times	A.A. Sec. 24(2)	1 times
	A.A. Sec. 40	0	A.A. Sec. 40	1

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

~~NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

~~2. The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for~~ ..... ~~beginning on the~~ ..... ~~day of~~ .....

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 28 days in military ~~Air Force~~ custody, making a total of 28 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 32 yrs 2 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 14 Jul 41

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon~~ ..... ~~service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to ~~no air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to)~~. State any ~~air force~~ military decoration or reward.

C.V.S.M. and Clasp

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~ .....

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated ..... Permanent Force, and in his regiment (or corps), the rank of ..... unit .....dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

In the rank of ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the ~~paragraph must be struck through.~~

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number G.81106 Rank Pte. Name W.J. McAnulty of 2 Cdn Inf Trg ~~Unit~~ Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M. Field	11 Mar 44	A.A. 15(1)	120 days Det'n. 11 days pay FRI 149(1)(c)(i) 120 days pay FRI 149(1)(b) Cost of app. £ 0-7s-11d.	
Civil Court	Glasgow	Larceny	60 days	30 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27 day of Dec 44 Paymaster Lieut

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Sheet #1 Destroyed 14 JUL 42.C.A.R.O.2084

3/17 MFM 6 (AFB 122) 10/PAM/150 (3419)

No. 51106 Name McAnulty N.J. Sqn, Battery, or Company 3 No. and date of last drunk 15 DEC 41 Period not reckoning towards freedom from extra fine NA

Corps R.C.E. Sheet No I Date of enlistment 14 JUL 41 Trade SC Wages NA Service or Proficiency Pay NA

Date of last entry in Company Conduct Sheet NA Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Petawawa	42 29 MAR	Spr		AWL From Tattoo 29.3.42. till 2000 hrs 13.4.42 (absent 14 days 22 hrs.)	Cpl.Smith	14 days J.B. Forf. total of 15 days pay.	15.APR.42	A.Richards Lt/Col.R.C.E.	
Field	18 AUG	Spr		A.A.15(1) AWL From 1700 hrs 18. 8.7124 A/OSM Aug.42 till 1030 hrs 21.AUG.42. (Absent:65 hrs.,30 mins.)	Carpenter O.	Forf.9 days Pay.	24 AUG 42	H.B.Stuart Major.R.C.E.	Forf.3 day pay Fwd 149 (I)a)
Field	5 DEC	Spr.	4	A.A.S-C.19(WOAS Drunk & Incapable	Provost Sharge.	Forf. 30/-	5 DEC 42	H.B. Stuart Major R.C.E.	

(PTO)

Place	Date of offence 43	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	31 MAR	Spr	✓	A.A.15(I) WOAS AWL from 2200 hrs. 30 MAR 43 till 0815 hrs 2 APR 43. (Absent:2 days.,10 hrs., 15 mins.)	DOCTY	3-~~Apdyes~~ F.P.	5 APR 43	Lt/Col G.N. Mitchell	Forf.3days pay FR&I 149(I) [illegible] Total Forf. 6 days pay.Cost of A Appr.18/1
Field	16 MAY	Spr	/	A.A.15(I) AWL from 2359 hrs 16 MAY 43 for 1 day 8 hrs.	DOCTY	2 days F.P. Depr. 2 D.P. FRI (I)(b)	19 MAY43	Lt/Col G.N. Mitchell	Forf. 2 days pay FRI 149(I)(a)
Field	1/6/43	Spr	✓	A.A.SEC 15(I) WOAS AWL from 2359 hrs 1 JUN 43 until 0700 hrs 7 JUN 43 (Absent:5 days,7 hrs., 1 min.)	DOCTY	14 Dys Detn. Dep.14 dys py FR&I 149(I)(b)	7/6/43	Lt/Col G.N. Mitchell.	Forf 6 days pay FR&I 149(I)a)
Field	1Jul43	Spr	✓	AA 15(1) WOAS AWL from 2300 hrs 1 Jul 43 to 0400 hrs 2 Jul 43 Absent 5 hrs.	Documentary	14 days C.B.	6Jul43	Lt Col V.S. Thompson	

No. 51106 Name MCAULIFF W.J. | Sqn, Battery, or Company | Corps RCE | Date of enlistment 14Jul41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/T4B/138 (5418)

Date of last entry in Company Conduct Sheet: n/a | No. and date of last drunk: n/a | Period not reckoning towards freedom from extra fine: n/a | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9Aug43	Spr	✓	(1) AA 15(1) AWL from 0745 hrs 9 Aug 43 to 2315 hrs 23 Aug 43.	Documentary	14 days F.P.	25 Aug 43	LtCol C. Mitchell	Forf 15 days pay FRI 149
			✓	(2) AA 24(2) Losing by neglect value of 20-9-7		—			Cost of kit 9s.7d.
Field	7Jul43	Spr	✓	AA 10(4) WOAS Breaking barracks while on F.P.					
			✓	AA 15(1) WOAS AWL from 7 Jul 43 to 2140 hrs 13 Jul 43 Absent 6 days 13 hrs. 55 min.	Documentary	21 days detn.	16Jul43	LtCol V.S. Thomson	Forf 7 days pay FRI 149 (1) (a)
Field	31Aug43	Spr	✓	(1) AA 15(2) AWL whilst a defaulter from 1930 hrs 31 Aug 43 to 2300 hrs 31 Aug 43 (3 hrs 30 min)	Docy	10 days F.P.	3Sep43	Maj A.E. Chalmers	1 days pay FRI
			✓	(2) AA 15(1) AWL whilst a defaulter 1830 hrs 1Sep0930 hrs 2 Sep 43					

(PTO)

Place	Date of offence	Rank	Grade of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19Sep43	Spr		AA 15(1) AWL from 2359 hrs 19 Sep 43 to 2340 hrs 22 Sep 43 Absent 2 days, 23 hrs, 41 min.	Documentary	14 days C.B.	24Sep43	Major A.E. Chalmers	3 days pay FRI 149 (1) (a)
Field	25 Sep 43	Spr		AA 40 Conduct to the prejudice etc. Failed to answer defaulters call	Documentary	3 days C.B.	28Sep43	Major H. Watson	
Field	13Jan44	Spr		AA Sec 15(1) AWL from 1700 hrs 13 Jan 44 to 2015 hrs 17 Jan 44 Absent 4 days, 3 hrs, 15 min.	Documentary	Forf 14 days pay FRI 149 (2)	19Jan44	LtCol A.S. Rutherford	Forf 5 days pay FRAI 149 (1)
Field	19Feb44	Spr		AA 15(1) AWL from 2300 hrs 19Feb 48 to 1430 hrs 28Feb44 Absent 8 days, 15 hrs, 55 min. Cost of apprehension 20/7/17	Sgt Hewins Cpl Higgins Documentary	120 days deth 11days pay FRI 149(1)(c)(i) 120 days pay F 1 149(1)(b) Cost of app. 7s.11d.	11Mar44	F G C M	Forf 9 days FRI 149(1)(b)

No. 51106 Name MCAULTY W.J. Sqn, Battery, or Company | Corps RCE | Date of enlistment 24Jul41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40(P)26/138 (5436)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2Jun44	Spr		AA 15(1) AWL from 2230 hrs 2 Jun 44 to 1750 hrs 13 Jun 44. Absent 10 days, 19 hrs, 20 min.	Documentary	21 days detn.	27Jun44	Lt Col W. Woods	21 days pay FRI 149(1)(a)
Field	22Jul44	Spr		AA 15 (3) Out of Bounds in Windsor by Windsor Police.	Documentary	14 days C.B.	28Jul44	Major V.A. Chung	21 days pay FRI 149(1)(b)
Field	7Aug44	Spr		AA 15(1) AWL from 0745 hrs 7Aug44 until surrendering to Civil Police in London at 1245 hrs 8Aug44 Absent 1 day, 5 hrs.	Documentary	Forf 21 days pay 149 (2)	10Aug44	Col [illegible]	Forf 2 days FRI 149 (1) Forf 2 days FRI 149 1 a Forf 21 days Pay FRI 149 2

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13Aug44	Spr		AA 15(1) AWL from 0700 hrs 13 Aug 44 till apprehended in London at 0745 hrs 24 Aug 44. (11days 45 min)	Documentary	21 days Pay FRI 149 (2)	31Aug44	LtCol W. Woods	Forf 12 days pay 149 (1) (a) Forf 21 days p FRI 149 (2)
				AA Sec 11 Neglecting to obey Unit Orders		60 days Cell Det			20 days remission
Glasgow	13Oct44								

Lancing

CERTIFIED TRUE COPY CONSISTING OF 3 PAGES

DATE 18 Aug 44

L P Byrne
(L.P. Byrne) Lieut
Officer Having Custody of Regimental Books

Et C
Chm

LIST OF WITNESSES

In the case of G.51106, Pte. W. J. McANULTY.
(No.) (Rank) (Surname & Initials)

CIC, on strength of 2 Cdn. Infantry Training Regiment, a soldier of the Cdn. Army Overseas.

(For the Prosecution)

1. Lt. H. J. Boake, — Reg.H.Q., 2 CITR.
2. Thomas G. SMITH, — Chief Constable, Hamilton, (Scotland)

~~3.~~

(For the Defence)

NIL

LIST OF EXHIBITS

In the case of G.51106, Pte. W. J. McANULTY,
(No.) (Rank) (Surname & Initials)

CIC, on strength of 2 Cdn. Infantry Training Regt., a soldier of the Cdn. Army Overseas.

(For the Prosecution)

Exhibit "A": - Certif. True Copy of Record of Decl. of C. of I. held 25 Sep 44, showing G.51106, Fus. McAnulty, W.J. A.W.L. from 1330 hrs. 2 Sep 44.

~~Exhibit "B"~~
Exhibit "B": - Expense Voucher, London from Glasgow, £5-7-2.

~~Exhibit "C"~~

(For the Defence)

NIL.

REQUEST FOR DEFENDING OFFICER

I, G.51106, Pte. W. J. McANULTY,
hereby request that the Convening Officer appoint any available officer to represent me at my forthcoming trial by Court-Martial, should he be available.

Laurentide Camp,
21 Dec 44.

W.J. McAnulty ..... Lt.
(W.J. McAnulty)

RECEIPT FOR DOCUMENTS.

I, G.51106, Pte. W. J. McANULTY,
hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to Court-Martial.

Laurentide Camp.
21 Dec 44.

W.J. McAnulty ..... Lt.
(W.J. McAnulty)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~A2 present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To Undergo 120 days Detention and to pay Costs of apprehension Seven Shillings and Elevenpence.

(Sgd) ..... Judge-Advocate, if any. 11 March 44 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and the sentence of the Court.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 13 Mar 44. (Sgd) ..... Col Commanding C.E. Works, First Can Army Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
65106 Spr McAnulty W.J.	14 Mar 44	[signature] Lt Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. FFFII

CFA86 (In lieu of AF B32) 40/P & R/1608 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Col. D.H. Stevens Comd C.E. Works RCE dated 8 Mar. 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
65106	Spr.	Spr.	William James	McAnulty	2 Bn RCE.

PROCEEDINGS REVIEWED W. C. Stuart Lieut 27 Mar 44 REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS REVIEWED Date 17 Mar 44 AJAG FIRST CDN ARMY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 11 March 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans .....~~

~~The interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	S. W.	Milnes	3 Bn RCE
Member	Capt	H. A.	Edwards	3 Bn RCE
Member	Lt.	C.	Safran	2 Bn RCE
Judge-Advocate				
Prosecutor	Lt.	A B	McAdam	2 Bn RCE
Defending Offr	Lt.	R S	Skinner	2 Bn RCE.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused 65106 Spr William James McAnulty before arraignment make(s) (no) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.
5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex. C, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

~~RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.~~

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

~~RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.~~

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 45, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. D and Ex. E respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-564, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Sub m

CHARGE SHEET

The accused, G51106 Spr McANULTY, William James, of C Coy 2 Bn RCE CA, a soldier of the Canadian Army Overseas, is charged with -

FIRST CHARGE

Army Act
Section 15 (1)

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE.

in that he, in the Field, did absent himself without leave from 2300 hours, 19 Feb 44 until 1455 hrs, 28 Feb 44.

Absent 8 days 15 hours 55 minutes

Cost of Escort LONDON to BRAMLEY - £0-7-11d.

A D Langmuir major

(A.D.LANGMUIR) MAJOR RCE
A/COMMANDING OFFICER
2 Bn RCE CA

Field,
4 Mar 44

To be tried by F.G.C.M.

8 Mar. 44

D L Sloan Col
C.E. Works, First Cdn Army

Sigma

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFAE) 40/PAM/1697 (1944)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried seperately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 31106	Spr.	Spr.	William James	McAnulty	2 Bn RCE.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) ..... endorsed by me, ~~(or by an offr of my staff for me)~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) S. W. Milnes (Must be named. RP 106.) 3 Bn RCE. (Unit.)

MEMBERS.

Capt. H. C. Edwards 3 Bn RCE.

Capt. W. C. Safvan

Lieut. To be detailed by C.O. (Named or detailed. RP 106.) 2 Bn RCE. (Unit.)

(Rank.)

WAITING MEMBER.

Capt. or Lieut. To be detailed by C.O. (Named or detailed, if any. RP 106.) 2 Bn RCE. (Unit.)

(Rank.)

JUDGE-ADVOCATE.

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in England. (Country.)

(Signed personally. RP 105 (E).)

Date 8 Mar. 44.

Commanding Col (Rank.) C.E. Works, First Cdn Army Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

SWM

MEDICAL OFFICER'S CERTIFICATE
K.R.(Can) para 557

I certify that I have this morning examined G51106 Spr McAnulty, W.J., and in my opinion he is fit to undergo trial by court-martial.

Field,
11 Mar 44

.....CAPT RCAMC
Medical Officer

PLEA OF MITIGATION FOR G51106 SPR MC ANULTY

SWM

Spr McAnulty is used to hard work and likes to be kept busy. In civilian life he did stevedoring work in St. John, N.B. He joined the army on 14 Jul 41 and came overseas with the 7 C.C.C. RCE and remained with them until Mar 43. During this period his record was good.

He asked to be transferred to the 1st Fd Coy RCE where he had several friends. Up to this time transfers took place between the units concerned. The system changed so that he had to return to the re-inforcement unit. Here he underwent 9 weeks refresher course during which time the vacancy (Carpenter B) had been filled in the 1st Fd Coy, RCE . He was placed in the draft coy and several times was put on and off drafts. This became discouraging especially when much of his time was spent at kitchen fatigues. His AWL started at this time. Consequently he lost his trade pay and was held in A Coy CERU with little hope of getting to the field. When he finally did get out to the 2 Bn RCE he made up his mind to soldier but he had become so slack after his year in 1 CERU that he did not realize his responsibility when he went AWL.

On the 19th of Feb 44 he went to Purley to practice Hockey. After the practice he went to Croyden to meet his cousin who was starting his leave. He intended to return to his coy by 2300 hrs that evening but during the afternoon he got drunk in a pub and he decided to go to London with his cousin. They got to Piccadilly and ended up in a pub. That evening his cousin left him. He met his friends from his old unit and continued his drunk. He surrendered himself on the 28 Feb 44. He hesitated to give himself up several times but never got around to it until the 28 Feb 44.

Spr McAnulty has been used to an active life. He spent 2 years in the field during which time he was kept busy and did a good job. Since then he has spent a boring year in 1 CERU which takes the ambition out of many a man. On top of this he has not recieved any mail from his wife in Canada since Xmas. He is a moody type of person who tries to drown his troubles in drink. He is easily led especially when under the influence of liquor.

I ask that Spr McAnulty be given as light a sentence as possible due to the fact that he is a willing and able worker who desires to soldier. He realizes now that his downfall has been due to liquor and promises to use it with more discretion.

R Skinner Lt.
B Coy 2 Bn RCE.

I CERTIFY that the man whose personal description is given below surrendered himself to* S.D. Inspector H. Townsend at Lemon Street, E.1. at (hour) 2.55 pm on the 28th day of February 1944 as being No. W. G. 51106 (Rank and Name) W. J. McAnulty. Pte. a deserter (or absentee without leave) from 2nd Batt. R.G.E. and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 31 Height 5 Feet 11 Inches

Complexion fresh Hair dark

Eyes brown

Marks Nil

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	St. Johns, New Brunswick 1939
Probable Date of Desertion or beginning of absence, and from what place	Guildford, Surrey 27-2-44

METROPOLITAN POLICE LEMAN STREET

Signature of Officer of Police in charge of Leman Street Station.

28th February 1944 Date of Signature.

Army Form [illegible]617
R.A.F. Form [illegible]617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies *only* in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of No. ..... who surrendered to the Police at ..... on .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

..... Date of Signature.

Exhibit "B"

Claim

Expense Voucher Re—:

Ref: K.R. & O. (Can) 539

Reg. No G51106 Rank Sgt Name McCarthy, W.J. Unit 7 Bde R.C.E.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
29 Feb 44	Escorts return fare from LONDON To Bramley & Wonersh		5	3
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Bramley & Wonersh		2	8
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R. W. Elmer Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

G.M.H.Q. 1000:55
40/P & S/483

Exhibit C Sum

SUMMARY OF EVIDENCE IN THE CASE OF G51106 SPR McAULTY WJ, ROYAL CANADIAN ENGINEERS, OF THE STRENGTH OF C COY 2 BN RCE A SOLDIER IN THE CANADIAN ARMY OVERSEAS

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

1st WITNESS FOR THE PROSECUTION

Capt RC Paris A/OC of C Coy 2 Bn RCE having been duly sworn states:-

I am Capt RC Paris Acting OC of C Coy 2 Bn RCE. I hand you herewith AFC 1617 stating that Pte WJ McAnulty 2 Bn RCE surrendered himself in LONDON at 1435 hrs 28 Feb 44 and purporting to be signed by C Gallagher, officer of police in charge of Leman St Station (Exhibit A) I also hand you herewith CHEQ 1000;55 stating that the cost of apprehension and return of the accused amounted to 7 shillings 11 pence and purporting to be signed by HR Holmes Capt DAPM LONDON. (Exhibit B)

RCParis
(R C Paris) Capt RCE

The accused declines to cross-examine this witness.

2nd WITNESS FOR THE PROSECUTION

M41377 Cpl Higgins WD of C Coy 2 Bn RCE having been duly sworn states:-

In the Field on 19 Feb 44 I was section leader 4 section 7 platoon C Coy 2 Bn RCE. I took the tattoo roll call at 2300 hrs and found the accused absent from his quarters. I reported it to the Orderly Sgt.

W.D.Higgins
Cpl (Higgins WD)

The accused declines to cross-examine this witness.

The accused was cautioned as follows:- Do you wish to make any statement or give any evidence upon oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in writing in the presence and hearing of the accused and that rules of Procedure 4(c),(d),(e),(f) and (g) have been complied with.

In the Field
3 Mar 44

AB McAdam Lt
(AB McAdam) Lt

Sheet #1 Destroyed [illegible] Records NA

Schedule E
M.F.M. 5
A F B 1325
17550—7-41 (1216-293)
H.Q. 1772-[illegible]-43

No. 45106 Name Mc ANULTY W.S. Sqn., Battery, or Company } Corps RCE Date of enlistment } 14.5.41 G.C. Badges } NA Service or Proficiency Pay } NA Character

Date of last entry in Company Conduct Sheet } NA No. and date of last drunk } [illegible] Period not reckoning towards freedom from extra fine } NA Sheet No. 1 Signature O.C. Company, etc. }

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa	29 Mar 42	Spr		AWL from tattoo 29.3.42 / 2000 hrs. 13.4.42 (Absent 14 days 2 hrs)	Cpl Smith	14 days CB.	15.4.42	A. Richards Lt-Col	For first day pay.
Field.	1 Aug 42	"		AWL 1200/18.8.42 to 1030/21.8.42 (Absent 65 hrs 30 mins)	CSM Carpenter C	9 days pay	24.8.42	H.B. Stewart Major	For 9 days pay FRR 1.149(1)(a)
Field	5 Dec 42	"		AA Sec. 19 (Drunk & Incapable)	Provost Corpl.	Forf. 30/-	5 Dec. 42	H.B. Stewart Major	For 5 days pay FRR 1.149(1)(a)
Field.	31 Mar 43	"		AA 15(1) AWL 2 days 10 hrs 15 mins.	Doc	3 days F.P.	5 Apr. 43	C.N. Mitchell Lt-Col	Total forf. 11 days. Cpl 14/-
Field.	14 May 43	"		AA 15(1) AWL 1 day 6 hrs	Doc	3 days F.P. 3 days pay FRR 1.149(1)(a)	19 May 43	C.N. Mitchell Lt-Col	For 3 days pay FRR 1.149(1)(a)
Field.	1 June 43	"		AA 15(1) AWL 5 days 7 hrs 1 min.	Doc	14 days Det. 14 days pay FRR 1.149(1)(a)	7.6.43	C.N. Mitchell Lt-Col	For 14 days pay FRR 1.149(1)(a)
Field.	1 Jul 43	"		AA 15(1) AWL 5 hours	Doc	14 days CB.	6 Jul 43	V.S. Thompson Lt-Col	
Field.	9 Aug 43	"		(1) AA 15(1) AWL 0745 9 Aug 43 to 2315/22 Aug 43 (2) AA 15(1) Losing by Neglect - Value of £0-4-7	Doc	14 days F.P.	25 Aug 43	C.N. Mitchell Lt-Col	For first charge FRR 1.149(1)(a) Deduction of £0-4-7

(p.t.o.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 Jul 43	Spr		(1) AA 40(1) Breaking Bks while on E.P. (2) AA 15(1) AWL 16 days 23 hrs 55 mins	Doc Doc	21 days D&T. Released from Detention Bks Sentence of 5 days to be time lost Sentence suspended pending Sentence for Detention Bks & Det Barracks NA Regs Commanding Officer ????	16 Jul 43	W.S. Thompson Lt-Col.	Forf 7 days pay 1st & (1)(a)
Field	9 Aug 43	"		(1) AA 15(1) Absent 3 hrs 30 mins (2) AA 15(1) AWL 15 hrs 30 mins	Doc	10 days CB from commencement With normal sentence	9 Sep 43	A.E. Chalmers Major.	1 day's pay 1st & (1)(a)
Field	19 Sep 43	"		AA 15(1) AWL 2 days 23 hrs 41 mins	Doc	14 days CB	24 Sep 43	A.E. Chalmers Major.	3 days pay 1st & (1)(a)
Field	25 Sep 43	"		AA 40 Conduct to the prejudice	Doc	2 days CB commence 30 Oct 43	28 Sep 43	H. Hatson Major.	
Field	18 Jan 44	"		(1) AA Sec 15(1) AWL 14 days 3 hrs 15 mins	Doc	Forf 14 days pay	19 Jan 44	A.S. Rutherford Lt-Col.	Forf 5 days pay 1st & (1)(a)

Certified true copy of original document held in my custody.

[illegible]
Capt. R.C.E.

Enclosed D Sum

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
G51106	Spr	McANULTY, William James	2 Bn RCE CA

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.W.L.	12 times.
For	AA 19 Drunk - Incapable (4th)	1 times.
For	AA 24(2) Losing by neglect	1 times.
For	AA 40 Conduct to prejudice	1 times.
For	AA 10(4) Breaking barracks	1 times.

Date of first entry in Field Conduct Sheet 29 Mar 42

Date of last entry in Field Conduct Sheet 13 Jan 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. ~~The accused at the present time is under sentence for~~ ~~[illegible]~~ ~~[illegible]~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for 1 days in civil custody; and for // days in military custody, *i.e.*, N/A days in open arrest, // days in close arrest; of which Nil. days were spent in hospital.

5. The present age of the accused is 31 yrs 4 mos

6. The date of his attestation ~~[illegible]~~ is 14 Jul 41

7. The service which the accused is allowed to reckon is 2 yrs 8 mos

8. The accused is in possession of‡

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	N.A.	
In the war substantive rank of		
In the acting rank of		

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) Wt.8070/888 100,000 6/42 A.& E.W.Ltd. Gp.698
(22489) Wt.23256/1573 80,000 9/42 " " Forms/B.296(War)/K

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N.A.		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 4th day of March 01

J. Geoghegan Capt.

HQ405-M-9163
Adm 2(a)3

Ottawa, Ont. 3 Apr 5

District Officer Commanding,
Military District No. 7,
SAINT JOHN, N.B.

G.51106 - Pte. McANULTY W.J.

Ref. Circular R.801 d/12 Mar 45 under HQ 54-27-47-1 FD 101 (Adm 2).

2. Att are two copies of letter from CMHQ recommending the discharge of this soldier under RO 1029 (8) which are fwd to you for your consideration as outlined in the above mentioned circular. If possible you will be warned of this soldier's arrival in advance by wire.

(A.E. WALFORD)
Major-General,
Adjutant-General.

ENCL.
JP

MEMORANDUM

Department of National Defence
(Army)

Adm 2(a)3

H.Q. C 55-M-1600 Adm 3(b)2

OTTAWA, Ont. 2 Apr 45

G.51106 Pte McANULTY W J

This S.U.S. sentence expires 26 Apr 45.

2. It will be noted that CMHQ recommends discharge under 1029(8).

3. On arrival, will you arrange to have this S.U.S. despatched to his own DD for discharge.

W.C. Parlee

(W C Parlee)
Captain
Adm 3(b)2

WCP:da

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/McAnulty WJ/1

CANADIAN MILITARY HEADQUARTERS

LONDON 28 Feb 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C.55-M-1600

G.51106 Pte McAnulty, W.J.

1. The marginally named soldier is now serving a sentence of 6 months detention awarded 27 Dec 44 by FGCM for an absence without leave which terminated on apprehension after 41 days. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues so to do is 26 Apr 45.

2. This soldier enlisted 14 Jul 41 at St. Johns, New Brunswick, and he is now 31 years of age. Since enlistment he has been found guilty of 18 offences under AA Sec 15; of 4 offences under AA Sec 19; of 1 offence under each of AA Secs 10(4), 11, 24(2) and 40. In addition to the FGCM set out in paragraph 1 hereof he has had 2 previous courts martial: on 9 Nov 43 he was awarded a sentence of 90 days detention for 25 days absence without leave, and on 11 Mar 44 he was awarded a sentence of 120 days detention for 8 days absence without leave. He has been convicted 3 times by a civil court: on 24 Jun 44 he was sentenced to 1 day imprisonment for theft, on 27 Jul 44 he was fined £5 for theft, and on 19 Oct 44 he was sentenced to 60 days imprisonment for 2 offences of theft.

3. This soldier has been medically examined and it is stated that he is fit to undergo detention.

4. The Neuropsychiatrist and Selection of Personnel Officer who have examined this soldier state that he is impulsive and irresponsible, that his difficulties are due to indulgence in alcohol and bad company, and that he will undoubtedly continue to be a disciplinary problem. No change in his S category was recommended.

5. Taking into consideration these reports, this soldier's record of absences without leave, his previous courts martial, and his 3 civil convictions it is considered that he should serve his present sentence in full and thereafter should be discharged for misconduct in accordance with paragraph 8 of Appendix to C.A.R.O. 1029, and it is so recommended. It is possible that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed pursuant to P.C.1304/44 that this soldier be returned to Canada in custody under sentence. Herewith original A.F. A3104 in respect of the FGCM held 27 Dec 44 on which this direction has been endorsed.

Enc.1

for (E.G. WEEKS) Major-General
i/c Administration
Canadian Military Headquarters.

L. H. CLAYTON
Lieut.-Colonel.
Director of Courts-Martial
MAR 16 1945

CPRHQ 1000-77

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. G.51106, Pte. McANULTY, W.J. Unit 2 CITR.
Sentenced to Undergo detention for six (6) months and stoppages of £5-7-2 on 27 Dec 44.
Age on, and date of enlistment 28 yrs. 14 Jul 41 Term of service Duration.

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20919) Wt.46071/P.76 100,000 2/45 A.& E.W.Ltd. Gp.698 Forms/A.3104/14

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	No Remission. Return to Canada in custody under Sentence	(C. S. BOOTH) Brigadier D.A.G. Canadian Military Headquarters. 13 FEB 1945	

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. Sec. 15 (1) AWL 41 days, 8 hrs.30 Min.	2 Sep 44	27 Dec 44.
Signature of Officer making entry (A J A Baxter) Maj. Adm Offr 2 CITR.		
VIII.—Second Trial.		
Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
8 Jan 45	~~Inaffw~~ committed to Cdn. Det'n Bks. 8 Jan 45. Recommend full sentence be served.	(J A Wilson) Col Comdr 2 CITR.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
11 Jan 45	I Concur	(K G Blackader) Brig Comd 13 Cdn Inf Trg Bde

H.Q.C. 55-1-1601 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MCGOWAN, THOMAS WILLIAM L-609830 GNR.

-L-EDR.-

CONFIDENTIAL
H.Q.C. 55-1-1601

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
MAR 21 1945	15/4/45	B.F.	[illegible]		(If space for which referred cannot be answered on one line, add minute to file and [illegible] Minister) NEW FILE	C.R.	MAR 15 1945
				J.A.G.	With Papers C.R. APR 4 1945		
APR 5 1945				L.C.M.	To note & put to Admin	L.C.M.	4-4-45
APR 6 1945	9/4/45	P.A.	[illegible]		[illegible]	[illegible]	APR 5 - 1945
APR 9 1945	14-4-45	P.A.	[illegible]	J. A. G.	P.R.B. B.F. APR 15 1945		
APR 1 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1601(JAG/D-9)

4th April 1945.

District Officer Commanding,
Military District No.6,
Halifax, N.S.

.....Standing.....Court-Martial

L.609830 Gnr. (L/Bdr.) T.W. McGOWAN,
4th A.A.Bty., 21st A.A. Regt., R.C.A., C.A.

Receipt is acknowledged of your H. Mc-2600(JAG) dated 1st April 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial. Your explanation of the delay in this case has been noted.

E.L.M.
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

Noted
E.H. Clayton
E.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 6 1945

LYV:ELM

Noted for
Cas D Mar
9 Apr 45
M.P.

IN REPLY PLEASE QUOTE No. H. Mc-2600 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, M. D. No. 6,
Halifax, N. S., 1 Apr 45.

CONFIDENTIAL

304287

CENTRAL REGISTRY Army
CONF. SEC.
APR 4 1945
File C. 55-M-1601
Chgd. to
Referred to

Secretary,
Department of National Defence,
Ottawa, Ontario.

STANDING COURT-MARTIAL
L.609830 Gnr. (L/Bdr) T.W. McGowan,
4th A.A.Bty., 21st A.A. Regt., R.C.A., C.A.

Reference H.Q.C.55-M-1601 (JAG/D-9) dated 20 Mar 45.

2. The proceedings of this Standing Court-Martial have been reviewed and are herewith returned for safe custody.

3. Regarding delay the Officer Commanding 21st A.A. Regt. reports as follows:

" The M/N soldier returned from A.W.L. 17 Feb 45, and was paraded before the Commanding Officer 19 Feb 45, and remanded for a District Court-Martial, Summary of Evidence was taken in this connection 27 Feb 45 and an application for a D.C.M. was forwarded 1 Mar 45.

It was then decided to present this soldier before a Standing Court-Martial and a new charge sheet was incorporated in the new application for Standing Court-Martial which was forwarded 5 Mar 45.

The delay during the period 19 Feb to 27 Feb 45 can only be explained by the amount of detail work caused by the large number of absentees during that period. "

NFM/jmcg

(D.A. White) Brigadier,
D. O. C., M. D. No. 6.

NAT. DEF. B. 440

PROCEEDINGS OF A STANDING COURT-MARTIAL

No.L-609830 Gnr.(L/Bdr) Thomas William McGOHAN
4th A.A.Bty., 21st A. A. Regiment,R.C.A.,C.A.

R. A. Park, Halifax, N. S.
8th day of March, 1945.

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at R.A.Park, Halifax, N. S.

on the 8th day of March 1945 at 1100 hours,

for the trial of: L-609830 (Number) Gnr.(L/Bdr) (Rank) Thomas William McGOWAN (Full Name)

4th A.A.Bty., 21st A.A.Regiment,R.C.A.,C.A. (Unit) (Attachment, if any)

PRESIDENT: Major R. F. Barnes, E.D., Headquarters M. D. No. 6, Permanent President Standing Courts-Martial M.D.No.6. (Rank, Full Name, Unit, Attachment, if any)

PROSECUTOR: Capt. K. S. Smith, Headquarters M. D. No. 6, Permanent Prosecutor District Courts-Martial M.D.No.6. (Rank, Full Name, Unit, Attachment, if any)

~~COUNSEL~~ OR DEFENDING OFFICER: Lieut.F.E.McCrory, 21st A.A.Regiment,R.C.A.,C.A. (Rank, Full Name, Unit, Attachment, if any)

FINDING: The Court find the accused No.L.609830 Gnr.(L/Bdr) Thomas William McGOWAN, 4th A.A.Bty.,21st A.A.Regiment,R.C.A.,C.A. guilty of the charge.

SENTENCE: The Court sentence the accused No.L-609830 Gnr.(L/Bdr) Thomas William McGOWAN, 4th A.A.Bty., 21st A.A.Regiment,R.C.A.,C.A. to undergo detention for thirty (30) days.

Extracts entered as No. 36300 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 19 day of March 1945

Signed at Halifax, N. S. this 8th day of March 194 5.

R. F. Barnes Major
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter?~~

Answer:

Question to the accused. Do you object to P.83514 Sgt.(A/SM(W.O.1)J.R.Ross, No. 6 Detachment, C.M.S.C. as shorthand writer?

Answer: No sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes sir.

Question to the accused. Are you guilty or not guilty of the (~~first~~) charge against you, which you have heard read?

Answer: Guilty.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B-2"

(H.F. BARNES) Major
President S.C.M.

3

CHARGE SHEET

The accused L-609830 Gunner (L/Bdr) Thomas William McGOWAN, 4th A.A. Battery, 21st A.A. Regiment, R.C.A., C.A., an N.R.M.A. soldier of the Canadian Army placed on Active Service is charged with:

First Charge
Sec 15 (1)
Army Act

~~WHEN ON ACTIVE SERVICE,~~ ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Halifax, N.S. on 11 February 1945, absented himself without leave from Imperoyal, 4th A.A. Battery, 21st A.A. Regiment, R.C.A., C.A., from 2359 hours 11 February 1945 until 0850 hours 17 February 1945.

(G.L. KENT) Lt.-Col.,
Commanding Officer,
21 A.A. Regt., R.C.A.

4 March 45
Halifax, N.S.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[f].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No sir.

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No sir.

Question to the accused. Do you wish to address the Court?

Answer. No sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Marked "Y" and signed by me.

PRESIDENT, G. C. M.

A.F.B. 255
7AM—5-43 (148)
H.Q. 1773-39-420
A.F.B. 294

6

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L-609830	Gunner (L/Bdr)	Thomas William McGowan,	4th A.A. Bty. 21st A.A. Regt., R.C.A., CA

1. The following is a fair and true summary of the entries in the Field Conduct sheets ~~or Minor Conduct sheets of the accused, exclusive of convictions by a Court Martial or Civil Court or summary awards under Section 47 of the Army Act and dispensations which have been imposed within~~

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

~~Nature of honour or gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

~~Nature of the charges for offences, the entries for offences must be stated separately~~

2. The accused has not been previously convicted.

~~Nature of convictions by a court martial or civil court or summary awards under Section 47 of the Army Act and dispensations which have been imposed under A.A. 71 are to be set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 20 days in military custody, making a total of 20 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrollment is ~~attestation~~ paper 23 years 2 months

6. The date of his ~~commencement~~ specified in his ~~record of service~~ enrollment is ~~attestation~~ paper 13 Mar 43

~~The period which the accused is about to retain on his discharge is ..... The period reckoned toward ..... service for the purpose of determining his pension is .....~~

9. The accused is in possession of or entitled to no air military decoration, or military reward

~~possession of or entitled to ..... air force decoration or reward~~

~~Mention any other material matter. The accused before he was made a warrant officer held the temporary rank of .....~~

~~11. In the non-commissioned officer. The accused holds in the Royal Corps of the rank of~~ 868 ~~Parachute Troops 868~~ ~~Army 868~~ 868 Army, ~~and in the regiment or corps the rank of~~ 868 868 duty.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

1 Nov 43 Date of promotion.

In the rank of L/Bdr. 1 years 4 months

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

868

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army / Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank

Name of Regiment / Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		868		
		868		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of March 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

(C.S. Smith, Capt. & Adjt.,
21st A.A. Regt., R.C.A., C.A.

No. L-609830 Name McGOWAN, T.W.

Date of last entry in Company Conduct Sheet

Sqn., Battery, or Company

No. and date of last drunk

Corps R.C.A.

Period not reckoning towards freedom from extra fine

Date of enlistment 12 Mar 43

G.C. Badges

Sheet No. One

Signature O.C. Company, etc. J.M. Gardner Major

Service or Proficiency Pay

Character

M.F.M. 6 (A.F.B. 122) 20(1) 5-39 (17000) H.Q. 1773-45-18

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed	14 Dec	44		No. of entries - 1				J.M. Gardner, Major	RCA

Marked 1 in red signed by me.

MAJOR
PRESIDENT, C.P.

Certified True Copy
(C.S. SMITH) CAPTAIN,
Adjutant, 21st A.A. Regt., R.C.A.

(P.T.O.)

Appendix "C"

DAILY ORDER PART II

BY

LT-COLONEL G.L. KENT, E.D.

COMMANDING OFFICER

21 A.A. REGIMENT, R.C.A.

Order No. 42
17 Feb, 1945
Halifax, N.S.

(Last order Issued No. 41 d/16 Feb 45)

4th A.A. Bty., R.C.A.

SEC "A" OFFICERS

1. ATTACHMENTS

(a) The u/n officer att to A-23 T.C. F.A.P. Except Pay (Attending Course) 19 Jan 45.

Lieut R.W. HICKMAN

(b) Ceases to be att to A-23 T.C. F.A.P. Except Pay (Completion of Course) 11 Feb 45.

Lieut R.W. HICKMAN

SEC "C" ATT'D OFFICERS

NIL

SEC "D" OTHER RANKS

2. ABSENCE WITHOUT LEAVE

(a) A.W.L. from 2359 hours 11 Feb 45.

L-609830 GNR (L/BDR) McGOWAN, T.W.

(b) Rot from A.W.L. at 2230 hours 14 Feb 45.

F-608160 GNR MURRAY, W.S.

3. HOSPITAL

Disc from Debert Military Hospital 12 Feb 45.

P-445380 BTE VANAMBURG, A.H. (RCASC)

4. REVERSION

Reverts to the rank of Gunner (Atst to General Service) 14 Feb 45.

G-606523 GNR (A/BDR) WARD, L.N.

5. PUNISHMENT

(a) Awarded 7 days C.B. for an offence under Sec 15 (1) A.A. A.W.L. from 2359 hours 10 Feb 45 until 2230 hours 14 Feb 45. Absent 3 days 22 hours 31 mins. Forf 4 days pay under Art 149 (1)(a) F.R. & I. 15 Feb 45.

F-608160 GNR MURRAY, W.S.

(b) AMENDMENT

Para 7 (m)(n) of D.O. No. 39 d/14 Feb 45 insofar as it concerns the u/n is am'd to read:

FOR: Absent 1 day 4 hours

READ: Absent 1 day 4 hours 1 min.

B-606069 GNR STANNELL, G.W.
A-603321 GNR (L/SGT) BARNES, W.G.

6. STRENGTH DECREASE

S.O.S. N.R.M.A. to General Service 14 Feb 45.

G-606523 GNR WARD, L.N. (G12083)

7. STRENGTH INCREASE

T.O.S. Atst General Service from N.R.M.A. (Re-Enlistment A llotted Previous 15 Feb 45. Regimental Number G-12083

G-12083 GNR WARD, L.N. (G606523)

8. APPOINTMENT

Appointed to the rank of A/Bombardier 15 Feb 45 (Atst General Service)

G-12083 GNR WARD, L.N.

SEC "D" ATT'D OTHER RANKS

NIL

V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.

18th A.A. Bty., R.C.A.

SEC "A" OFFICERS

NIL

SEC "C" ATT'D OFFICERS

NIL

D.O. No. 42 d/17 Feb 45 21st A.A. Regt., R.C.A. Sheet No. 2.

SEC "D" OTHER RANKS

9. DETENTION

Released from Unit Detention (Citadel Hill) 12 Feb 45.

(Ceases to be att to H.Q., 21 A.A. Regt., R.C.A. (Citadel Hill) for R & Q 12 Feb 45.

F-156026 GNR (L/BDR) WALKEY, F.L.

10. LEAVE AND FURLOUGH

Granted 14 days furlough and 3 days travelling time under CARO 4688 from 13 Feb 45 to 1 Mar 45. Granted 17 days R.A. under Art 196 (4) F.R. & I. Issued with S.T.W. No. A789972

B-595843 GNR MATTE, R.

11. HOSPITAL

Adm to York Redoubt Hospital (Sick) 15 Feb 45.

F-602030 GNR MEUSE, F.L.

12. ABSENT WITHOUT LEAVE

(a) A.W.L. from 0700 hours 11 Feb 45.

B-631850 GNR MOUSSEAU, P.E.

(b) A.W.L. from 2359 hours 6 Feb 45 is still so absent 14 Feb 45 (8 Days Posting)

B-622974 GNR RABINOVITZ, D.

(c) Rot from A.W.L. at 2359 hours 14 Feb 45.

H-606838 GNR PSIKLA, S.
H-606777 GNR SERKAUSKAS, C.

(d) Rot from A.W.L. at 2350 hours 13 Feb 45.

B-630959 GNR DRURY, L.S.

(e) Rot fro A.W.L. at 0830 hours 13 Feb 45.

B-634869 GNR McLEOD, E.

(f) Rot from A.W.L. at 0930 hours 14 Feb 45.

B-630713 GNR GLINZ, A.G.

(g) Rot from A.W.L. at 2359 hours 13 Feb 45.

A-604958 GNR (L/BDR) WINGER, W.J.
B-558220 GNR WALTON, H.L.
C-612509 GNR WHITNEY, L.E.

(h) Rot from A.W.L. at 2115 hours 14 Feb 45.

F-34773 GNR MITCHELL, M.

ABSENCE WITHOUT LEAVE (cont'd)

(h) Rot from A.W.L. at 1400 hours 15 Feb 45.

C-437191 GNR (L/BDR) KINCH, C.

(i) CANCELLATION

Para 9 (a) of D.O. No. 36 d/11 Feb 45 insofar as it concerns the u/n is cancelled in its entirety (Adm to Hospital Hamilton)

B-600178 GNR (A/BDR) PATERNO, B.

13. NEXT OF KIN

(a) Change of Address of Next of KIN FROM:

Mrs Marjorie Irene WALTON (Wife)
Main Street,
Chippewa, Ont.

TO: 753 2nd Ave.,
Niagara Falls, Ont.

B-558220 GNR WALTON, H.L.

(b) FROM:

Mrs Rhota KINCH (Wife)
Purcell's Cove,
Halifax, Co., N.S.

TO: North Augusta,
R.R. No. 2 Ont.

C-437191 GNR (L/BDR) KINCH, C.

14. PUNISHMENT

(a) Awarded 3 days C.B. for an offence under Sec 15 (1) A.A. A.W.L. from 0800 hours 12 Feb 45 until 0830 hours 13 Feb 45. Absent 1 day 30 mins. Forf 2 days Pay under Art 149 (1)(a) F.R. & I. 13 Feb 45.

B-634869 GNR McLEOD, E.

(b) Awarded 3 days C.B. for an offence under Sec 15 (2) A.A. Failing to appear at an appointed place of parade 13 Feb 45.

B-126151 GNR HAYWARD, H.E.

(c) Awarded 14 days C.B. and forf 24 days Pay for an offence under Sec 15 (1) A.A. A.W.L. from 0700 hrs 10 Feb 45 until 2359 hours 14 Feb 45. Absent 4 days 16 hours 59 mins. Forf 5 days Pay under Art 149 (1)(a) F.R. & I. Forf 24 days Pay under Art 149 (2) F.R. & I. Total forf of 29 days Pay 15 Feb 45.

H-606838 GNR PSEKLA, S.

PUNISHMENTS (cont'd)

(d) Awarded 14 days C.B. and forf 24 days Pay for an offence under Sec 15 (1) A.A. A.W.L. from 0700 hours 9 Feb 45 until 2350 hours 13 Feb 45. Absent 4 days 16 hours 50 mins. Forf 5 days Pay under Art 149 (1)(a) F.R. & I. Forf 24 days Pay under Art 149 (2) F.R. & I. Total forf of 29 days Pay 14 Feb 45.

B-630959 GNR DRURY, L.S.

(e) Awarded 14 days C.B. and forf 24 days Pay for an offence under Sec 15 (1)(AA. Absent without leave from 0700 hours 10 Feb 45 until 2359 hours 14 Feb 45. Absent 4 days 16 hours 59 mins. Forf 5 days pay under Art 149 (1)(a) F.R. & I. Forf 24 days Pay under Art 149 (2) F.R. & I. Total forf of 29 Days Pay 15 Feb 45.

H-606777 GNR SPAKAUSKAS, C.

(f) Awarded 14 days C.B. and forf 28 days Pay for an offence under Sec 15 (1) A.A. A.W.L. from 2359 hours 7 Feb 45 until 2359 hours 13 Feb 45. Absent 6 days. Forf 6 days Pay under Art 149 (1) (a) F.R. & I. Forf 28 days Pay under Art 149 (2) F.R. & I. Total forf of 34 days pay 15 Feb 45.

C-612509 GNR WHITNEY, L.E.
B-556220 GNR WALTON, H.L.

(g) Awarded 14 days C.B. and forf 15 days pay for an offence under Sec 15 (1) A.A. A.W.L. from 1300 hours 9 Feb 45 until 2115 hours 14 Feb 45. Absent 5 days 8 hours 15 mins. Forf 6 days Pay under Art 149 (1)(a) F.R. & I. Forf 15 days pay underArt 149 (2) F.R. & I. Total forf of 21 days pay. 15 Feb 45.

F-34773 GNR MITCHELL, M.

(h) Severely reprimanded for an offence under Sec 15 (1) A.A. A.W.L. from 0700 hours 9 Feb 45 until 1400 hours 15 Feb 45. Absent 6 days 7 hours Forf 7 days Pay under Art 149 (1)(a) F.R. & I. 15 Feb 45.

C-437191 GNR (L/BDR) KINGH, C.

SEC "D" ATT'D OTHER RANKS.

16. ATTACHMENTS

(a) The u/n of 21st Con Pioneer Coy att to Sec 254 E.S. & W. are att to 13th A.A. Dty., R.C.A. for R & Q for periods as shown opposite their names

D-700288 SPR DOUCET, J. 5 Feb45 to 7 Feb 45
M-105212 SPR SCHWARTZ, J. 5 Feb 45 to 8 Feb 45.
B-612086 SPR ROUSELLE, F. 5 Feb 45 to 10 Feb 45
F-66826 SPR WISWELL, R.W. 5 Feb 45 to 13 Feb 45
F-66105 SPR MEUSE, J.A. 5 Feb 45 to 13 Feb 45

ATTACHMENTS (cont'd)

(b) The u/n of 21st Gen Pioneer Coy att to Sec 254 E.S. & W. are att to 18th A.A. Bty., R.C.A. for R & Q
5 Feb 45.

F-33437 CPL COLLINS, R.G.

(c) The u/n of 21st Gen Pioneer Coy att to Sec 254 E.S. & W. are att to 18 A.A. Bty. R.C.A. for R & Q
13 Feb 45.

F-32762 SPR MacCORMICK, J.D.
L-69739 SPR BOURGEAULT, L.

V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.

14th A.A. Bty., R.C.A.

SEC "A" OFFICERS

16. LEAVE AND FURLOUGH

(a) Granted 96 hours leave under CARO 4688 from 9 Feb 45 to 12 Feb 45. Granted 4 days R... under Art 196 (4) F.R. & I.

Lieut N.J. ESDON

(b) Granted 14 days furlough under CARO 4688 from 14 Feb 45 to 27 Feb 45. Granted 14 days R.A. under Art 196 (4) F.R. & I:

Capt E.J. COLE

SEC "C" ATT'D OFFICERS

NIL

SEC "B" OTHER RANKS

17. MARRIAGES

Married with permission to Miss Violet O'Flaherty at Sydney, N.S. 10 Feb 45.

B-625702 GNR TOWNSEND, J.L.

18. QUALIFICATION

Having attended 25th Adv Clerical Course at O-1 O.T.C. Brockville received qual "QI" 2 Feb 45.

H-615121 GNR (U/A/BDR) TETREAULT, L.E.

19. PUNISHMENTS

The u/n presently att to No. 6 V.T.S. F.A.P. Except Pay is awarded 6 days Pay for an offence under Sec 15 (1) A.A. A.W.L. from 0730 hours 7 Feb 45 until 0730 hours 8 Feb 45. Absent 1 day Forf 1 day's py under art 149 (1)(a) F.R. & I. Forf 6 days Pay under Art 149 (2) F.R. & I. Total forf of 7 days Pay
8 Feb 45
(No. 6 V.T.S. D.O. No. 17 d/9 Feb 45)

D-641841 GNR GAUDREAU, W.

PUNISHMENT (cont'd)

(b) The u/n presently att to No. 6 V.T.S. F.A.F. Except Pay is awarded 2 days forf of pay for an offence under Sec 15 (b) A.A. A.W.L. from 0730 hours 7 Feb 45 until 0730 hours 8 Feb 45. Absent 1 day. Forf 1 day's pay under Art 149(1)(a) F.R. & I. Forf 2 days pay under Art 149 (2) F.R. & I. Total forf of 3 days pay 8 Feb 45 (No. 6 V.T.S. D.O. No 17 d/9 Feb 45)

E-621697 GNR MIGNEAULT, R.

20. STRENGTH INCREASE

The u/n of No. 4 District Depot are T.O.S. 21 A.A. Regt., R.C.A. 14th A.A. Bty., R.C.A. 13 Feb 45

(Auth: No. 4 DD D.O. No. 39 d/12 Feb 45)

D-647889 GNR LEVINE, S.
D-641588 GNR LACHAPELLE, M.
D-146871 GNR GERARD, W.P.
D-640069 GNR. DORVAL, G.

SEC "D" ATT'D OTHER RANKS

NIL

V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.

19th A.A. Bty., R.C.A.

SEC "A" OFFICERS

NIL

SEC "C" ATT'D OFFICERS

NIL

SEC "B" OTHER RANKS

21. ABSENCE WITHOUT LEAVE

(a) Rot from A.W.L. at 2330 hours 14 Feb 45.

B-623039 GNR ANDERSON, A.S.
B-634060 GNR BREMA, L.
B-630696 GNR PASKO, J.
A-604218 GNR YATES, E.A.

(b) Rot from A.W.L. at 1345 hours 15 Feb 45.

B-622849 GNR DEROSARIO, A.S.

22. LEAVE AND FURLOUGH

Granted 96 hours leave under C.A.R.O 4688 from 16 Feb 45 to 19 Feb 45. Granted 4 days R.A. under Art 196 (4) F.R. & I.

G-53597 GNR ROUSE, C.E.
P-2469 GNR WILSON, W.D.

D.O. No. 42 d/17 Feb 45 21st A.A. Regt., R.C.A.

23. **TRADEMEN'S RATES OF PAY** (for Record Purposes only)

Ceases to draw tradesmen's rates of Pay as Artificer Group "A" 6 Feb 45.
(Auth: NO. CO C.I. (B) T.C. D.O. No. 33 d/12 Feb 45)

F-77925 PTE SCHURMAN, H.N.

24. **STRENGTH DECREASE**

(a)

The u/n presently att to A-36 C.R.T.C. is S.O.S. N.R.M.A. to General Service 7 Feb 45.
(Att P.A.T. Exce pt Pay)

B-633964 GNR DESJARDINS, R.J. (B140257)

25. **STRENGTH INCREASE**

(a)

The u/n presently att to A-36 C.R.T.C. F.A.P. Except Pay is T.O.S. on Atst General Service from N.R.M.A. 8 Feb 45.

B-140257 GNR DESJARDINS, R.J. (B633964)

(b)

The u/n of No. 1 Infantry Trng Bn C.I.C. Debert, N.S. are T.O.S. 21 A.A. Regt., R.C.A. 19th A.A. Bty., R.C.A. 11 Feb 45
(Auth HQ MDM No. 6 Tel A7485 d/8 Feb 45)

B-149564 GNR ARMSTRONG, A.J.C.
A-103089 GNR CARLE, R.N.
D-166975 GNR LAMOUREUX, R.L.
A-115764 GNR MELSOME, T.J.
D-157854 GNR PE[illegible], A.
C-123667 GNR SMIL[illegible], W.A.
B-142306 GNR THO[illegible]SON, W.C.
E-21364 GNR VOYER, J.M.

(c)

The u/n of A-5 C.E.T.C. are T.O.S. 21 A.A. Regt., R.C.A. 19th A.A. Bty., R.C.A. 12 Feb 45
(Auth org 7332 HQS 20-6-B FD 8 (Org A1E) d/ 2 Feb 45)

A-609166 GNR BUCHAN, S.
B-621012 GNR CROWE, G.
B-601837 GNR KEENEY, O.J.H.
A-111234 GNR McC[illegible], M.A.
B-[illegible] GNR [illegible]RGUSSON, R.W.
C-[illegible] GNR RENE-DE-COTRET, H.
A-604608 GNR SCH[illegible], J.
B-636077 GNR VIRG[illegible]LO, V.J.
B-635452 GNR WINEBERG, M.

26. **PUNISHMENTS**

(a)

Awarded 14 days C.B. and forf 28 days pay for an offence under Sec 15 (1) A.A. A.W.L. from 2359 hours 8 Feb 45 until 2330 hours 14 Feb 45
Absent 5 days 23 hours 31 mins. Forf 6 days pay under Art 149 (1)(a) F.R. & I. Forf 28 days pay under Art 149 (2) F.R. & I. Total forf of 34 days pay 15 Feb 45.

B-634060 GNR BREWA, L.
B-632693 GNR PA[illegible], J.
A-604218 GNR YATES, E.A.

D.O. No. 42 d/17 Feb 45 21st A.A. Regt., R.C.A.

PUNISHMENTS (cont'd)

(b) Awarded 14 days C.B. and forf 20 days Pay for an offence under Sec 15 (1) A.A. A.W.L. from 2359 hours 11 Feb 45 until 2330 hours 14 Feb 45. Absent 2 days 23 hours 31 min. Forf 3 days Pay under art 149 (1)(a) F.R. & I. Forf 20 days Pay under Art 149 (2) F.R. & I. Total Forf of 23 days Pay 15 Feb 45.

B-623039 GNR ANDERSON, A.S.

(c) AMENDMENT

Para 25 (b) of D.O. No. 39 d/14 Feb 45 insofar as it concerns the u/n is amd as follows:

FOR: Absent 1 day 4 hours

READ: Absent 1 day 4 hours 1 min.

B-528527 GNR ARSENEAULT, E.
B-628510 GNR MAXWELL, B.

SEC "D" ATT'D OTHER RANKS

27. ATTACHMENTS

The u/n of No. 1 C.R.L.E. att to 19th A.A. Bty., R.C.A. for R & Q and Disc 14 Feb 45.

L-10745 SGT (A/S/SGT) CUTHAND, A.

V.V.V.

29. ABSENT WITHOUT LEAVE.

(a) A.W.L. from 2359 hours 25 Jan 45 is still so absent (21 days posting) 15 Feb 45.

B-631481 GNR DAOUST, O.

(b) Rot from A.W.L. at 0420 hours 15 Feb 45.

A-607310 GNR (A/BDR) PILLON, D.L.
B-622777 GNR BERTOTTI, A.S.
B-478115 GNR INFUSO, V.
H-615088 GNR McKAY, F.J.

(c) A.W.L. from 2230 hours 4 Feb 45
Rot from A.W.L. at 0050 hours 6 Feb 45.

F-37955 GNR GOW, E.A.

30. PUNISHMENTS

Admonished for an offence under Sec 15 (1) A.A. A.W.L. from 2230 hours 4 Feb 45 until 0050 hours 6 Feb 45. Absent 1 day 2 hours 20 mins. Forf 2 days Pay under Art 149 (1)(a) F.R. & I. 7 Feb 45.
(No. 60 CI"B"TC D.O. No. 29 dated 7 Feb 45)

F-37955 GNR GOW, D.A.

31. APPOINTMENT AND PROMOTION

(a) Appointed to the rank of A/L/Sgt to complete Unit Establishment 1 Feb 45.

F-3021 BDR BOUDREAU, V.E.
B-22658 BDR DAY, M.C.

(b) Appointed L/Bombardier to complete Unit Establishment 1 Feb 45.

B-498219 GNR VITO, S.S.

32. STRENGTH DECREASE

The undn presently att to No A-36 C.R.T.C. (F.A.P. Except Pay is S.C.S. N.R.M.A. to General Service 7 Feb 45.

H-615330 GNR MANSON, G.A. (H203350)

33. STRENGTH INCREASE

Presently att F.A.P. Except Pay to A-36 C.R.T.E. is T.O.S. Atst General Service from N.R.MA. A-36 D.O. No. 29 d/9 Feb 45) 8 Feb 45.

H-203350 GNR MANSON, G.A. (H615330)

SEC "D" ATT'D OTHER RANKS

NIL

V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V. V.V.V.V.V.V.V.V.V.V.V.V.

146th A.A. Bty., R.C.A.

SEC "A" OFFICERS

NIL

SEC "C" ATT'D OFFICERS

34. ATTACHMENTS

The u/n of No. 4 District Depot is att to 21 A.A. Regt., R.C.A. 146th A.A. Bty., R.C.A. 27 Jan 45. P.A.P. Rationed at H.Q. 21 A.A. Regt., R.C.A.

Lieut G.W. WEBSTER

SEC "B" OTHER RANKS

35. ABSENCE WITHOUT LEAVE

(a) Rot from A.W.L. at 2355 hours 14 Feb 45.

L-609708 GNR ERUSKY, A.L.
H-606792 GNR MIAULT, L.

(b) Rot from A.W.L. at 0200 hours 15 Feb 45.

L-609915 GNR SPITZER, R.

(c) CANCELLATION

Para 38 (a) of D.O. No. 39 d/14 Feb 45 insofar as it concerns the u/n is cancelled in its entirety. Taken on Ration Strength 12 Feb 45

H-615017 GNR SANCHUK, M.J.

36. REVERSION

Reverts to the rank of Bombardier at his own request 16 Feb 45.

P-11173 BDR (A/SGT) GILLIS, L.

37. APPOINTMENT

Appointed to the rank of A/L/Sgt to complete Unit Establishment 15 Feb 45.

L-25339 BDR WENHARDT, W.A.

38. QUALIFICATION

Having been trade tested is qual as Cook Group "C" (Auth: MFM 105A d/12 Feb 45) 12 Feb 45.

B-628527 GNR TIDMUS, R.C.

39. ATTACHMENTS

(a) Cease to be att to 4th A.A. Bty., R.C.A. for Rations 15 Feb 45

K-607132 GNR KASSA, J.S.
M-2577 GNR JOHNSON, V.E.
F-38011 GNR McCARTHY, E.J.
K-8811 GNR YOUNG, G.C.

(b) Ceases to be att to H.Q. Halifax Fortress for Rations 14 Feb 45.
Att to H.Q. 21 A.A. Regt., R.C.A. (Citadel Hill) for R & Q 15 Feb 45.

B-625057 GNR STEMINOFF, A.T.

40. STRENGTH INCREASE AMENDMENT

para 14 (b) of D.O. No. 37 d/12 Feb 45 insofar as it concerns the u/n is am'd by INSERTING:

"Continues to draw tradesmen's rates of Pay as Clerk Group "C"

L-25339 BDR WENHARDT, W.A.

41. PUNISHMENT

(a) Awarded 14 days C.B. and forf 28 days Pay for an offence under Sec 15 (1) A.A. A.W.L. from 2200 hours 11 Feb 45 until 0800 hours 15 Feb 45. Absent 4 days 10 hours. Forf 5 days Pay under Art 149 (1)(a) F.R. & I. Forf 28 days Pay under Art 149 (2) F.R. & I. Total forf of 33 days pay 15 Feb 45.

H-606864 GNR SPADONI, W.R.

(b) Awarded 14 days C.B. and forf 18 days pay for an offence under Sec 15 (1) A.A. A.W.L. from 2200 hours 11 Feb 45 until 1945 hours 15 Feb 45. Absent 3 days 21 hours 45 mins. Forf 4 days pay under Art 149 (1)(a) F.R. & I. Forf 18 days Pay under Art 149 (2) F.R. & I. Total forf Of 22 days Pay 15 Feb 45.

H-105223 GNR KOSTIW, W.J.

(c) Awarded 14 days C.B. and forf 20 days Pay for an offence under Sec 15 (1) A.A. A.W.L. from 2200 hours 11 Feb 45 until 1945 hours 15 Feb 45. Absent 3 days 21 hours 45 mins. Forf 4 days Pay under Art 149 (1)(a) F.R. & I. Forf 20 days Pay under Art 149 (2) F.R. & I. Total forf of 24 days Pay. 15 Feb 45.

H-615063 GNR CHEMERIKA, S.

PUNISHMENTS (cont)

(d)

Awarded 14 days C.B. and forf 18 days Pay for an offence under Sec 15 (1) A.A.A.W.L. from 2200 hours 11 Feb 45 until 0200 hours 15 Feb 45. Absent 3 days 4 hours. Forf 4 days Pay under Art 149 (1)(a) F.R. & I. Forf 18 days Pay under Art 149 (2) F.R. & I. Total forf of 22 days Pay
15 Feb 45.

L-609915 GNR SPITZER, R.

(e)

Awarded 14 days C.B. and forf 18 days Pay for an offence under Sec 15 (1) A.A. A.W.L. from 2200 hours 11 Feb 45 until 0420 hours 14 Feb 45. Absent 2 days 6 hours 20 mins. Forf 3 days Pay under Art 149 (1)(a) F.R. & I. Forf 18 days Pay under Art 149 (2) F.R. & I. Total forf of 21 days Pay
15 Feb 45.

A-606589 GNR ROTH, J.
H-616310 GNR WITIUK, J.
C-612864 GNR BUELOW, H.A.

(f)

Awarded 14 days C.B. and forf 20 days Pay for an offence under Sec 15 (1) A.A. A .W.L. from 2200 hours 11 Feb 45 until 2355 hours 14 Feb 45. Absent 3 days 1 hour 55 mins. Forf 4 days Pay under Art 149 (1)(a) F.R. & I. Forf 20 days Pay under Art 149 (2) F.R. & I. Total forf of 24 days pay
15 Feb 45.

L-609708 GNR DMUSKY, A.L.

(g)

Awarded 14 days C.B. and forf 18 days Pay for an offence under Sec 15 (1) A.A. A.W.L. from 2200 hours 11 Feb 45 until 2355 hours 14 Feb 45. Absent 3 days 1 hour 55 mins. Forf 4 days Pay under Art 149 (1)(a) F.R. & I. Forf 18 days Pay under Art 149 (2) F.R. & I. Total forf of 22 days pay.
15 Feb 45.

H-606792 GNR MIAULT, L.

SEC "D" ATT'D OTHER RANKS

NIL

V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.

1st A.A. G.R., R.C.A.

SEC "A" OFFICERS

42. QUALIFICATION

The u/n officer having attended 25th Adm Course Clerical at O-1 C.T.C. Brockville received qual "QI" 2 Feb 45.

Lieut H.E. CHUDLEIGH
21st A.A. Regt., R.C.A.

D.O. No. 42 d/17 Feb 45

43. LEAVE AND FURLOUGH

Granted 14 days furlough and 1 day travelling time under CA.R.O. 46 88 from 31 Jan 45 to 14 Feb 45.
Granted 15 days R.. under Art 186 (4) F.R. & I.

Lieut M.S. PATTERSON (CWAC)

SEC "C" ATT'D OFFICERS

NIL

SEC "B" OTHER RANKS

44. ATTACHMENTS

(a) Att to No. 10 Adm Unit for R & Q 13 Feb 45.

W-7585 BDR GRAHDALL, C.D.

(b) The u/n att to No. 1 C.W.A.C. (A) T.C. F.A.P. Except Pay (Attending 5th CWAC NCO Course 9 Feb 45.
Ceases to be att to No. 10 Adm Unit (CWAC) for Adm and Disc 9 Feb 45.

W-22221 GNR (L/BDR) ROUND, M.J.

SEC "D" ATT'D OTHER RANKS

NIL

V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.

H.Q. 21 A.A. Regt., R.C.A.

SEC "A" OFFICERS

NIL

SEC "C" ATT'D OFFICERS

45. ATTACHMENTS

(a) The u/n officer of A-23 T.C. ceases to be att to 14th A.A. Bty., R.C.A. F.A.P. 17 Feb 45 (Returning to Unit)

Lieut F.R. PATRICK

(b) The u/n officer of A-23 T.C. ceases to be att to 18th A.A. Bty. R.C.A. F.A.P. 17 Feb 45 (Returning to Unit)

Lieut D.C. MESSEROLL

(c) The u/n of A-23 T.C. cease to be att to 19th A.A. Bty., R.C.A. F.A.P. 17 Feb 45. (Returning to Unit/

Lieut E.A. FISHER

ATTACHMENTS (cont'd)

(d) The u/n Officer of No. 1 C.R.L.E. is att to H.Q. 21 A.A. Regt., R.C.A. for Rations 10 Feb 45.

Lieut E.C. BRITTON

(e) Ceases to be att to H.Q. 21 A.A. Regt., R.C.A. for R & Q 2 Feb 45.

Lieut C.W. FOWLIE

(No. 6 ES&W Coy)

SEC "B" OTHER RANKS

46. ABSENCE WITHOUT LEAVE

(a) Rct from A.W.L. at 2359 hours 13 Feb 45.

B-622806 GNR (U/A/BDR) KUITTENEN, R.E.
B-622866 GNR PASQUANTONIO, R.

(b) Rct from A.W.L. at 2359 hours 13 Feb 45.

B-623641 GNR HOMSY, M.J. (1st Bty)
G-602372 GNR SLOAN, J.D.H. (4th Bty)

(c) CANCELLATION

Para 43 (f) of D.O. No. 39 d/14 Feb 45 insofar as it concerns the u/n is cancelled in its entirety. Taken on rations strength 13 Feb 45.

L-609900 GNR ZORN, E.F.

47. PUNISHMENTS

(a) Severely reprimanded for an offence under Sec 15 (1) A.A. A.W.L. from 2359 hours 11 Feb 45 until 2359 hours 13 Feb 45. Absent 2 days. Forf 2 days Pay under Art 149 (1)(a) F.R. & I. 16 Feb 45.

B-622806 GNR (A/U/BDR) KUITTENEN, R.E.

(b) Awarded 14 days C.B. and forf 24 days Pay for an offence under Sec 15 (1) A.A. A.W.L. from 2359 hours 9 Feb 45 until 1700 hours 15 Feb 45 Absent 5 days 17hrs 1 minForf 6 days Pay under Art 149 (1)(a) F.R. & I. Forf 24 days pay under Art 149 (2) F.R. & I. Total forf of 30 days Pay 16 Feb 45.

B-622866 GNR PASQUANTONIO, R.

(c) Awarded 14 days C.B. and forf 18 days Pay for an offence under Sec 15 (1) A.A. A.W.L. from 2359 hrs 11 Feb 45 until 2359 hours 13 Feb 45. Absent 2 days. Forf 2 days Pay under Art 149 (1)(a) F.R. & I. Forf 18 days pay under Art 149 (2) F.R. & I. Total forf of 20 days Pay. 16 Feb 45.

B-623641 GNR HOMSY, M.J.

PUNISHMENTS (cont'd)

(d) Awarded 14 days C.B. and forf 28 days Pay for an offence under Sec 15 (1)(A) A.A. A.W.L. from 2359 hours 5 Feb 45 until 2359 hours 13 Feb 45. Absent 8 days. Forf 8 days pay under Art 149 (1)(a) F.R. & I. Forf 28 days pay under Art 149 (2) F.R. & I. Total forf of 36 days Pay 16 Feb 45.

G-602372 GNR SLOAN, J.D.H. (4th Bty)

48. POSTING

The u/n of the 1st A.A. Bty., R.C.A. is Posted to the H.Q. 21 A.A. Regt., R.C.A. 16 Feb 45. (Continues to be att to H.Q. Halifax Fortress for Rations)

F-7253 GNR SAULNIER, M.A.

49. APPOINTMENT

Appointed to the rank of A/Bdr to complete Unit Establishment 16 Feb 45.

F-7253 GNR SAULNIER, M.A.

SEC "D" ATT'D OTHER RANKS

NIL

(C.S. SMITH) Capt & Adj.,
21 A.A. Regiment, R.C.A.
Halifax, N.S.

/AS

CERTIFIED TRUE COPY

(C.S. SMITH) Captain,
Adjutant, 21st A.A. Regt., R.C.A.

Page 2
Para 6 (B)

appendix "D"

DAILY ORDER PART II

BY

LT-COLONEL G.L. KENT, E.D.

COMMANDING OFFICER

21 A.A. REGIMENT, R.C.A.

Order No. 44
20 Feb, 1945
Halifax, N.S.

(Last order Issued No. 43 d/18 Feb 45)

4th A.A. Bty., R.C.A.

SEC "A" OFFICERS

NIL

SEC "C" ATT'D OFFICERS

NIL

SEC "B" OTHER RANKS

1. MARRIAGE

Married with permission to Mrs Erma Evelyn MacKENZIE, at Charlottetown, P.E.I. 8 Feb 45.

F-89734 SGT KEDDY, C.R.

2. NEXT OF KIN

Change of Next of Kin FROM:-

Mrs Rubey KEDDY (Mother)
Aylesford,
Kings, Co., N.S.

TO: Mrs Erma Evelyn KEDDY (Wife)
Irvin Street,
Imperoyal,
Dartmouth, N.S.

F-89734 SGT KEDDY, C.R.

3. APPOINTMENT

Appointed to the rank of A/L/Sgt to complete Unit Establishment 1 Feb 45.
(Continues to draw tradesmen's Rates of Pay as Clerk Group "C"

B-86693 GNR (A/BDR) GARDINER, E.L.

4. STRENGTH INCREASE

The u/n of 125 LAA Troop R.C.A. are T.O.S. 21 A.A. Regt., R.C.A. 4th A.A. Bty., R.C.A. 17 Feb 45 (Auth: JC 5-1-2-3 (DAAG) JC 7-1-11 d/5 Feb 45)

G-10315	SGT	WALKER, A.H.
B-18818	BDR	BROWNLEE, R.G.
B-126897	GNR	CAIAZZO, A.A.
G-3785	GNR	DAIGLE, P.
G-28116	GNR	FOSTER, W.C.
G-52602	GNR	FITZSIMMONS, W.W.
A-430831	GNR	ELSE, F.R.
F-96424	GNR	GAUDIN, G.J.
B-126850	GNR	GORDICH, J.
B-624249	GNR	GORRIE, A.S.
G-115546	GNR	HARE, H.
F-607063	GNR	INNIS, D.A.
B-126851	GNR	KENYERES, S.

5. ATTACHMENTS

(a) Twenty-Five (25) Other Ranks att to H.Q. 21 A.A. Regt., R.C.A. (Citadel Hill) for R & Q from 17 Feb 45 to 18 Feb 45.

(b) Att to A-23 T.C. F.A.P. Except Pay (Attending L.A.A. Fire Control Course 17 Feb 45.

G-12083 GNR (A/BDR) WARD, L.N.
F-32369 GNR (A/BDR) McEACHERN, J.E.
A-603560 GNR (L/BDR) EDWARDS, J.T.G.

(c) Att to 146th A.A. Bty., R.C.A. for Rations 10 Feb 45.

D-637778 GNR DILALLA, P.

(d) Att to H.Q. 21 A.A. Regt., R.C.A. (Citadel Hill) for R & Q (Guard Room) 18 Feb 45.

B-624277 GNR (A/BDR) BIFFIS, A.T.
L-609830 GNR (L/BDR) McGOWAN, T.W.

6. ABSENCE WITHOUT LEAVE

(a) Ret from A.W.L. at 0030 hours 17 Feb 45.

B-624277 GNR (A/BDR) BIFFIS, A.T.

(b) Ret fro A.W.L. at 0850 hours 17 Feb 45.

L-609830 GNR (L/BDR) McGOWAN, T.W.

(c) Ceases to be A.W.L. on being apprehended at Liverpool, N.S. at 1620 hours 15 Feb 45.

F-601465 GNR (L/BDR) FRELICK, W.V.

SEC "D" ATT'D OTHER RANKS

NIL

V.V.V.

SEC "D" ATT'D OTHER RANKS

NIL

V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V

18th A.A. Bty., R.C.A.

SEC "A" OFFICERS

11. ATTACHMENTS

(a) Att to A-23 T.C. for R & Q H.A.A. Trg and Fire Practice) 17 Feb 45

Lieut H.V. LARUSSON

(b) Att to A-23 T.C. for R & Q (H.A.A. Trg and Fire Practice) 18 Feb 45

Capt W.D.L. JAKEMAN
Lieut T.H. MATTHEWS

(c) Ceases to be att to A-23 T.C. F.A.P. (Completion of Course) Except Pay 17 Feb 45.

Lieut W.W. GRANNARY

12. LEAVE AND FURLOUGH

Granted 96 hours leave under CARO 4688 from 18 Feb 45 to 21 Feb 45. Granted 4 days R.A. under Art 196 (4) F.R. & I.

Lieut PL GROFF

SEC "C" ATT'D OFFICERS

NIL

SEC "B" OTHER RANKS

13. LEAVE AND FURLOUGH

(a) Granted 96 hours leave under CARO 4688 from 18 Feb 45 to 21 Feb 45 . Granted 4 days R.A. under Art 196 (4) F.R. & I.

H-605618 GNR (A/BDR) KUUSISTO, C.J.

(b) Granted 96 hours leave under CARO 4688 from 17 Feb 45 to 20 Feb 45. Granted 4 days R.A. under Art 196 (4) F.R. & I.

B-612440 PTE WEST, T.K. (RCASC)

14. STRENGTH INCREASE

(a) The u/n of No. 6 District Depot are T.O.S. 21 A.A. Regt., R.C.A. 18th A.A. Bty., R.C.A. 17 Feb 45. (Auth: H. 110-360-14 (A5) d/14 Feb 45)

M-46513 GNR GIOVINASSO, J.
G-607078 GNR MANUAL, B.
F-56963 GNR COLFORD, R.A.

(b) AMENDMENT

Para 5 (a) of D.O. No. 41 d/16 Feb 45 insofar as it concerns the u/n is amd to read:

F-56214 GNR RUSSELL, N.G.

15. ABSENCE WITHOUT LEAVE

(a) A.W.L. from 0830 hours 17 Feb 45.

F-34773 GNR MITCHELL, M.

(b) Ret from A.W.L. at 0700 hours 17 Feb 45.

F-61X4654 GNR KOSOWICZ, W.

(c) Ret from A.W.L. at 2230 hours 17 Feb 45.

H-615850 GNR OLENIK, J.

(d) A.W.L. from 0700 hours 11 Feb 45 and are still so absent (8 days Posting) 19 Feb 45.

B-631850 GNR MOUSSEAU, F.E.
H-615012 GNR SAWCHUK, M.
H-617219 GNR MOROZ, N.
H-615003 GNR MOREAU, O.
H-613681 GNR COUTURE, A.F.
H-614863 GNR COOK, W.
H-615567 GNR AMETER, R.
B-634813 GNR MANGOFF, G.
B-634812 GNR DEPROFIO, N.M.
F-10572 GNR CHASE, M.H.

16. ATTACHMENTS

(a) Twenty-Five (25) other Ranks att to H.Q. 21 A.A. Regt., R.C.A. (Citadel Hill) for R & Q from 17 Feb 45 to 18 Feb 45.

(b) Thirty-five (35) other Ranks att to A-23 T.C. for R & Q 18 Feb 45.

(c) 11 Eleven Other Ranks att to A-23 T.C. for R & Q 17 Feb 45.

17. REVERSION CANCELLATION

Para 18 of D.O. No. 198 d/13 Sep 44 insofar as it concerns the u/n is cancelled in its entirety and the following substituted:

Relinquishes the Appointment of Lance Sergeant 12 Sep 44.

F-12240 BDR (L/SGT) FRASER, H.M.

18. INCREASED RATES OF PAY

CANCELLATION

Para 10 of D.O. No. 198 d/13 Sep 44 insofar as it concerns the u/n is cancelled in its entirety.

F-12240 BDR (L/SGT) FRASER, H.M.

19. STRENGTH DECREASE AMENDMENT

Para 16 (a) of D.O. No. 199 d/14 Sep 44 insofar as it concerns the u/n is am'd to read:

F-12240 BDR FRASER, H.M.

SEC "D" ATT'D OTHER RANKS

ATTACHMENTS

20. The u/n of No. 1 C.R.L.E. is att to 18th A.A. Bty., R.C.A. for R & Q 23 Jan 45

A-59295 SGT (A/S/SGT) SHEFFIELD, W.J.T.

(b) Att to 18th A.A. Bty., R.C.A. for R & Q 24 Jan 45

M-60641 SGT DICKSON, J.S.

21. TRADESMEN'S RATES OF PAY AMENDMENT

Para 12 of D.O. No. 38 d/13 Feb 45 insofar as it concerns the u/n is am'd by INSERTING:

As date 9 Dec 44.

C121055 SGT WILSON, D.S.

V.V.V. .V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.

19th A.A. Bty., R.C.A.

SEC "A" OFFICERS

22. ATTACHMENTS

(a) Ceases to be att to A-23 T.C. F.A.P. Except Pay (Completion of H.A.A. Fire Control Course) 17 Feb 45.

Capt C.G. LEBLANC

ATTACHMENTS (cont'd)

(b) Cease to be att to A-23 T.C. for R & Q (H.A.A. Trg and Fire Practice) 17 Feb 45.

Lieut W.P. O'DONNELL
Lieut S.M. TRIVETT
Lieut E.G. WITHERSPOON

23. LEAVE AND FURLOUGH

Granted 96 hours leave under GARO 4688 from 16 Feb 45 to 22 Feb 45. Granted 4 days R.A. under Art 196 (4) F.R. & I.

Lieut J.H. MacKAY

SEC "C" ATT'D OFFICERS

NIL

SEC "B" OTHER RANKS

24. ATTACHMENTS

(a) Twenty-five (25) other ranks att to H.Q. 21 A.A. Regt., R.C.A. (Citadel Hill) for R & Q for period 18 Feb 45 to 19 Feb 45.

(b) Ceases to be att to A-23 T.C. for R & Q (H.A.A. Trg and Fire Practice) 17 Feb 45.

C-102206 GNR MOULTON, C.E.

(c) Forty four (44) other ranks ceases to be att to A-23 T.C. for R & Q (H.A.A. Trg and Fire Practice) 17 Feb 45.

(d) Ceases to be att to No. 5 C.R.C. Sussex, N.B. F.A.P. 16 Feb 45.

B-631522 GNR HABROS, C.J.

(e) Cease to be att to H.Q. 21 A.A. Regt., R.C.A. (citadel Hill) F.A.P. Except Pay (Fire Picquets) 18 Feb 45.

G-602174 GNR BREAU, W.
P-97455 GNR CAMERON, J.J.

(f) Att to H.Q. 21 A.A. Regt., R.C.A. (Citadel Hill) F.A.P. Except Pay (Fire Picquets) 19 Feb 45.

A-609166 GNR BUCHAR, S.
B-635077 GNR VIRGILIO, V.J.

ATTACHMENTS (cont'd)

(g) Att to H.Q. 21 A.A. Regt., R.C.A. (Citadel Hill) F.A.P. Except Pay (Guard duty) 17 Feb 45.

F-20255 GNR (L/BDR) MacNEIL, N.J.

25. ABSENCE WITHOUT LEAVE

(a) Ret from A.W.L. at 0030 hours 18 Feb 45.

H-614989 GNR HOLUB, N.

(b) Ret from A.W.L. at 1320 hours 17 Feb 45.

B-631624 GNR MASNEY, W.

(c) AMENDMENT

Para 21 (b) of D.O. No. 43 d/18 Feb 45 insofar as it concerns theu/n is am'd to read:

B-631624 GNR MASNEY, W.

26. TRADESMEN'S RATES OF PAY

Having qual is granted tradesmen's rates of pay as Artificer Group "A" to complete Unit Establishment 7 Feb 45.

F-77295 GNR SCHURMAN, H.N.

27. LEAVE AND FURLOUGH

(a) Granted 14 days furlough and 8 days travelling time under C.R.O 4688 from 18 Feb 45 to 11 Mar 45. Granted 22 days R.A. under Art 196 (4) F.R. & I. Issued with S.T.W. No. A791334

H-615011 GNR HENDRICK, M.

(b) Granted 6 days compassionate leave under C.R.O 4688 from 18 Feb 45 to 23 Feb 45. Granted 6 days R.A. under Art 196 (4) F.R. & I.

B-628936 GNR GROVER, K.

28. STRENGTH DECREASE

S.O.S. to No. 5 C.R.C. Sussex, N.B. 16 Feb 45.

B-631522 GNR HABROS, C.J.

29. HOSPITAL

Disc from Debert Military Hospital 17 Feb 45.

B-126273 GNR (A/BDR) DEADMAN, J.S.

30. QUALIFICATION

The u/n having qual as Canadian Army Projectionists is granted licence as shown:

C-103128 GNR (L/BDR) POTVIN, R.J. # 1663

31. PUNISHMENT CANCELLATION

Para 26 (c) of D.O. No. 42 d/17 Feb 45 insofar as it concerns the u/n is cancelled in its entirety and the following substituted:

Para 25 (b) of D.O. No. 39 d/14 Feb 45 insofar as it concerns the u/n is amd as follows:

FOR: Absent 1 day 10 hours

READ: Absent 1 day 10 hours 1 min.

B-528527 GNR ARSENEAULT, E.
B-628510 GNR MAXWELL, B.

SEC "D" ATT'D OTHER RANKS

32. LEAVE AND FURLOUGH

The u/n of No. 1 C.R.L.E. att F.A.P. Except Duty and Pay is granted 96 hours leave under CARO 4688 from 18 Feb 45 to 21 Feb 45. Granted 4 days R.A. under Art 196 (4) F.R. & I.

C-121851 GNR (A/SGT) SPENCE, R.P.

V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.

1st A.A. Bty., R.C.A.

SEC "A" OFFICERS

33. LEAVE AND FURLOUGH

Granted 96 hours leave under CARO 4688 from 16 Feb 45 to 19 Feb 45. Granted 4 days R.A. under Art 196 (4) F.R. & I.

Lieut W.G.S. KNOWLES

34. ATTACHMENTS

Ceases to be att to A-23 T.C. F.A.P. Except Pay (Completion of F.C. C course) 17 Feb 45.

Lieut R.P. RAMSEY

SEC "C" ATT'D OFFICERS

NIL

SEC "D" OTHER RANKS

35. ATTACHMENTS

(a) Ceases to be att to H.Q. 21 A.A. Regt., R.C.A. (Citadel Hill) F.A.P. Except Pay (Fire Picquets) 18 Feb 45.

F-7216 GNR (L/BDR) HESSIE, P.S.
A-607665 GNR CARTIER, J.A.

(b) Att to H.Q. 21 A.A. Regt., R.C.A. (Citadel Hill) F.A.P. Except Pay (Fire Picquets) 19 Feb 45.

M-37973 GNR ELIUK, A.
B-623177 GNR KRITZER, S.

(c) Twenty five (25) other Ranks att to H.Q. 21 A.A. Regt., R.C.A. (For R & Q for period 17 Feb 45 to 18 Feb 45.

(d) Att to H.Q. 21 A.A. Regt., R.C.A. (Citadel Hill) F.A.P. Except Pay (Guard) 17 Feb 45.

A-604408 GNR HENNESSY, C.A.

(e) Att to H.Q. 21 A.A. Regt., R.C.A. (Citadel Hill) F.A.P. Except Pay 18 Feb 45.

F-37955 GNR GOW, D.A.

36. ABSENCE WITHOUT LEAVE

(a) Ret from A.W.L. at 1810 hours 16 Feb 45.

A-607343 GNR DAIGREAU, T.E.

(b) Ret from A.W.L. at 1015 hours 17 Feb 45.

D-641437 GNR FELDHAMMER, H.
D-642702 GNR KATONA, A.
D-642058 GNR NAGY, J.

(c) Ret from A.W.L. at 1415 hours 17 Feb 45.

B-624888 GNR (L/BDR) ZARENA, P.
B-624584 GNR BUTELLA, H.J.
H-606737 GNR ETIENNE, J.
B-624566 GNR MARINICH, J.

(d) A.W.L. from 2200 hours 9 Feb 45 are still so absent 17 Feb 45 (8 days Posting)

D-646430 GNR (A/BDR) GUILLOTTE, A.
D-641549 GNR BALDWIN, R.
C-614497 GNR CHARTRAND, H.
D-135146 GNR DESPRES, J.P.
D-610537 GNR LANZON, L.
F-610909 GNR MacLEAN, L.E.

ABSENCE WITHOUT LEAVE (cont'd)

(e) Ret from A.W.L. at 1400 hours, 18 Feb 45.

B-448955 GNR McAULEY, C.R.

(f) A.W.L. from 2200 hours 10 Feb 45 are still so absent (8 days Posting) 18 Feb 45.

H-615079 GNR	ANDRE, G.A.
H-614986 GNR	BAUER, E.
A-609051 GNR	BOTOLOTTO, D.F.
B-624461 GNR	ELLIS, S.H.
A-531354 GNR	FINAMORE, F.J.
B-622882 GNR	FITZPATRICK, P.
H-616921 GNR	GLUCK, E.F.
B-623115 GNR	HOUGHTON, J.F.
A-550999 GNR	LINDNER, W.J.
B-625792 GNR	MATTS, F.J.
B-518535 GNR	McKEOWN, V.L.
A-607244 GNR	PICKERING, W.G.
B-625320 GNR	TOMBARI, A.F.

(g) CANCELLATION

Para 32 (d) of D.O. No. 39 d/14 Feb 45 insofar as it concerns the u/n is cancelled in its entirety (Adm to No. 10 S.F.T.S. Dauphin Manitoba, (sick) 13 Feb 45.)

H-614202 GNR EWUSIAK, A.

37. STRENGTH INCREASE

(a) The u/n of A-23 T.C. is T.O.S. 21 A.A. Regt., RCA 1st A.A. Bty., R.C.A. 17 Feb 45. (Auth H. 110-257-14 (A2) d/10 Feb 45)

F-20264 SGT BOUTILIER, C.L.

(b) The u/n of No. 6 District Depot are T.O.S. 21 A.A. Regt., R.C.A. 1st A.A. Bty., R.C.A. 15 Feb 45. (Auth H. 110-360-14 (A5) d/12 Feb 45)

F-44580 GNR	ATWELL, C.E.
F-60471 GNR	STEWART, I.G.
F-33448 GNR	TOBIN, S.T.
F-13328 GNR	NOLAN, A.J.
F-8375 GNR	CAMPBELL, H.
C-427562 GNR	SECOURS, O.
F-31472 GNR	McCORMACK, E.F.
F-79383 GNR	WILLIAMS, W.L.

(c)- The u/n of No. 6 District Depot is T.O.S. 21 A.A. Regt., R.C.A. 1st A.A. Bty., R.C.A. 15 Feb 45. (Auth H. 11--360-14 (A5) d/14 Feb 45)

F-11643 GNR SAYER, J.

38. PUNISHMENT

Awarded 14 days C.B. and forf 8 days Pay for an offence under Sec 15 (1) A.A. A .W.L. from 2200 hours 15 Feb 45 until 1040 hours 16 Feb 45. Total a based of 12 hours 40 mins. Forf 1days pay under Art 149 (1)(a) F.R. & I. Forf 3 days Pay under Art 149 (2) F.R. & I. Total forf of 4 days Pay 17 Feb 45.

D-118958 GNR DOBBS, H.

SEC "D" ATT'D OTHER RANKS

39. TRADESMEN'S RATES OF PAY

Having qual is granted tradesmen's rates of Pay as Electrician Radar Group "A" (Upgraded) No. 1 CRLE D.O. No. 6 d/23 Jan45) 1 Jan 45.

B-132404 SGT LALONDE, D.I.V.

V.V.V.

42. ATTACHMENTS

(a) Att to A-23 T.C. F.A.P. Except Pay 18 Feb 45.
Attending L.A.A. Fire Control Course)

G-10247 BDR DREHAUT, C.W.
L-25339 BDR WENHARDT, W.A.

(b) Att to H.Q. 21 A.A. Regt., R.C.A. (Citadel Hill) 17 Feb 45.
for R & Q

P-5253 GNR GAUTREAU, W.J.
G-12275 GNR LONG, W.E.
M-7977 GNR NORMAN, R.M.
G-10141 GNR SHERWOOD, A.E.
G-27351 GNR SURETTE, E.R.

(c) Att to No. 6 Voc Trg School for R & Q 17 Feb 45.

G-600755 GNR MI LS, P.E.

(d) Ceases to be att to No. 6 V.T.S. for R & Q 17 Feb 45
Att to H.Q. 21 A.A. Regt., R.C.A. (Citadel Hill) 18 Feb 45.
for R & Q

K-40598 GNR FELTON, D.R.

(e) Cease to be att to H.Q. 21 A.A. Regt., R.C.A (Citadel Hill) for R & Q 17 Feb 45.
Att to No. 6 V.T.S. for R & Q 18 Feb 45.

D-647787 GNR (A/BDR) SCHIER, L.
A-604701 GNR GISWEIN, F.
M-37999 GNR PETERSON, F.L.
H-615004 GNR STOLAR, N.

43. MARRIAGE

Married with permission to Miss Agnes DESROCHES
at Summerside, P.E.I. 31 Jan 45.

F-31126 GNR GALLANT, T.

44. NEXT OF KIN

Change of Next of Kin FROM:

Mrs Gertrude GALLANT (mother)
Duke Street,
Summerside, P.E.I.

TO: Mrs Agnes GALLANT (Wife)
Box 437
Summerside, P.E.I.

F-31126 GNR GALLANT, T.

45. STRENGTH DECREASE

S.O.S. to No. 6 Dist Coy R.C.A.S.C 19 Feb 45.
(C.A.R.O. 4774 para 2 (a)(1)

B-628527 GNR TIDMUS, R.C.

46. STRENGTH INCREASE

(a) The u/m of No. 6 District Depot is T.O.S. 21 A.A. Regt. R.C.A. 146th A.A. Bty., R.C.A. 17 Feb 45.
(Auth'H. 110-360-14 (A5) d/14 Feb 45)

F-96473 BDR MacLEAN, J.N.

(b) The u/n of 125 L.A.A. Troop R.C.A. are T.O.S. 21 A.A. Regt., RCA 146th A.A. Bty., RCA 17 Feb 45.
(Auth JC 5-1-2-3- (DAAG) JC 7-1-11 d/5 Feb 45)

A-115612SGT CRABB, H.F.
G-18713 BDR MULHERIN, A.J.
K-15519 BDR SMITH, R.W.
G-115549 GNR LAKE, D.R.
B-126153 GNR LAMBERT, C.J.
B-624012 GNR LAPOINTE, B.P.
G-12276 GNR LONG, W.E.
L-603525 GNR MILLMAN, E.R.
G-600755 GNR MILLS, P.E.
G-10141 GNR SHERWOOD, A.E.
G-27351 GNR SURETTE, E.R.
F-5253 GNR GAUTREAU, W.J.

SEC "D" ATT'D OTHER RANKS

NIL

V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.V.

H.Q. 21 A.A. Regt., R.C.A.

SEC "A" OFFICERS

NIL

SEC "C" ATT'D OFFICERS

47. ATTACHMENTS

(a) The u/n officer of H.Q. M.D. No. 6 is att to H.Q. 21 A.A. Regt., R.C.A. for R & Q 1 Feb 45.

Lieut W.V. COCKMAN

(b) The u/n officer of G.S. Branch, N.D.H.Q. is att to H.Q. 21 A.A. Regt., R.C.A. for R & Q 7 Feb 45.
(Auth H. 110-75-21-2 (A4) d/15 Feb 45)

Lieut W. JOHNSTON

SEC "B" OTHER RANKS

48. ABSENCE WITHOUT LEAVE

(a) Rot from A.W.L. at 1130 hours 18 Feb 45.
(Rationed at Citadel Hill)

H-615034 GNR STRACK, A.J.

(b) CANCELLATION

Para 43 (a) of D.O. No. 39 d/14 Feb 45 insofar as it concerns the u/n is cancelled in its entirety. Taken on ration Strength 1st A.A. Bty. R.C.A. 12 Feb 45.

L-104635 GNR FREETHY, E.E.

49. STRENGTH DECREASE

S.O.S. N.R.M.A. to General Service 16 Feb 45.

B-630669 GNR BORNSTEIN, M.J. (B154706)
(4th A.A. Bty)

50. STRENGTH INCREASE

T.O.S. on atst General Service from N.R.M.A. 17 Feb 45.

B-154706 GNR BORNSTEIN, M.J. (B630669)
(4th A.A. Bty)

51. TRADESMEN'S RATES OF PAY

Having qual is granted tradesmen's rates of Pay as Driver Mechanic Group "C" to complete Unit Establishment 17 Feb 45.

L-104164 GNR HAROLDSON, L.C.

SEC "D" ATT'D OTHER RANKS

52. ATTACHMENTS

Ceases to be att to H.Q. 21 A.A. Regt., R.C.A. for Rations 15 Jan 45.
(H.Q. Halfax Fort D.O. No. 9 d/18 Jan 45)

F-25563 GNR (U/A/SGT) SPROULE, A.E.

CERTIFIED TRUE COPY

(C.S. SMITH) Captain,
Adjutant, 21st A.A. Regt.

for H.C. Chudleigh, Lt.
(C.S. SMITH) Capt & Adj.,
21 A.A. Regiment, R.C.A.
Halifax, N.S.

/AS

MEDICAL OFFICER'S REPORT

I certify that No. L 609830 Gnr. (L/Bdr) McGOWAN T.W.

of 21 AA Regt RCA is in a Fair state of health,

and Fit to undergo Trial by Court martial.

E. Klippen Capt
Medical Officer
#6 Coy R.C.A.M.C.

Station Halifax, N.S.

Date 8 Mar 45

M. F. B. 246

MM—5-43 (254)
H Q 1772-33-(1)

H.Q.C.55-M-1601 (JAG/D-9)
Your H.Mc-2600 (JAG)

March 20th, 1945.

The District Officer Commanding,
Military District No. 6, Halifax, N.S.

Standing Court-Martial
L.609830 Gnr. (L/Bdr) T. W. McGowan,
4th A.A.Bty., 21st A.A.Regt., R.C.A., C.A.

Receipt is acknowledged of the proceedings of the marginally-noted Standing Court-Martial which were forwarded by the President named therein.

2. It is noted that the accused surrendered on 17th February 1945 and that the Charge Sheet was signed on 4th March 1945, a delay of 15 days. May an explanation be received, please.

3. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(E.J.Orde), Brigadier,
Judge Advocate-General.

LYV/MM

THIS COPY FOR: H.QC.55-M-1601
M.D.H.MC-2600

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. H.609830 Name McGOWAN, Thomas William

Rank Gnr (L/Bdr) Unit 4th A.A. Bty 21st A.A. Regt R.C.A. CA

Charge A.A. 15 (1) - A.W.L.

Date of Crime 11-2-45

Date of Arrest 17-2-45 Charge Signed 4-3-45

Orders for D.C.M.

Place and Date of Trial R.A. Park Halifax N.S. 8-3-45

Sentence Det 30 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36800

Date 19-3-45

MEMO

M.D. 6 - 4th AA Bty 21st AA Regt RCA CA

Absent	Sentence
7 days	Det. 30 days

for Judge Advocate General

IGM-1-45(M-4629)

In reply please quote H.Mo-2600 (JAG).

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

CONFIDENTIAL

Headquarters M. D. No. 6,
Halifax, N.S., 12th March 1945.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C.55-M-1601

STANDING COURT-MARTIAL:

L-609830 Gnr.(L/Bdr)T.W.McGOWAN
4th A.A.Bty., 21st A.A.Regt., R.C.A., C.A.

1. Proceedings of the m/n Court are forwarded herewith for the consideration of the Judge Advocate General, in accordance with R. O. 4566.

36200

(R.F.BARNES) Major
President Standing Courts-Martial
M. D. No. 6.

RFB/JBR:
Incl.

H.Q.C. 55-1-1602

CONFIDENTIAL

M.F.R. 35B
(5M—1-45 (3426)
H.Q. 761-1-45

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MOORE, EDWIN CECIL C-442066 PTE.

CONFIDENTIAL
H.Q.C. 55-1-1602

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
MAR 21 1945				G.	NEW FILE	C.R.	MAR 15 1945
				PAG	With Papers C.R. MAR 30 1945		
APR 4 1945				JCM	To note, etc.	MM	2-4-45
APR 5 1945					PER B.F. APR 16 1945		
APR 17 1945				JCM	With Papers C.R. APR 18 1945		
JUL 6 - 1945				JCM	PER B.F. JUL 5 1945		
				JAG	With Papers C.R. OCT 12 1945		
OCT 15 1945				CMBR	To note	C.J.	16.10.45
OCT 16 1945	17/10/45	R.C.		JCM	To note & PA	Cso	16/10/45
OCT 17 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-M-1608
(JAG/D-5)

13th October 19 5

District Officer Commanding,
Military District No. 3,
Kingston, Ontario.

Standing Court Martial
C-442066, Pte. E.C.Moore.

Receipt is acknowledged of your K.55-M-2801(JAG) dated 11th October 1945, under cover of which you forwarded to this office for custody M.F.M. 288 and form of Remission of the m/n Standing Court Martial.

E.L.M.

LOC:EJ

for (R.J.Orde) Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE
No. K.55-M-2801(JAG)

HG

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CANADA

KINGSTON, Ontario, 11 Oct 1945

2496
OCT 12 1945
Chgd. to
Referred to

55-M-1602

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Remission of Sentence
C.442066 Pte. Edwin Cecil MOORE,
No. 3 District Depot, C.A.

Herewith enclosed Remission of Sentence in respect of the m/n, together with M.F.M.588 duly signed by the District Officer Commanding.

for. H. C. Finch Capt.
(F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

N.D. 23
3000M—10-44 (5769)
H.Q. 1-72-191-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION
OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No.

District File No. K.55-M-2801(JAG)

PART I

No. C.442066 Rank Pte. Name Edwin Cecil MOORE,

Unit No. 3 District Depot, C.A.

PART II

Date of Trial: 12 March, 1945 (Standing Court-Martial)

Charge(s): A.A. SEC. 12(1)(a)

Sentence: GUILTY OF ABSENCE WITHOUT LEAVE DETENTION 1 YEAR STOPPAGES $3.24

Date of Sentence: 12 March, 1945.

~~Commutation or Mitigation:~~

~~Nil~~

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence of the marginally named soldier after the 27th day of September, 1945, and direct that the accused be relieved of all consequences thereof after the said 27th day of September, 1945, and that all records be amended accordingly.

Signed at Kingston, Ontario, this 26th day of September 1945.

(F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

PART IV

PROMULGATION

Remission promulgated and extracts taken at Barriefield Ontario this 27th day of September 1945.

R.E. Bowley Lieut
(R.E. BOWLEY) Lieut.
(Officer i/c Documents)
A/Adjutant
No. 3 District Depot.

(I) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

NO. C.442066 Rank Pte Name MOORE, H.C.

Remitted the unexpired portion of his sentence after the 27 Sep 45 and to be relevied of all consequences thereof after the 27 Sep 45. All Records to be amended accordingly.
Auth: K.55-M-2801 (JAG) d/ 26 Sep 45.

Certified true Extract of Daily Orders Part II of
No. 3 District Depot, C.A.
No. C.R.941 Place Kingston Ontario

Date 27 Sep 45

R.E. Bowley Lieut
(R.E. BOWLEY) Lieut.
A/ Adjutant.
No. 3 District Depot, C.A.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of C.442066 (Number) Private (Rank) Edwin Cecil MOORE (Name in full)

No. 3-A District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to detention for 1 year- placed under stoppage of pay in the amount of $3.24 cost of return to unit.

on 12th March 1945 at Kingston, Ontario

being served at No. 63 Military Detention Barracks, Barriefield Ont. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, ~~enlistment~~ enrolment 25 years - 16 Aug 43

Medical grade or category YOB- P U I H E M S 18 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To The Adjutant-General, Ottawa, Ontario (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~not~~ committed to undergo his sentence, which I recommend should ~~not~~ be (~~xxxxxxxxxxxxxxxxxxxx~~ ~~not~~ (reviewed on 25 Jun 45 date) for reasons given in paragraph X.

Place Kingston, Ontario

Date 28th March, 1945.

(F.L. Armstrong) Brigadier, District Officer Commanding, Military District No.3.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority

M.F.M. 288
(Army Form A-2104)
1534—5-45 (45)
H.Q. 1772-30-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be posted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
APR 17 1945	B.F. for Review on 5/7/45	L Clayton Lt Col. Adjutant-General for Superior Military Authority	
27 Sep 45	Remit wef 27 Sep 45	(F.L.Armstrong) Brig. DOC MD#3	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
A.W.L. from 2200 hrs 17 Jul 44 till 1615 hrs 20 Feb 45. Cost of return to unit $3.24	17 Jul 44	12 Mar 45

R E Bowley Lt.
(R.E.BOWLEY)Lieut.,
Signature of Officer making entry
Asst/ Adjutant
No. 3-M District Depot,C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

.....
Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
24th Mar 45	The accused is of fair character, and has not completed basic training. His ability and usefulness as a soldier cannot, therefore, be assessed. RECOMMENDATION: It is understood that this soldier will receive sufficient Basic Training whilst in detention to enable him to proceed overseas. In view of his Pulhems I recommend that the sentence be reviewed at the end of 3 months, and that upon review his sentence be remitted and the soldier sent overseas after receiving embarkation leave.	F Roberts (J.F.ROBERTS)Lt.-Col. R.C.A. Officer Commanding No. 3-M District Depot,C.A.

FIRST TRIAL

Signature
(F.L.Armstrong) Brigadier, MD#3

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

RIAL

	Signature
24th	(J. ROBERTS) Lt.-Col. A.C.A. Officer Commanding No. 2-A District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
1945 28th March	I will review this case 25 Jun 45. (F.I. Armstrong) Brigadier, DOC	MD#3

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

HQC (ICM)

NDH55-M-1602 Ottawa, Ontario

1945

1 A CONFIDENTIAL
C.M.

District Officer Commanding,

Military District No, 3

KINGSTON, Ontario

Ref.

C 442066 Pte. MOORE, E C.

2. Enclosed herewith:-

R 55-[illegible]

(a) MFM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

6. In the event that the soldier under sentence has been transferred to another District or Command these documents will be transmitted by the recipient to the appropriate authority.

(A.E. Walford)
Major-General
Adjutant-General

FINAL

IN REPLY PLEASE QUOTE
No. K.55-1-2801(DAPM)

3

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

KINGSTON, Ontario. 14th April 1945.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

306919

APR 16 1945
C55-M-1602
Dig.
Referred to K.M.

O.442066 Pte. R.C. MOORE.

Reference your H.Q.C. 55-M-1602(ICM) dated 9th April 1945.

2. Attached please find "Report on Conduct" for the m/n soldier as requested in the above noted letter.

Major,
for (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

I.C.M. - A.

7

Department of National Defence,
H. Q. C. 55 - M-1602,(ICM)
OTTAWA, 9 APR 1945

Your File - K.55-M-2801

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.
C442066 Pte. E.C. MOORE,

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in No. 63 Barriefield, Military Detention Barrack, under your command, a sentence of 1 year's detention awarded by a Standing, Court-Martial on the 12 day of MAR 1945

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC:WS.

5M-2-45(M-4516)

H.Q.C.55-M-1602 (JAG/D-3)

April 3, 1945.

District Officer Commanding,
Military District No.3,
Kingston, Ont.

Standing Court-Martial
C.442066 Pte. Edwin Cecil MOORE
No. 3A District Depot, C.A.

Receipt is acknowledged of your K.55-M-2801 (JAG) dated March 29, 194 5. under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial. together with M.F.M.288.

E.L.M.
Capt

for (R.J.Orde) Brigadier,
Judge Advocate-General.

HLS/ET

Noted
L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 4 1945

2M-1-44 (M-3431)

I.C.M. - L3 [illegible]

REVIEW OF SENTENCE

DATE APR 4 - 1945

H.Q.C. File: 55-17-1602

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES A.W.L from 17 July 44, till arrested 20 Feb. 45 7 mos.

8. PREVIOUS CONDUCT ~~ENLISTED~~ ENROLLED 16 Aug. 43 AGE 26

Soldiers record

21-8-43 A.W.L 1 day 17h. 3 days CB. on 23-8-43

10-7-44 A.W.L 1 day 29 min. admonished on 12-7-44

20-4-44 A.W.L 15 days 7h. 8 days Pay on 6-5-44

9. STATEMENT OF ACCUSED Got married few weeks applied for more refused. Needed at home so stayed.

10. RECOMMENDATION

HG

IN REPLY PLEASE QUOTE
No. K.55-M-2801 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

KINGSTON, Ontario, March 29 1945.

303190

COMP SEC.
MAR 30 1945
Jgt

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
C.442066 Pte. Edwin Cecil MOORE,
No. 3A District Depot, C.A.

Herewith proceedings of the Standing Court-Martial held for the trial of the marginally named soldier, together with M.F.M.286 duly completed.

2. No further administrative action is considered necessary.

(F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

N.D. 23
3 M.d.—11-43 (2979)
H.Q. 1772-161-23

MEDICAL OFFICER'S REPORT

J. R. Rowley, Major
President, Standing Court-Martial

I certify that No. C.442066 Pte Edwin Cecil MOORE
of 3-A District Depot is in a fit state of health,
and able to undergo Trial by Court martial.

Capt. RCAMC
Medical Officer
No. 3-A District Depot, C.A.

Station Kingston Ontario

Date 24th February 1945

M. F. B. 246
50M—5-43 (384)
H Q. 1772-99-440

MEDICAL OFFICER'S REPORT

F. Crowdy Major
President, Standing Court Martial

I certify that No. C.442066 Pte. MOORE, E.C.

of 3-A District Depot is in a fit state of health,

and able to undergo Trial by Court martial.

R C Cody Capt. RCAMC
Medical Officer
No. 3-A District Depot, C.A.

Station Kingston Ontario

Date 7th March 1945

M. F. B. 246
AGM—5-43 (264)
H.Q. 1772-58-666

MEDICAL OFFICER'S REPORT

J. Brooley Major
President, Standing Court Martial

I certify that No. C.442066 Pte. MOORE, E.C.

of 3-A District Depot is in a fit state of health,

and able to undergo Trial by Court martial.

Capt., RCAMC
Medical Officer
No. 3-A District Depot, C.A.

Station Kingston Ontario

R K Dickson Capt
RCAMC
Medical Officer
No. 3-A District Depot, A.F.

Date 12th March 1945

M. F. B. 246
50M—5-45 (2341)
H.Q. 1772-20-180

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Fort Frontenac, Kingston, Ontario,

on the 24th day of February, 1945, at 1000 hours,

for the trial of: C.442066 Private Edwin Cecil MOORE,
Number Rank Full Name

No. 3A District Depot, C.A.,
Unit Attachment, if any

PRESIDENT: Major J.E. Dowsley, E.D., Headquarters M.D. No. 3, C.A.

PROSECUTOR: Captain J. Goodman, Headquarters M.D. No. 3, C.A.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ DEFENDING OFFICER: Major F.J. Goodhouse, No. 3A District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING:

Not Guilty of desertion,
but Guilty of absence without leave.

SENTENCE: To undergo detention for one year, and to be put under stoppages of pay until he has made good the sum of $3.24 in respect of the cost of apprehension and return to his unit.

Extracts entered as No. 36199 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 19th day of March 1945
HKS

Signed at KINGSTON, Ontario, this 12th day of March, 1945.

J.E. Dowsley, Major
President,
Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter?~~

Answer:

Question to the accused. Do you object to C.28866 S.M.(WO.I) Lloyd Stringer, CMSC., CA, as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: Remanded for Standing Court-Martial, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not Guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

~~(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B2"

6-A-204

CHARGE SHEET

G. Bowsley, Major
President, Standing Court-Martial

The accused No. C.442066 Private Edwin Cecil MOORE, No.3-A District Depot, C.A., an N.R.M.A., soldier of the Canadian Army placed on active service is charged with:

CHARGE
SEC. 12 (1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE,
DESERTING HIS MAJESTY'S SERVICE

in that he

at Kingston, Ontario, on the 17th day of July 1944, absented himself from No.3-A District Depot, C.A., at 2200 hours on the said 17th day of July 1944, and remained so absent until apprehended by the military authorities at Verona, Ontario, at 1615 hours on the 20th day of February 1945, dressed in civilian clothes. Cost of return to unit $3.42.

KINGSTON, Ontario,
22nd February 1945.

J. Roberts
(J.ROBERTS)Lt.-Col., R.C.A.,
Officer Commanding,
No.3-A District Depot, (CA).

Precis of Evidence

The following evidence is available to prove the above charge.

DOCUMENTARY:

M.F.B. 375
M.F.M. 216
M.F.B. 1481

Notification of Trial

The above accused will be presented for Standing Court-Martial at Fort Frontenac, Kingston, Ontario, at 1000 hours on the 24th of February 1945.

May Capt. J. Goodman be nominated as prosecutor, please.

KINGSTON, Ontario,
24-February-45.

J. Roberts
(J.ROBERTS)Lt.-Col., R.C.A.,
Officer Commanding,
No.3-A District Depot, (CA).

C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. Yes, sir.

(For Minute of Adjournment and Reassembly, see document marked "G")

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

~~The Prosecutor proceeds to call witnesses.~~

First Witness for prosecution. ~~being duly sworn, is examined by the Prosecutor.~~

Question

The Prosecutor, in support of the charge, produces the following documents,-

M.F.B.375.

(M.F.B.375 is read, marked EXHIBIT "H", signed by the President and attached to the proceedings)

M.F.M.216.

(M.F.M.216 is read, marked EXHIBIT "I", signed by the President and attached to the proceedings)

M.F.B.1481.

(M.F.B.1481 is read, marked EXHIBIT "J", signed by the President and attached to the proceedings)

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I apply to give evidence myself as a witness, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

FIRST WITNESS FOR THE DEFENCE) The Accused, C.442066 Private Edwin Cecil MOORE, No. 3A District Depot, C.A., being duly sworn, is examined by the Defending Officer,-

Q. Pte Moore, I understand that you were granted farm leave?

Yes, sir.

Q. Can you tell the Court how much farm leave you were granted since you have been in the Army?

Yes, sir. I was called up in the fall of 1940 and done thirty days' training in Brockville. Then I come home and then 1941 in August or September I got another call and a farm form to fill out and I got six months leave, and it stated in that when the six months' leave was up to apply before the time had expired if I wanted further extension, which I did. After a while I got called up again. The Provost came out and picked me up and brought me in. I was in custody eight days. They thought they had a charge against me from Peterborough. One of their fellows came down and asked me if I had trained in Peterborough and I told him I had never been there in civilian life or anything, but I was still in the Army.

Q. You say you have never been there in civilian life. Have you been there in Army life?

No, sir, I have never been there. I went to Cornwall and was there for two months, although I didn't train two months, and I got farm leave another six months from there and then after that I think I got two months' leave.

Q. How long were you back in the Army after the six months' leave?

I came and was here about a week and still in civilian clothes. We just hung around over here until our papers came and were sent back home.

Q. Did you get farm leave?

Yes, sir, two months' leave.

Q. During that two months' leave that you had, on what farm did you work?

Scales.

Q. It was Scales who applied for farm leave?

Yes, sir.

Q. He had applied for former leaves as well?

Yes.

Q. While on this two months' farm leave on Scales farm, what happened?

My brother was called into the Army and I was the last one at home. My mother took sick and had no way of getting to the doctor so I went home to help do the work and take her to the doctor. My dad isn't very well. Rheumatism; too much work and they needed help. I was the last boy, only one left.

Q. When you went home did you know you were doing wrong?

Yes, sir, but there was a friend of ours, a neighbour there who went all through last war and he said in a case like that, mother sick, no way of getting out, as long as we notified the Army it was all right. My mother wrote, but I don't know where the letter went.

Q. Did your mother receive any information from the Army that further leave could not be granted?

I guess she did, sir.

Q. Regardless of that on the face of this friend, Mr Boyce ...

Crosby.

Q. Crosby, you remained at home?

Yes I did, sir.

Q. You claim your mother did write and tell the Army you were home?

Yes, and her health and her circumstances.

Q. While you were at home on this farm did you go out anywhere else and work on another farm?

Yes, sir, I changed worked. I would go and work on another farm for two or three days and he would help me back when we had something difficult.

Q. In other words you helped one another?

Yes.

Q. Did they help you on your farm too?

Yes.

Q. While doing this did you also help an aunt of yours?

Yes I did, sir.

Q. Can you tell me was it necessary to help this aunt?

I should say it was, sir.

Prosecutor: All this information is coming not from the witness, but from the Defending Officer. The Defending Officer is not under oath and I would suggest the Defending Officer get the information by rewording the questions.

DEFENDING OFFICER CONTINUES EXAMINATION

Q. While you were working on the farms, your parents', your aunt's, and as you say you interchanged with other people, did you work only on the farm or did you do something else?

Only farm work and cut wood in the winter, what we call summer wood; cut enough in winter to do the year.

Q. Do you call that farm work?

Oh yes, that is farm work.

Q. Did you at any time make an attempt to come back to the Army while on this leave?

No, sir.

Q. Were you satisfied you were doing the right thing?

I thought I was, sir. My mother couldn't do hardly anything at all. She has a leakage of the heart and also a slight rupture and there was nobody to take here to the doctor. We live eleven miles from her doctor.

Q. While working on the farm did you ever have an accident?

Yes I did, sir. Quite some time ago.

Q. Does that effect you in any way?

It does, sir; I fell out of a tree once, fourteen feet and I was knocked out for a couple of hours. My skull was fractured and also my back fractured.

Q. You wouldn't say fractured; you might say strained?

Yes, strained.

CROSS-EXAMINED BY THE PROSECUTOR

Q. On the 17th day of July were you stationed at Kingston, Ontario?

Stationed on the 17th?

Q. Yes.

Yes, sir.

Q. And was your unit No. 3A District Depot, C.A.?

I don't know, sir.

Q. You state you were on farm leave?

Yes I would be.

Q. When were you supposed to report back from your last farm leave? Was that the 17th day of July, 1944?

I don't remember just what day I was supposed to report back.

Q. Do you want the Court to assume you didn't care when you were to report back?

No, sir.

Q. Well then you should know what day you were supposed to come back to the Army? When was your leave up?

Well, sir, it was up on the 9th of July and we were over here at this building and it seemed we were going to get further leave.

Q. You returned from the two months' leave you got?

Yes.

Q. The last leave you got?

Yes.

Q. Did you come back here?

Yes, sir.

Q. At the end of the two months?

Yes, sir. We were over at this brick building over here.

Q. Didn't you tell the Defending Officer you were waiting at home?

Well I went home after that.

Q. You went home after that?

Yes.

Q. With permission?

No.

Q. You got two months' leave?

Yes, sir.

Q. That was the last leave you got?

Yes, sir.

Q.

Q. You say you reported back from the two months' leave?

Yes, sir.

Q. Yes. Now did you absent yourself on the 17th day of July, 1944, from your unit?

I wasn't in any unit I know of.

Q. Where were you?

I was here.

Q. You know this is 3A District Depot?

Yes, sir.

Q. Wasn't that your unit?

I guess it would be, sir.

Q. You know it was at Kingston, Ontario?

Yes, sir.

Q. Did you absent yourself the 17th day of July, 1944, from that unit?

Yes, sir.

Q. You did?

Yes, sir.

Q. You didn't get leave to go away did you?

No I didn't get any definite word I wasn't getting leave.

Q. Did you get leave to go away?

No, sir.

Q. Were you there at 2200 hours on the said 17th day of July, 1944? You know what 2200 hours is?

No, sir.

Q. That is ten o'clock at night. Were you there at ten o'clock at night?

I don't think I was.

Q. Were you or were you not?

I was at home.

Q. And you were away from that place, the unit, until apprehended?

I was, sir.

Q. At Verona, Ontario?

That was where I was apprehended. I was at

home and my home is at Godfrey.

Q. But you were apprehended at Verona, Ontario?

Yes, sir.

Q. How far is Godfrey from Verona?

About six miles.

Q. You were just in town I suppose?

Yes, sir.

Q. You weren't picked up at your own home?

No, sir.

Q. You were apprehended by the military authorities?

Yes, sir. There was one Mounty.

Q. But military authorities were there, the Provost Corps?

Yes, sir.

Q. At a quarter after four in the afternoon?

Yes, sir.

Q. The 20th of February, 1945?

Yes, sir.

Q. And dressed in civilian clothes?

Yes, sir. When I got farm leave before they always .....

Q. You can tell that later on. Just answer my questions. Where were you living before you came into the Army in the first place?

Godfrey.

Q. What were you doing at Cobalt, Ontario?

I was born there. I didn't live there.

Q. How long is it since you have been at Cobalt?

Seventeen or eighteen years, sir.

Q. And you have never been in Cobalt since?

No, sir, I have not.

Q. What did you do before you came into the Army?

Farmed.

Q. Always farmed?

Always farmed. I was brought up on a farm.

Q. You have already told the Defending Officer that you couldn't get any further leave?

Yes.

Q. It was applied for?

Yes.

Q. And you could not get it. Nevertheless you made up your mind you were going to stay on the farm?

I was needed on the farm.

Q. But you made up your mind you were going to stay there?

I don't know about that. I was certainly needed.

Q. You were told you weren't going to get any more leave is that right?

Yes, sir. That was on Scales farm.

Q. Did your mother apply for leave?

Yes.

Q. And she was told you couldn't get any leave?

She didn't apply for leave. She wrote in and didn't get an answer.

Q. How long ago was that?

Quite a while ago.

Q. Over a year?

No.

Q. Quite a few months ago?

After I was out I got thinking and thought I should report or do something and I asked this man about it.

Q. When did your mother write in for leave?

I don't remember just what date.

Q. While still working on Scales farm?

No, sir, I was at home.

Q. Still on leave?

No.

Q. Didn't you tell us you changed from Scales farm to your mother's without permission?

Yes.

Q. After you went home from Scales farm when did your mother write for leave?

After my other time had been up.

Q. How many months, days or weeks?

I couldn't tell you that, sir, maybe a couple of months.

Q. She waited well over the time your leave was up?

Yes that would be it.

Q. Several months elapsed before you were apprehended?

Yes, sir.

Q. After she wrote?

Yes.

Q. No reply?

No reply.

Q. You knew you weren't going to get leave after several months?

They didn't bother me.

Q. The question is, you never got a reply after several months. You knew your leave would come before them?

(no answer)

Q. Don't you want to answer the question?

Yes, sir. What was the question again?

Q. You knew you weren't going to get leave after you didn't receive a reply for several months?

Well that would be right, sir.

Q. Nevertheless you remained away from the Army?

Yes, I farmed at home.

RE-EXAMINED BY THE DEFENDING OFFICER

Q. You left Scales farm to go to your own farm?

Yes.

Q. Did you at that time come back to the Depot?

Yes.

Q. You did come back to the Depot?

Yes I came back when the time was up, but I had been home before that.

Q. You didn't fill in two months on Scales farm. In other words when you were at Scales farm you decided you were needed more at home than Scales required you?

Yes.

Q. What was the cause of that?

My mother.

Q. And was your brother in the Army then, the younger brother?

He was working for Building Products, grinding grain for feed, when he got his first call.

Q. Do you remember just about when he got his call?

I couldn't tell you, sir. He boarded home and done some work and worked there too and then was called in the Army.

Q. Was he working on the farm at the same time?

Yes.

Q. Just a part time job he was doing?

Yes.

Q. Was he working permanently in the grist mill?

Yes, steady work. He worked in the evenings and before going to work helping with the chores around the farm.

Q. He was not employed full time on the farm?

Oh no.

Q. Did you find it necessary at that time to go home when he wasn't working on the farm all the time?

Yes, mother took sick.

Q. Had your mother been sick beforethat?

She had doctored there, but took worse. She worked too hard and overdone herself.

Q. How long had your father been laid up? The reason you went on the farm your mother couldn't carry on?

Yes that is it exactly. The doctor could tell you the same thing.

Q. After you came back here after two months' leave you say you were around the Depot?

Yes.

Q. You weren't in uniform?

No, for a week I guess.

Q. Did you decide on your own to go home?

I guess I did.

Q. What possessed you to go home?

Because I was needed.

Q. You admit you did wrong?

Yes I know I did wrong.

The Prosecutor declines to cross-examine.

QUESTIONED BY THE COURT

Q. How far is Verona from your farm?

About eleven miles.

Q. Then your farm is at Godfrey?

Godfrey route. Godfrey store is six miles from Verona Store, but ours is on a country road.

Q. Where are you located, north, east or west?

North of Verona, about half way between Verona and Godfrey, you turn left and take what is called the Snyder Road.

Q. How large is the farm?

We work two farms.

Q. How large are the two farms?

One farm is about 100 acres and the other farm is about 200 acres.

Q. How much of that is cultivated?

There would be 35 to 40 acres on one and 75 on the other.

Q. That is between 110 and 120 acres?

Yes.

Q. Have you any stock on the farm?

Yes, sir.

Q. What does the stock consist of?

Nine cows on one, two horses and some other cattle and on the other seven cattle and two horses; a team on each farm.

Q. Any pigs?

Yes, two pigs; sows.

Q. When did you get possession of the other farm?

Well, last summer.

Q. You rented it last summer?

Yes.

Q. Now to get this leave straightened out; if I am wrong correct me. I understand you were first called up and you did thirty days in Brockville?

Yes, sir.

Q. Then you got six months' farm leave?

Yes, sir.

Q. You didn't get farm leave, you were automatically let out?

After Brockville I was just sent home.

Q. How long were you at home then?

From the 9th of November was when we left.

Q. That is 1941?

1940. I think it was in August or September of 1941 we were called up again and got farm leave.

Q. How long did you train when called up?

I didn't train. I filled in the farm form.

Q. You got notice to report and the leave forms at the same time?

Yes, sir.

Q. And you were granted leave for how long?

Six months at that time.

Q. That takes you to when? To the 9th of July, was that it?

Sir, I don't know just what date.

Q. You said you reported in on the 9th of July, isn't that right?

That was this last leave. The leave you were referring to was in 1941.

Q. All right you say you got six months. Then what happened?

I applied and got leave until further notice.

Q. What made you report on the 9th of July?

Well, in the meantime the Provost came out and picked me up and left me in custody for eight days. There were no charges and then let me out, but I went down to Cornwall then.

Q. They sent you down to Cornwall?

Yes.

Q. How long were you in Cornwall?

About two months, but I didn't train except for about two weeks.

Q. What happened then?

I was given six months' leave.

Q. Was the six months' leave up on the 9th of July?

No, sir, up on the 19th of April, then we came in and filled in the forms and then sent us home and then mailed us two months' leave.

Q. And that was the one that was up on ....

Yes on the 9th.

Q. Now, how far is Scales' farm from your farm?

Scales' farm is three miles from Verona.

Q. That would make it fourteen miles from your place?

Scales' farm is on a side road too. If you go around by First Lake Road to Bell Rock, that way probably would be nine miles.

Q. Mr Scales applied for farm leave for you?

Yes, sir, at that time.

Q. Were you working at Scales' farm when you took on the other farm, when the other farm was rented?

I think I was, sir. That is one reason I went home.

EXAMINED BY THE DEFENDING OFFICER THROUGH THE COURT

Q. Did you rent a farm?

No, it is my aunt's farm. My dad and I worked my aunt's farm and our own farm. She is alone and seventy years old and that is why we worked it. That is her home.

The Prosecutor declines to cross-examine.

The witness resumes his seat.

The Prosecutor declines to make a Closing Address.

The Defending Officer makes a Closing Address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. I don't think I have, sir.

Question to the accused. Do you wish to address the Court?

Answer. I have nothing more to say, sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

F.E. Donnelly, Major
President, Standing Court Martial

Defending Officer,- I request an adjournment on the ground that I have not had sufficient time to prepare the defence. The accused comes from the country and I am writing his parents to inquire about the conditions on the farm. We would require at least ten days, due to the uncertainty of mail delivery in the rural districts.

ADJOURNMENT: At 1010 hours on the 24th day of February, 1945, the Court adjourned until 1000 hours on the 7th day of March, 1945.

REASSEMBLY: On the 7th day of March, 1945, at 1000 hours, the Court is reopened.

Defending Officer: Mr President,- The Padre and I have decided to visit the home of the accused and in view of that we would require a further adjournment until next week.

ADJOURNMENT: AT 1005 hours on the 7th day of March, 1945, the Court adjourned until 1000 hours on the 12th day of March, 1945.

REASSEMBLY: On the 12th day of March, 1945, at 1000 hours, the Court is re-opened.

Exhibit "H" — 38

President, Standing

RECORD of the Declaration of a Court of Inquiry assembled at Kingston, Ontario.

on the 9th day of August 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C.442066 Private Edwin Cecil MOORE, No.3-A District Depot, CA.

DECLARATION

The Court declare that No. C.442066 (Reg'l No.) Private (Rank) Edwin Cecil MOORE, (Full Name) No.3-A District Depot, CA. (Unit) illegally absented himself without leave from No.3-A District Depot, C.A. at KINGSTON, Ont. (Place) at 2200 hours on the 17th day of July 1944 that he is still so absent, and that on the 9th August 1944. he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Clothing Division "A"			Clothing Division "2-A"		
Greatcoat Drab	1	15.54	Caps Anti-Gas	1	4.43
Clothing Division "B"			Respirator A/G Complete	1	5.54
Cap Field Service	1	.70			9.97
Boots Ankle prs.	1	5.82	Section "J"		
Shoes Canvas Prs.	1	2.29	Sheets Ground	1	2.47
Socks Prs.	1	.46			
Jackets Khaki Drill	1	3.42	TOTAL		$53.60
Jacket Serge o/c	1	10.80	Less 25%		13.40
Shirts Khaki Cotton	1	1.54	TOTAL DEFICIENCIES		$40.20.
		25.03			
Clothing Division "C"					
Neckties Black	1	.19			
Pins Collar Safety	1	.06			
Sticks Button	1	.04			
Brushes Shoe Polishing	1	.21			
Brushes Tooth	1	.09			
		.59			

R. Higginson, Lieut., (Name) No.3-A District Depot, CA. (Unit) President

Signed at KINGSTON, Ontario

(Name) (Rank) (Unit) Member

this 9th day of August 19 44

(Name) (Rank) (Unit) Member

Signature of Commanding Officer J.ROBERTS, Lt.-Col., R.C.A., No.3-A District Depot, CA.
(Name)

Certified true copy

(Name) (Rank) (Unit)

(Signature of Officer having custody of original record)

(R.O.DULIAGE) Capt.,
Adjt. No.3-A District Depot, CA.

M.F.B. 275
A.F.B. 115
190M—10-42 (8530)
H.Q. 1772-38-257

Exhibit "I" J. Gowsley, Major

President, Standing Court Martial

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY [redacted] SERVICE AUTHORITIES)

I, Capt. F. Joyce, O.C. No. 1 Det. No. 33 Coy.,
(Number) (Rank) (Name) (Unit)

hereby certify that C.442066 Pte. Moore, E.C.
(Number) (Rank) (Name in full)

of the 3-A District Depot
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ([redacted] C.433 CSM Zufelt, K.
C.4280 L/Cpl. Baker, E.
(Number) (Rank)

of No. 1 Detachment, No. 33 Coy., Canadian Provost Corps
(Name) (Unit or appointment)

at Verona, Ontario at 1615
(Place) (Hour)

on the 20th day of February 19 45

Strike out words not applicable } as a deserter ([redacted], and that at the time of his arrest he was wearing [redacted] (dressed in civilian clothes).

Dated at Kingston, Ont. this 20th day of February 19 45

(F. Joyce), Capt.,
O.C. No. 1 Det. No. 33 Coy., C.Pro.C.
(Signature, Number, Rank, Unit or appointment)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
160M—11-42 (6800)
H.Q. 1772-39-1936

Exhibit "J" J. Bousley, Maj.

President, Standing Court-Martial

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Capt. P. Joyce, O.C. No.1 Det.No.33 Coy., C.Pro.C. (Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I ~~(order~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Kingston, Ontario, (Place) to R.R. No.1 Verona, Ontario. (Place)

and return to Kingston, Ontario. (Place) for the purpose of escorting

Full description of soldier being escorted — C.442066 (Number) Pte. MOORE, E.C. (Rank) (Name in full)

3-A District Depot (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the ~~transportation required~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
No. 1 Det. No.33 Coy.,Canadian Provost Corps vehicle number 70-845 was despatched from Kingston, Ontario to Verona, Ontario to return the above mentioned to Kingston, Ontario.	
Total number of miles travelled - 54	
Total costs - 54 miles at 6 cents per mile....	$3.24
TOTAL	$ 3.24

Dated at Kingston, Ont. this 20th day of February A.D. 19 45

(P. Joyce), Capt.,

Signature, rank and attachment (if any) and appointment of officer (~~issuing transport warrant~~ authorizing transportation)

Strike out description not applicable.

O.C. No. 1 Det.No.33 Coy., C.Pro.C. Kingston, Ont.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1462.

M.F.B. 1461

Size—10-47 (1462)

N.Q. 1772-10-581

Y

J. S. Dowsley Major
President, Standing

Form 35
H.Q. 1772-89-620
10M-8-40 (M19)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C.442066	Private	Edwin Cecil MOORE, No.3-A District Depot, CA	

1. The following is a fair and true summary of the entries in the Field Service and General ~~Regimental and Squadron/Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act ~~Army Act~~ and of cases in which trial has been dispensed with.

	Within last 12 months		Since enrolment ~~enlistment~~	
For A.W.L.	2 times		A.W.L.	3 times
For	times			times
For	times			times
For	times			times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, or summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.K. 21 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for ~~ beginning on the ~~ day of ~~~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and #20 days in military custody, making a total of #20 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment form is ~~attestation paper~~ is 26 years

6. The date of his commission specified in his ~~record of service~~ enrolment form is ~~attestation paper~~ is 16 Aug 43

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ~~ service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to~~). State any ~~air force~~ military decoration or reward.

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of ~~~~

76

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....

Permanent Force

unit

, and in his regiment (or corps), the rank of

.....dated.....

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Name..... of..... Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. [illegible] 2nd Lieut. No. 3 A. Dental Det. C.E.

Signed this 24th day of February 1945

12 A.M.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. 442066 Name MOORE, E.C. Sqn., Battery, or Company

No. and date of last drunk

No.3-A District Depot
Corps Inf. (Others)NT

Date of enlistment

Period not reckoning towards freedom from extra line

Sheet No. One

G.C. Badges

Signature O.C. Company, etc. Sgd: A.W. Parker, Lt.

Tradesmen's Rates of Pay

Character

M.F.M. 6 (A.F.B.122) 750M—12-42 (7537) H.Q. 1772-39-1942

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Kingston, Ont.	21-8-43	Pte.		AWL from 2215 hrs. 21-8-43 to 2359 hrs. 22-8-43 (Absent 1 day 1 hr. and 44 mins.)	L/Bdr. Smyth, J.E.	3 days C.B.	23-8-43	Sgd: Capt. S.F. Cork	Forf. 2 dy pay FR&I
Kingston, Ont.	10-7-44	Pte.		AWL from 0001 hrs. 10-7-44 until 1730 hrs. 11-7-44 (Absent 1 day 29 mins.)	Bdr. Barton, A.E.	Admonished	12-7-44	Sgd: S.F. Cork Capt.	Forf. 2 days pay FR&I.
Kingston, Ont.	20-4-44	Pte.		AWL 0001 hrs. 20-4-44 until 0715 hrs. 5-5-44. Cost of appreh. $3.90. (Absent 15 days 7 hrs. 14 mins.)	Documentary Bdr. Burton, AE	Forf. 8 days ord. pay Cost $3.90	6-May-1944	Lt-Col. E.O. Keeler (SGD)	Forf. 16 dys pay FR&I.

Certified True Copy
(R.C. DULMAGE) Capt.,
Adj. No.3-A District Depot, CA.

(P.T.O.)

Present, Sitting Court-Martial

Z. E. Beasley, Capt.

H.Q.C.55-M-1602 (JAG/D-3)
Your File - K.55-M-2801

March 20th, 1945.

District Officer Commanding,
Military District No.3,
Kingston, Ontario.

STANDING COURT-MARTIAL

C.442066 Pte. Edwin Cecil MOORE
No. 3A District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

HLS

HLS/ET

(R.J.Orde) Brigadier,
Judge Advocate-General.

THIS COPY FOR: H.QQ.55-M-1602
M.D.A.55-M-2801

NFMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. C.442066 Name MOORE, Edwin Cecil

Rank Pte Unit No. 3 A. D.D. C.A.

Charge A.A. 18 (1) (a) - Desertion

Date of Crime 17-7-44

Date of Arrest 20-2-45 Charge Signed 22-2-45

Orders for D.C.M.

Place and Date of Trial Fort Frontenac Kingston Ont 24-2-45

Sentence D t 1 yr; stoppages $3.24

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36199

Date 19-3-45

MEMO. Balance of sentence remitted by Conf. Auth. 27-7-45 Guilty A.W.I.

M.D. 3 - No. 3A D.D.

Absent	Sentence
7 mos.	Det 1 yr

H R Stewart, Capt
for Judge Advocate General

10M-1-45(M-4626)

K.55-M-2801

DEPARTMENT OF NATIONAL DEFENCE

- A r m y -

: Confidential :

KINGSTON, Ontario, 13th March, 1945.

C.55-M-1602

The Judge Advocate-General,
Dept. of National Defence,
OTTAWA, Ontario.

STANDING COURTS-MARTIAL

C.442066 Pte Edwin Cecil MOORE,
No. 3A District Depot, C.A.

Herewith proceedings on the trial by Standing Court-Martial of the marginally named soldier.

36199

(J.E. Dowsley) Major,
President of Standing Court-Martial.

Encl.

H.Q.C. 55-1-1603 **CONFIDENTIAL**

M.F.B. 1928
(D.H.Q. 4-48 (2028)
(T.Q. 301-1-68)

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MOUN. LAURENT E-57688 PTE.

CONFIDENTIAL
H.Q.C. 55-1-1603

CENTRAL REGISTRY	DATE	P/A OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
MAR 21 1945	15/4/45	B.F.		Cancelled	NEW FILE	C.R.	MAR 15 1945
				JHG	With Papers C.R. APR 4 1945		
APR 5 1945	23/4/45			S.C.M.	To note	E.C.M.	5-4-45
APR 23 1945				Cancelled	PER B.F. APR 23 1945		
MAY 5 - 1945	5/5/45	B.F.		J.C.M.	With Papers C.R. MAY 4 1945		
				J.A.G.	With Papers C.R. JUN 6 1945		
JUN 7 1945	7/6/45			J.C.M.	To note	J.C.	7-6-45
JUN 8 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. Q. 39-M-2496 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

319721

QUEBEC, P.Q., 2 Jun 45.

CENTRAL REGISTRY ARMY
CONF. SEC.
JUN 6
File C55-M-1603
Chgd. to
Referred to JAG

THE SECRETARY,
Department of National Defence,
OTTAWA, Ontario.

REMISSION OF SENTENCE - SCM
E-57685 Pte Laurent MORIN
Les Fus. de St-Laurent CA
(Att No.5 DD CA).

1. Reference HQC 55-M-1603 (JAG).

2. A remission of sentence in the case of the m/n has been granted effective 30 May 45.

3. The form for Remission of Sentence having been duly completed is attached hereto for your information.

JAC/C.

(Edmond [illegible]) - Brigadier,
District Officer Commanding,
Military District No.5.

L. M. CLAYTON
Lieut.-Colonel
Secretary of Army Council
JUN 7 1945

NAT. DEF. B. 440

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC.55-M-1603(JAG)
District File No. 8.39-M-2496(JA)

PART I

No. E-57688 Rank Private Name Laurent MORIN,
Unit Les Fusiliers du St-Laurent CA(Att No.5 DD CA),

PART II

Date of trial 9 Mar 45.
Charges Sec. 12(1)(a)AA & Sec. 24(2)AA.
Sentence 150 days detention & stopp. for $18.10 and - $15.24.
Date of Sentence 9 Mar 45.
Confirmation - (a) Authority N.A.(SCM).
(b) Date N.A.

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E-57688 Pte Laurent MORIN, Les Fusiliers du St-Laurent, CA, (Attached to No.5 District Depot, CA) effective 30 May 1945.

Signed at QUEBEC P.Q., this 29th day of May, 1945.

Edmond Blais

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at No.-5 District Depot (CA) Lauzon Camp this 30 day of May 1945.

J.W.G. Laroche

(J.W.G. LAROCHE) Captain,
R.C.C.S. ATT No.-5 DD
Officer i/c Documents (1)

(1) Unit, attachment and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-57688 Rank Private Name Laurent MORIN
The sentence of 150 days detention
awarded by Court-Martial on the 9 Mar 1945
has been remitted
on the 30th day of May 1945 by Brigadier Edmond Blais CBE
District Officer Commanding Military District No.-5
Unit No.-5 DISTRICT DEPOT (CA)

Certified true Extract of Daily Orders Part II of
No. ~~2-27688~~ 160 I35 Place Lauzon Camp 30 may 45

M.R. Ledoux

(M.R. LEDOUX) Captain,
Gen. List att No.-5 DD
Adjutant
No.-5 District Depot (CA)

IN REPLY PLEASE QUOTE

No. Q.39-M-2496(DAPM)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

311666

QUEBEC, 3 May 1945.

CENTRAL REGISTRY Army
CONF. SEC.
MAY 4 1945
File 55-M-1603
Chgd. to
Referred to

The Secretary,
Dept. of National Defence,
OTTAWA, Ont.

E-57688, Pte. MORIN, L.

Ref your H.Q.C. 55-M-1603,(IOM) dated 23 Apr 45.

2. Please find here-attached Report on the Conduct of the m/n. soldier.

JEH/EH

Major,
for(Edmond Blais) - Brigadier,
District Officer Commanding,
Military District No. 5.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

I.C.M. - B

REPORT ON CONDUCT

Department of National Defence,
H. Q. C. 55- M-1603,(ICM)
OTTAWA, 23 APR 1945.

To:- Commandant Valcartier, Military Detention Barracks.

1. Soldier under sentence	E57688 Pte. Laureat MORIN,
2. PLEASE STATE:-	
(i) Date of sentence	9 Mar 45
(ii) Sentence	150 days
(iii) Date you received soldier	12 Mar 45
(iv) (a) Can soldier read and write?	Yes
(b) Religion	R.C.
(c) Married, Widower, Single	Single
(d) What Army trade has soldier?	None
(v) (a) Conduct of soldier	Bad (See para Vii (b))
(b) Industry of soldier	Bad
(c) Remission earned:-	
(i) Number of days actually earned	17 days
(ii) Number of days obtainable to date	17 days
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	Actuellement hospitalisé à la clinique Roy Rousseau, Quebec.
(a) Whether detention will seriously aggravate soldier's condition.	Rapport à venir.
(b) Whether further confinement is likely to prove fatal.	Yes
(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence?	Bad, hospitalized the 14 Apr 45, after having swallowed the content of a bott le of silvo
(b) Moral effect confinement has had?	
(c) If returned to Army, is soldier likely to become a good soldier?	
(viii) Date term will expire if all remission earned from now on.	16 Jun 45.

(A. E. Walford)
Major-General
Adjutant-General.

Signature (Thomas Theriault, E.D)-Capt.
Commandant.

Date of Report: 28 Apr 45.

IHC:WS.

5M-1-45(M-4515)

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1603, (ICM)
OTTAWA, 23 APR 1945.

Your File - Q.39-M-2496

District Officer Commanding,
Military District No. 5,
QUEBEC, P.Q.

E57686 Pte. Laureat MORIN.

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in Valcartier, Military Detention Barrack, under your command, a sentence of 150 days' detention awarded by a Standing, Court-Martial on the 9 day of MAR 1945.

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC:WS.

5M-2-45(M-4516)

H.Q.C.55-M-1603(JAG/D)

5th April 1945.

District Officer Commanding,
Military District No.5,
QUEBEC, P.Q.

.....~~Standing~~.....Court-Martial

E-57688, Pte. Laureat MORIN,
Les Fus. du St-Laurent, C.A.
(Att. No.5 D.D., C.A.)

Receipt is acknowledged of your Q.39-M-2496(JA) dated 2nd April 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial., together with M.F.M. 288.

E.L.M.
Capt.

for (R.J. Orde), Brigadier,
Judge Advocate-General.

WBB:ELM

Noted
L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 6 1945

I.C.M. - L 4010

2M-1-44 (M-3431)

REVIEW OF SENTENCE

DATE APR 6 - 1945

H.Q.C. File: 55-M-1603

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE M.D.

3. AT PRESENT ON STRENGTH OF DATE

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE

6. BEING SERVED AT

7. OFFENCES A.W.L from 13 Dec. 43. till arrested 22 Feb. 45 14½ mo.

ENLISTED ~~ENROLLED~~ 3 ~~March 44~~ AGE 22

8. PREVIOUS CONDUCT

6-4-42	A.W.L.	135 Pa.	A P DOCUM. P
18-6-42	A.W.L.	12 days	
14-7-42	A.W.L.	4 days Pa.	

9. STATEMENT OF ACCUSED Stayed home because mother sick. 10 Children.

10. RECOMMENDATION

IN REPLY PLEASE QUOTE No. Q. 39-M-2496 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

304367

QUEBEC, P.Q., 2nd April, 1945.

THE SECRETARY,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
COMMAND
APR 4 1945
File 55-M-1603
Chgd. to
Referred to JAG

STANDING COURT-MARTIAL
E-57888, Pte. Laureat MORIN,
Les Fus. du St-Laurent, CA,
(Att. No.5 D.D., CA).

1. Reference your HQC. 55-M-1603 (JAG/D-9) dated 20th March, 1945.

2. The remarks contained in paras. 2, 3, and 4, of your above mentioned letter have been duly noted and brought to the attention of the officers concerned.

3. The proceedings of the marginally noted Standing Court-Martial are returned herewith together with M.F.M.288 duly completed.

Noted
4/4/45 for JAG

JAC/ C.

(Edmond BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

NAT. DEF. B. 440

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-57688 (Number) P te (Rank) MORIN LAUREAT (Name in full)

Fusillers du St Laurent (Unit) D.D.5 (Attachment (if any))

Sentenced to 150 days de detention ~~xxx~~ et un suppression de solde$33.3

on 26 March 45 at D.D.5 Lauzon

being served at Military Detention Barracks Valcartier (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 23 and 18 February 1942

Medical grade or category A

FIRST TRIAL—PART II

To The Adjutant-General, (Superior Military Authority)

For details of offence see Part VII.

I have directed that the above-named be ~~not~~ committed to undergo his sentence, which I recommend should (~~not~~) be ~~suspended (put into execution)~~ (reviewed on 26th June,1945, (date) for reasons given in paragraph X.

Place QUEBEC, P.Q.,

Date 2nd April, 1945,

(Edmond BLAIS) - Brigadier, D.O.C., MD No.5. (Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 288
(Army Form A-2108)
2M—8-43 (1866)
H.Q. 1777-20-2213

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

.....
Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
MAY 5 1945	No Suspension or Remission No further Review	Adjutant-General for Superior Military Authority	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Art. 12 (1)(a). D'avoir en activite de service deserte le service de Sa Majeste, en ce que a Lauzon, P.Q. a 0630 hrs le 13 dec 43, il s'est absente sans permission jusqu'a ce qu'il soit apprehende a 0315 heures le 22 fev 45, en tenue civile, les frais de son apprehension et de son retour a l'Unite etant de $34.10 Signature of Officer making entry	13 Dec 43	9 Mar 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Art. 24 (2). D'avoir perdu par negligence ses effets d'habillement d'equipement et autres effets regimentaires, en ce que le 14 dec 43, il etait en deficit des articles suivants au montant de $90.44 Signature of Officer making entry	14 dec 43	9 Mars 45

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
28 Mar 45	In view of this soldier's character it is recommended that his sentence be reviewed at a later date.	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
2-4-45.	Revision of Sentence recommended on 26th June, 1945.	(Edmond BLAIS)-Brigadier, D.O.C., MD No.5.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

A

FORMULE DE PROCES VERBAL DE COUR MARTIALE PERMANENTE

Proces verbal d'une cour martiale permanente tenue au 5ième Dépot Régional, A.C., Lauzon, Que.,

le 9ième jour de mars 1945, a 1020 heures, pour le proces

de R-57688, Fusilier Laurent MORIN, Les Fusiliers du Saint-Laurent, A.C., Att.
Matricule Grade Nom et prenoms Unite Detachement le cas

5ième Dépot Régional, A.C.
echeant

PRESIDENT: Major Armand Sylvestre,
Président Permanent, C.M.P., Q.G., R.M. No.5.

PROCUREUR: Capt. Pierre Taschereau, Procureur Permanent, Q.G., R.M. No.5.
Grade Nom et prenoms Unite Detachement, le cas echeant

XXXXXXXX OFFICIER DEFENSEUR:

Capt. G. Gagnon, Liste Générale, A.C., Att. 5ième Dépot Régional, A.C.
Grade Nom et prenoms Unite Detachement, le cas echant

VERDICT: "LA COUR DECLARE LE PREVENU NON COUPABLE DE L'ACCUSATION DE DESERTION MAIS COUPABLE D'ABSENCE SANS PERMISSION SOUS LE PREMIER CHEF D'ACCUSATION SAUF QUE LES FRAIS D'APPREHENSION ET DE RETOUR A SON UNITE SONT DE $ 18.10 AU LIEU DE $ 34.10, ET COUPABLE SOUS LE DEUXIEME CHEF D'ACCUSATION SAUF QUE LE MONTANT DES EFFETS PERDUS EST DE $ 15.24 AU LIEU DE $ 90.44."

SENTENCE: "LA COUR CONDAMNE LE PREVENU A LA DETENTION PENDANT CENT CINQUANTE (150) JOURS ET A UNE SUPPRESSION DE SOLDE JUSQU'A CE QU'IL AIT REMBOURSE LES FRAIS D'APPREHENSION ET DE RETOUR A SON UNITE A SAVOIR: $18.10 ET LA VALEUR DES EFFETS PERDUS, A SAVOIR: $ 15.24."

Signe a Lauzon, Que., ce neuvième jour de mars 1945.

Major,
C.M.P., Q.G., R.M. No. 5. Président de la cour martiale permanente

Extracts entered as No. 36198 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 19 day of March 1945

Question a l'accuse. Vous opposez-vous a etre juge par moi, en qualite de president de la cour?

Reponse. **Non monsieur.**

(N.B. L'objection, le cas echeant, doit etre consignee, avec la decision de la cour, sur une feuille separee, marquee "BB" et attachee immediatement sous la page B.)

Question a l'accuse. Vous opposez-vous a .....

Question a l'accuse. Vous opposez-vous a . Mlle Lorraine Chandornat ... comme stenographe?

Reponse. **Non monsieur.**

La stenographe est dument assermentee. (Minute d'ajournement et de Reprise d'Audience, voir document marqué "F" ci-joint.)

Question au procureur. L'accuse a-t-il opte pour un proces devant une cour martiale permanente

Reponse. **Non monsieur.**

L'accuse est mis en accusation sur chacun des chefs mentionnes dans l'acte d'accusation marque B-2 et verse au dossier apres avoir ete signe par le president.

Question a l'accuse Sont-ce la votre matricule, votre grade, votre nom et votre unite?

Reponse. **Oui monsieur.**

Question a l'accuse. Etes-vous coupable ou non du (premier) chef d'accusation porte contre vous et dont vous venez d'entendre lecture?

Reponse. **Non coupable monsieur.**

Question a l'accuse. Etes-vous coupable ou non du deuxieme chef d'accusation porte contre vous et dont vous venez d'entendre lecture?

Reponse. **Non coupable mpnsieur.**

~~Question a l'accuse. Etes-vous coupable ou non du troisieme chef d'accusation porte contre vous et dont vous venez d'entendre lecture?~~

~~Reponse.~~

~~Question a l'accuse. Etes-vous coupable ou non du quatrieme chef d'accusation porte contre vous et dont vous venez d'entendre lecture?~~

~~Reponse.~~

~~(L'accuse s'etant avoue coupable sur le chef d'accusation, les prescriptions de la Regle de procedure 48 (B) sont observees.)~~

ACTE D'ACCUSATION

L'Accuse E-57688 Fusilier Laureat MORIN, Les Fusiliers du St-Laurent, A.C., attache au Depot Regional No. 5 A.C., un soldat G.S. de l'armee canadienne, mis en activite de service est accuse:

PREMIER CHEF
Art. 12 (1)(a)
Army Act

D'AVOIR EN ACTIVITE DE SERVICE, DESERTE LE SERVICE DE SA MAJESTE

en ce que,

a Lauzon, P.Q. a 0630 heures le 13 decembre 1943, il s'est absente sans permission du Depot Regional No. 5, A.C. jusqu'a ce qu'il soit apprehende at St-Andre, Co. Kamouraska, P.Q., a 0315 heures le 22 fevrier 1945, en tenue civile, les frais de son apprehension et de son retour a l'unite etant de $34.10.

DEUXIEME CHEF
Art. 24 (2)
Army Act

D'AVOIR PERDU PAR NEGLIGENCE SES EFFETS D'HABILLEMENT D'EQUIPEMENT ET AUTRES EFFETS REGIMENTAIRES,

en ce que,

a Lauzon, P.Q. le 14 decembre 1943, il etait en deficit des articles suivants:

		C.A.R.O. 1862	MOINS 25% C.A.R.O. 3464
	HABILLEMENT DIVISION "A"		
1.	Anklet	.79	.59
1	Cap winter melton	1.06	.79
1	Dressing first field	.22	.16
1	Gloves woollen	.59	.44
1	Great Coat drab	17.65	13.23
1	Mitts Pullover	.76	.57
1	Overshoes	1.71	1.28
	HABILLEMENT DIVISION "B"		
2	Boot ankle	10.92	8.19
1	Battle Dress blouse	5.25	3.94
2	Battle Dress trouser	10.78	8.08
2	Cap Field Service	1.40	1.05
2	Drawers Cotton Short	.72	.54
1	Jacket Sweater	1.38	1.03
1	Puttees Pre	.97	.68
2	Shirt K.C. S/S	2.50	1.87
2	Shirt Flannel Khaki	3.42	2.57
2	Shirt Under Cotton	.78	.58
2	Shirt Woollen	2.40	1.80
2	Drawers Woollen	2.40	1.80
2	Socks Woollen Pres	1.11	.83

...../2

ACTE D'ACCUSATION (suite)

	C.A.R.O. 1862	MOINS 25% C.L.R.O. 3464
HABILLEMENT SECTION "B"		
1 Trouser K.D. Long	1.60	1.20
2 Trouser K.D. Short	2.40	1.80
HABILLEMENT DIVISION "C"		
1 Bag Kit	.78	.58
1 Belt Waist L. Br.	.37	.28
1 Blacking Tin	.05	.04
1 Boot Dressing Tin	.07	.04
1 Braces Pre	.32	.24
1 Brass Button	.02	.01
1 Brush Boot Pol	.19	.14
1 Brush Button	.11	.08
1 Brush Cloth	.27	.20
1 Brush Hair	.26	.19
1 Brush Shaving	.42	.32
1 Brush Tooth	.09	.07
1 Cap Conforter	.33	.25
1 Comb	.04	.03
1 Fork	.08	.06
1 Holdall	.19	.14
1 Housewife	.35	.26
1 Knife	.18	.13
1 Razor Set	.39	.29
1 Spoon	.07	.05
2 Towels Hand	.46	.34
HABILLEMENT SECTION "A" 1.		
1 Bag Ration	.04	.03
1 Belt Waist	.97	.73
1 Bottle Water	.63	.47
2 Braces L & R	.95	.71
1 Carrier Water Bottle	.45	.33
1 Frog Bayonet	.21	.16
1 Haversack	2.14	1.60
1 Helmet Steel	2.39	1.70
1 Helmet Sun	.68	.51
1 Pack	2.15	1.60
2 Pouches Basic	2.98	2.23
1 Sling Rifle	.24	.18
2 Strap Shoulder L & R	.90	.67
2 Strap Web Supp	.34	.25
1 Tin Mess Rect	.57	.43
1 Cover Mess Tin	.08	.06
HABILLEMENT SECTION "A" 2.		
1 Container	1.60	1.20
1 Facepiece	3.10	2.32
1 Haversack	1.58	1.18
1 Outfit Anti-Dimming	.15	.11
6 Eyeshields	1.04	.78
HABILLEMENT SECTION "J"		
1 Groung Sheet	2.47	1.85

.....#3

ACTE D'ACCUSATION (suite)

HABILLEMENT SECTION "K"	C.A.R.O. 1862	MOINS 25% C.A.R.O. 3464
4 Blankets G.S.	16.28	12.21
1 Mattress, B.D.T.	1.92	1.44
1 pillow B.D.T.	.35	.26
1 Cover Mattress	.91	.68
TOTAL	$120.93	$90.44

Nicolas Chenon

Lauzon, P.Q.
9 mars 1945

(PIERRE TASCHEREAU) capit
Procureur Permanent District Militaire No.5 A.C.

C

PROCEDURE SUR UNE DENEGATION DE CULPABILITE

Desirez-vous demander un ajournement, sous pretexte que l'une quelconque des regles de la procedure anterieure au proces n'aurait pas ete observee, vous causant ainsi prejudice, ou que vous n'auriez pas eu assez de temps pour la preparation de votre defense? — Question a l'accuse

Non monsieur. — Reponse.

(Si l'accuse demande un ajournement, voir les instructions a la page 747 du M.D.M.)

LE PROCUREUR REMET AU PRESIDENT LES LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE:-

1o. M.F.B.375, déclaration d'une Cour d'Enquête tenue à Lauzon, QUE., le 24 janvier 1944, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier.)

2o. M.F.M.216A - Certificat d'Appréhension, signé à Rivière du Loup, Que., le 22 février 1945, par le sergent Langsner, S., E-100429, en charge de la Coy. de Prevoté de Rivière du Loup, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier.)

3o. M.F.B.1481, Certificat de Frais de Transport, signé à Québec le 23 février 1945 par le Capitaine G.A.W.Wells, C.C., 46ième Compagnie du Corps de Prévoté Canadien, A.C., concernant l'accusé.

(Ce document est lu par la Cour, marqué "I", signé par le Président et versé au dossier.)

4c. M.F.B.1481 A - Certificat de Frais de Transport - signé à Québec, Que., le 24 février 1945, par le capitaine Roland Drapeau, D.S. & T.O.m.d. 5, concernant l'accusé.

(Ce document est lu par la Cour, marqué "J", signé par le Président et versé au dossier).

5c. M.F.B.1482 - Certificat de frais de transport pour escortes, signé à Lauzon, Que., le 27 février 1945, signé par le sergent M.Benoit, concernant l'accusé.

(Ce document est lu parla cour, marqué "K", signé par le Président et versé au dossier.)

-o-o-o-o-o-o-o-

D

Le procureur n'a plus de temoins a appeler
La poursuite est close.

MOTION DE NON-LIEU

Il est loisible a l'accuse, a son avocat ou a l'officier defenseur, apres l'audition de la preuve de la poursuite, d'alleguer que celle-ci n'a pas reussi a etablir une presomption legale contre l'accuse et que ce dernier ne devrait pas, par consequent, etre contraint de presenter sa defense. Dans le cas d'une telle motion, le proces-verbal sera consigne sur des feuilles separees qui seront inserees immediatement avant la presente page D. Si la cour estime que cette allegation est bien fondee, elle doit acquitter l'accuse et consigner son verdict a la page A.

DEFENSE

Le president s'adresse a l'accuse en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite generale de votre defense. La procedure a suivre depend entierement des reponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos reponses. Vous n'aurez pas a temoigner sous serment a moins que vous ne le vouliez. Mais, si vous faites des depositions assermentees, vous serez sujet a l'interrogatoire contradictoire par les soins du procureur et a l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de deposition sous serment, vous avez le droit de faire une declaration ou vous donnerez votre version de l'affaire. Vous ne serez pas assermente et vous ne serez pas interroge sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prevenir qu'une deposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple declaration non assermentee."

S'il n'y a pas d'officier defenseur, le president explique alors a l'accuse l'effet que ses reponses aux questions de forme de la page D du proces-verbal auront sur l'ordre des dernieres plaidoiries, prevu dans les Regles de procedure 40 et 41.

Desirez-vous, comparaitre, vous meme, comme temoin, ou bien desirez-vous faire une declaration non assermentee? — Question a l'accuse.

R. Rendre témoignage sous serment. — Reponse.

(Voir pages D-3 et suivantes).

Avez-vous l'intention de citer des temoins pour votre defense? — Question a l'accuse

Oui monsieur. — Reponse.

Est-ce uniquement un temoin a l'appui de votre reputation — Question a l'accuse

Non monsieur. — Reponse.

PREMIER TEMOIN DE LA DEFENSE

L'accusé Mat:-E-57688, Fusilliers Laurent MORIN, Les Fusilliers du Saint-Laurent,A.C., attaché au 5ième Dépot Régional,A.C.,

étant dûment assermenté,

est Intérrogé par l'officier défenseur:-

Q:, Morin, voulez-vous dire les raisons pour lesquelles vous vous êtes absenté sans permission au mois de décembre 1944?

R: Je suis resté chez nous parce que ma mère était malade.

Q: Morin, combien y a-t-il d'enfants chez-vous?

R: On est 10.

Q: Vous êtes le premier ou le deuxième?

R: Je suis le troisième.

Q. Les 2 avant vous, ce sont des garçons ou des filles?

R. Des garçons. Il y en a un qui est marié et l'autre, le deuxième, il estmort outre-mer.

Q. L'autre,vous dites qu'il est marié?

R. Oui.

Q. Lorsque vous êtes parti chez-vous Morin, étiez-vous en passe?

R. Oui.

Q. Pour combien de temps?

R. Un mois.

Q. Pourquoi, un mois?

R. J'ai été opéré pour l'appendicite.

Q. Pourquoi n'êtes vous pas revenu?

R. Parce que ma mère était malade.

Q. Est-ce qu'elle vous demandait de rester avec vous?

R. Oui.

Q. Après votre mois de repos, après votre mois de congé vous êtes vous rapporté et de quelle manière?

R. Oui, j'ai envoyé un télégramme.

Q. Que comprenait votre télégramme?

R. Que j'étais malade, que ma mère était malade.

Q. Quand avez-vous envoyé ce télégramme?

R. Je l'ai envoyé dans le mois de décembre 1943.

Q. Quel était votre intention Morin si votre mère n'avait pas été malade?

R. De me rapporter, je serais revenu.

Q. Maintenant, on dit que vous avez été arrêté à Saint -André, à quel endroit?

R. Sur le chemin.

Q. Est-ce que la gare de St-André est loin de chez-vous?

R. Quatre mille.

Q. Lorsqu'ils vous ont appréhendé, où vous ont-ils conduit?

R. A Rivière-du-Loup.

Q. Et là, vous avez demeuré combien de temps à Rivière-du-Loup?

R. Quatre jours.

Q. Maintenant, lorsque vous vous êtes absenté du Camp de Lauzon, qu'est ce que vous avez fait de de votre équipement?

R. Elle est au Quartier-Maitre.

Q. Avez-vous été le porter au Quartier-Maitre?

R. J'étais à l'Hôpital dans ce temps là?

Q. Au moment de votre départ de l'Hôpital, vous aviez tout rapporter au Quartier-Maitre?

R. Oui.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:-

Q. Morin, lorsque vous étiez chez-vous, votre mère est tombée malade?

R. Oui.

Q. Et vous avez envoyé un télégramme avant la fin de votre congé?

R. Mon congé achevait.

Q. Vous n'avez pas eu de nouvelles du télégramme ?

R. Non.

Q. En avez-vous envoyé un autre?

R. Non.

Q. Dans quel état est-elle votre mère?

R. Encore malade.

Q. Votre père vit-il?

R- Oui.

Q. C'est le 26 décembre 1943 que vous deviez vous rapporter ici?

R. Oui.

Q. Vous ne vous êtes pas rapporté?

R. Non.

Q. Et vous avez été absent jusqu'au 22 février de cette année?

R. Oui, jusqu'au 22 février de cette année.

Q. Est-ce qu'ils ont une terre vos parents?

R. Non.

Q. Quéest ce qu'il fait votre père?

R. Il travaille dans une compagnie.

Q. Maintenant, vous étiez à l'Hôpital avant de partir pour chez-vous?

R. Oui.

Q. Quand vous êtes entré à l'Hôpital quelle date était-ce?

R. Je ne sais pas au juste.

Q. Combien de temps êtes vous resté à l'Hôpital ?

R. De 21 à 22 jours.

Q. Ensuite, vous avez eu un congé de 30 jours?

R. Oui.

Q. Vous êtes entré à l'Hôpital dans le milieu du mois d'octobre ?

R. Je pense.

Q. Comment étiez-vous habillé?

R. -Comme là, en militaire.

Q. Les autres articles où étaient-ils dans ce temps là?

R. -Je ne le sais pas.

Q. Lorsque vous êtes entré à l'Hôpital, vous étiez habillé en militaire?

R. Oui monsieur.

Q. Vous étiez en battle-dress?

R. Oui.

Q. Ou est ce battle-dress?

R. -Chez-nous.

Q. Et qu'est ce qu'il y a chez-vous regardant vos habits militaires?

R. Un battle-dress, une paire de pantalon, un melton d'hiver, des bottines, des anklets, un sous-vêtement de coton, une chemise de coton, c'est tout je pense.

Q. Aviez-vous des bas de laine?

R. Oui, une paire de bas de laine de l'armée.

Q. Aviez-vous apporté votre rasoir, votre peigne, vos brosses?

R. Non, rien du tout.

Q. Rien à part de ce que vous venez de mentionner?

R. Rien à part de mon habit.

Q. Ici, vous êtes resté une semaine en sortant de l'Hôpital?

R. A peu près cela.

Q. Vous aviez de l'équipement en dehors de cela?

R. Oui.

Q. Vous aviez un masque à gaz?

R. Avant ça. Il estresté à Valcartier.

Q. Où est ce qu'il est resté à Valcartier?

R. Au quartier-maitre.

Q. Qui était-il?

R. Je ne sais pas.

Q. Quelle unité?

R. Les Fusilliers du Saint-Laurent.

Q. Vos kit bags et vos packs?

R. Ca resté là.

Q. Au quartier-maitre?

R. Oui.

Q. Vos brosses, brosse à dent, brosse à cheveux?

R. Ca tout resté là.

Q. Votre rasoir,avec le reste?

R. Oui.

Q. Votre couteau, votre cuiller, votre fourchette.

R. Ca resté là.

Q. Vous n'en aviez pas ici à Lauzon?

R. Oui, ça resté à l'Hôpital.

Q. Ici, vous êtes resté une semaine?

R. A peu près ça.

Q. Et quand vous êtes parti, vous êtes parti de l'Hôpital?

R. Oui.

Q. Aviez-vous des couvertes?

R. Oui.

Q. Quatre couvertes, un matelas, et un oreiller?

R. Oui monsieur.

Q. Où les avez-vous laissés?

R. A l'Hôpital.

Q. Où couchiez-vous?

R. A l'Hôpital.

INTERROGE DE NOUVEAU PAR L'OFFICIER DEFENSEUR:-

Q. Morin, soyez- précis, lorsque vous êtes parti en congé, pour vos trente jours, après être sorti de l'Hôpital, est-ce que le quartier-maitre d'ici vous a remis de l'équipement?

R. Non,rien du tout.

Q. Rien du tout?

R. Non monsieur.

Q. Pendant que vous étiez malade, vous aviez des couvertes, un matelas, des couteaux, et des fourchettes?

R. Oui monsieur.

Q. Et vous avez laissé cela là lors de votre départ pour votre permission?

R. Oui.

Q. Maintenant,vous dites que l'équipement vous avez laissé cela à Valcartier?

R. Oui monsieur.

Q. Et vous avez laissé cela à votre départ?

R. Oui.

LA COUR:-

D'après votre rapport, on vous a arrêté à 3 heures du matin, qu'est-ce que vous faisiez à ce moment là?

R. Je revenais de veiller de chez ma tante. On m'a pris sur le chemin.

Q. Savez-vous comment cela coute de St-André à Rivière du Loup? En chemin de fer?

R. Ca doit couter cinquante cents aller et retour.

De l'avis de la Cour il n'est pas nécessaire de se conformer à la R.P. 83 (B).

L'ACCUSE REPREND SON SIEGE:-

DEUXIEME TEMOIN DE LA DEFENSE:-

E-628,581, Caporal H. Bédard, Liste Générale, A.C., Att. 5ième Dépot Régional, A.C., étant dûment assermenté est interrogé par l'officier défenseur:-

Q. Caporal Bédard, à partir du début d'octobre 1943 auriez-vous quelque chose de rentré dans vos livres se rapportant à E-57688, Soldat Lauréat Morin?

R. Il n'y a absolument rien Monsieur.

LE PROCUREUR NE DESIRE PAS INTERROGER CONTRADICTOIREMENT.

De l'avis de la Cour, il n'est pas nécessaire de se conformer à la Règle de Procédure 83 (b).

LE TEMOIN SE RETIRE:-

LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE ET L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE.

E.

PROCEDURE SUR DECLARATION DE CULPABILITE PRECEDANT LA SENTENCE

Quand la cour en est arrivee a une decision relativement a tous les chefs d'accusation contre l'accuse et que ladite decision a ete annoncee a ce dernier, le procureur remet au president le modele M.F.B. 355 et, si possible, un modele M.F.M. 6.

Ces documents sont lus a la cour par le president, marques "Y" et "Z", signes par le president et verses au dossier.

Question a l'accuse. Avez-vous quelque declaration a faire relativement aux documents dont on vient de vous donner lecture?

Reponse. Non monsieur.

Question a l'accuse. Desirez-vous adresser la parole a la cour?

Reponse. Non monsieur.

La sentence est alors consignee a la page "A" du proces-verbal et elle est annoncee a l'accuse en plein tribunal.

Le president etablit alors et signe le mandant d'incarceration, le cas echeant, et celui-ci est immediatement transmis au commandant de l'accuse. Dans chaque cas, il etablit aussi et signe le certificat de proces devant une cour martiale permanente et le transmet en conformite des Reglements. Le proces-verbal ainsi que tous les documents seront transmis au juge-avocat general.

" P "

" MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE "

A 1025 heures, le neuvième jour de mars 1945, la cour s'est ajournée.

-- - - - --

A 1100 heures, le neuvième jour de mars 1945, la cour se rassemble.

(Le procès se poursuit).

"G"

RECORD of the Declaration of a Court of Inquiry assembled at LAUZON, P.Q.

on the 24th day of January 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-7688 Pte Morin L.

Gen. List ATT. TO No 5 District Depot

DECLARATION

The Court declare that No. E-57688 (Regt'l No.) PRIVATE (Rank)

MORIN L. GEN. LIST ATT. TO No 5 DISTRICT DEPOT (Full Name) (Unit)

illegally absented himself without leave FROM LAUZON CAMP.

at Lauzon P.Q. (Place) at 0630 hours on the 13th day of December 1943

that he is still so absent, and that on the 14th Day of December 1943 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
CLO. DIV. "A"			CLO. DIV. " C " CONT'D)		
Anklet.....1		79	Holdall.....1		19
Cap winter melton.....1	1	02	Housewife.....1		35
Dressing fisrt field...1		22	Knife.....1		18
Gloves woollen.....1		79	Razor Set.....1		39
Great Coat drab.....1	17	65	Spoon.....1		02
Mitts Pullover.....1		76	Towels Hand.....2		46
Overshoes.....1	1	71	SECTION " A " 1.		
CLO. DIV. "B"			Bag Ration.....1		04
Boot ankle.....2	10	92	Belt Waist.....1		84
Battle Dress blouse....1	5	25	Bottle Water.....1		77
Battle Dress Trouser...2	10	78	Braces L & R.....2		63
Cap Field Service.....2	1	40	Carrier Water Bottle.....1		95
~~Drawers Cotton Short~~...2		72	Frog Bayonet.....1		45
Jacket weater.....1	1	38	Haversack.....1		21
Puttees Pre.....1		97	Helmet Steel.....1	2	14
Shirt K.C. L S./S.....2	2	50	Helmet Sun.....1	2	39
" Flannel Khaki....2	3	42	Packs.....1		68
" Under Cotton.....2		78	Pouches Basic.....2	2	13
" Woolen.....2	2	40	Sling Rifle.....1	2	98
Drawers Woolen 2	2	40	Strap Shoulder L & R....2		24
Socks. Woolen Pres.....3	1	11	" Web Supp.....2		90
Trouser K.D. Long.....1	1	60	Tin Mess Rect.....1		34
Trouser K.D. Short.....2	2	40	Cover Masstin.....1		57
CLO. DIV. " C "			SECTION " A " 2		08
Bag Kit.....1		78	Container 1	1	60
~~Belt Waist. L. Br.....1~~		37	Facepiece.....1	3	10
Blacking Tin.....1		05	Haversack.....1	1	58
Boot Dressing Tin.....1		05	Outfit Anti-Dimming....1		15
Braces Pre.....1		32	Eyeshields.....6	1	04
Brass Button.....1		02	SECTION J "		
Brush Boot Pol.....1		19	Groung Sheet.....1	2	47
" Button.....1		11	SECTION " K "		
" Cloth.....1		27	Blankets G.S.....4	16	28
" Hair.....1		26	Matress, B. D. T.....1	1	92
" Shaving.....1		42	Pillow B.D. T.....1		35
" Tooth.....1		09	Cover Mattress.....1		91
Cap Conforter.....1		33			
Comb.....1		04			
Fork.....1		08			
			TOTAL.....	$120	93
			75 % VALUE.....	$90	70

(A.GRATTON) LIEUT. R.C.A. President
Att. to No 5 D.D. (Rank) (Unit)

(EX A FAVREAU) LIEUT R.C.A.S.C. Member
Att. to No 5 D.D. (Rank) (Unit)

Signed at Lauzon P.Q. Member

this 24 th. day of January 1944 (Name) (Rank) (Unit)

Signature of Commanding Officer F.C. MAGEE. O.C. Lieut-Colonel No 5 D.D.
(Name) (Rank) (Unit)

Certified true copy
(Signature of Officer having custody of original record)

J. de M. Belleau Capt.

OFFICER I/C RECORDS D.D. 5

M.F.R. 275
A.F.R. 115
150M—10-42 (6520)
H.Q. 1773-39-187

"H"

CERTIFICAT en conformité de l'arrêté en conseil C.P. 2797 du 10 avril 1942, tel que publié dans l'O.S.C. 1877 et dans l'ordre général 127 de 1942.

No. 46 Cdn. Pro. Corps
FEB 23 1945
Received

(MILITAIRES ARRÊTÉS PAR L'AUTORITÉ MILITAIRE OU SE LIVRANT À CETTE AUTORITÉ)

JE, soussigné E-100429, (Matricule) Sgt. (grade) Langener S. (nom) No. 46 Co'y.C.Pro.C. (unité)

certifie par les présentes que E-57688, (Matricule) Pte. (Grade)

Morin Laureat (Nom au complet)

de Fusiliers du St-Laurent. (Unité et détachement, s'il y a lieu)

Biffer les mots inutiles } a été arrêté par [redacted] E-6080, (Matricule) Cpl. (Grade) Desgagnes A.

et E-80218, L/C. (Nom) Poirier J. No. 46 Co'y. Cdn. Pro. Corps. (Unité ou emploi)

à St-Andre. Co. Kamouraska. (Lieu) à 0315 hrs. (Heure)

le 221eme jour de fevrier 19 45

Biffer les mots inutiles } comme [redacted] absent irrégulier) et qu'au moment de son arrestation [redacted] (il était en tenue civile).

Donné à Riviere du Loup, ce 22e jour de fevrier 19 45.

E-100429, Sgt. Langener S.
(Signature, Matricule, Grade, Unité ou emploi)
e/c. Provost detachement, Riv. du Loup.

NOTE—Si le militaire, qui a été arrêté ou s'est livré, est détenu par une unité ou une formation, ce certificat doit porter la signature du commandant de cette unité ou de cette formation, et non celle d'un autre officier en son nom.

Si le militaire, qui a été arrêté ou s'est livré, est détenu par un détachement du Corps de Prévôté canadien, A.C., ce certificat doit porter la signature de l'officier, sous-officier breveté ou sous-officier en charge de ce détachement.

M.F.M. 216A.
Q.G. 1772-39-1936
10M-4-43 (9776)

"I"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, MAJOR J. R. R. BEAUDET, O.C. 46TH CO'Y. C. PRO. C.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that ~~I have~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Riviere du Loup P.Q. (Place) to St-André Co.Kamouraska P.Q. (Place)

and return to Riviere du Loup P.Q. (Place) for the purpose of escorting

Full description of soldier being escorted — E-57688 (Number) Pte. (Rank) MORIN, Lauréat (Name in full)

Fus. St-Laurent. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be ~~a deserter~~ an absentee without leave, the facts, date and particulars of ~~the~~ ~~transportation required~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
22-2-45 -- Snowmobile from Riviere du Loup to St-Andre Co. Kamouraska and return (30) miles.....	$15.00
TOTAL	$ 15.00

Dated at Quebec P.Q. this 23rd day of February A.D. 19 45.

Major O.C. 46th Co'y. C.Pro.C.

Signature, rank, unit, attachment (if any) and appointment of officer (~~issuing transportation~~ authorizing transportation)

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
(Rev—10-42 (1942))
(L.Q. 170-24-165)

"J"

ABSENTS IRRÉGULIERS ET DÉSERTEURS

CERTIFICAT EN CONFORMITÉ DE L'ARRÊTÉ EN CONSEIL C. P. 58/4015 DU 5 JUIN 1941, TEL QUE PUBLIÉ DANS L'ORDRE DE SERVICE COURANT DE L'ARMÉE CANADIENNE 1877 DE 1942

(TRANSPORT SEULEMENT)

Signalement complet

Je, soussigné Lieutenant R. Drapeau, Off. i/c Transport, D.S. & T.O., MD 5
(Grade) (Nom) (Unité)

Rayer les mots inutiles

certifie, par les présentes, avoir (délivré) ~~autorisé~~ les moyens de transport ci-dessous énumérés pour permettre à une escorte de se rendre de Quebec, P.Q. (Endroit) à Riviere-du-Loup, P.Q. (Endroit) et retourner à Quebec, P.Q. (Endroit) afin d'escorter

Signalement complet du militaire escorté

E-57688 Pte. Morin, L.
(Matricule) (Grade) (Nom et prénoms)

No. 5 D.D.
(Unité) (Détachement, s'il y a lieu)

Rayer l'expression inutile

qui est censé être déserteur ou absent sans permission, et que les faits, la date et les détails (des mandats de transport émis) ~~du transport~~ ainsi que les frais en découlant pour ledit militaire et l'escorte sont les suivants:

DÉTAILS	FRAIS
Transport warrant No. C-864073-4 issued on 23-Feb-45 covering transportation of D-620192 Sgt. Benoit, M.	7.68
D-638292 Pte. D'Aoust, E.	1.20
No. 5 D.D. escorts from Levis, P.Q. and return Levis to Riviere-du-Loup, P.Q.	
Transport warrant No. C-864073-4 issued on 23-Feb-45 covering transportation for the absentee from Riviere-du-Loup to Levis	1.92
	.30
TOTAL	$ 11.10

Donné à Quebec, P.Q. ce 24th jour de February A.D. 1945

Signature, grade, unité, détachement (s'il y a lieu) et emploi de l'officier (émettant les mandats de transport) ~~(ou du transport)~~

Lieut., Off. i/c of Transport, D.S. & T.O., M.D. No. 5.

Le certificat doit être établi par l'officier qui a délivré ou autorisé les mandats de transport ou le transport d'un militaire censé être déserteur ou absent sans permission, pour qu'il soit reconduit à son corps, unité ou garnison, et de l'escorte pour ledit militaire. *Transport seulement.*

Les dates des mandats ou du transport délivrés doivent être indiquées.
Le coût des repas et des faux frais doit être inscrit sur le modèle M.F.B. 1482.

M.F.B. 1481A
20M-4-43 (9173)
Q.G. 1772-30-1851

"K"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER ~~1099, 1941~~ 1877, 1942

(INCIDENTAL EXPENSES)

Complete description — I, D-620192 Sgt Benoit M.
(No.) (Rank) (Name) (Unit)

Strike out words not applicable — as (escort) ~~XXXXXXXXXXXXXXXX~~ consisting of muself and

Members of escort — D-638292 Pte D'Aoust E.

detailed to proceed from Levis (Place) to R-du-Loup (Place)

Name and description of soldier escorted — to return E-57588 Pte Morin L.

alleged to be a deserter or ~~XXXXXXXXXXXXXX~~ to No.5 D.D. LAUZON.P.Q. (Place),

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
Meals issued on T.W. -864073-4 for escorts	2.00
24 Feb 45 Rooms for 2 escorts @ $1.50 ea	3.00
25 Feb 45 Breakfasts for 2 escorts @ .75¢ ea	1.50
25 Feb 45 Lunches for 2 escorts @ .75 ea.	1.50
Total	$ 8.00

Dated at Lauzon, P.Q. this 27th day of Feb A.D. 1945

(M. BENOIT) Sgt — Signature and rank (of commander of escort)

Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1482
[illegible]—7-41 (1150)
H.Q. 1772-99-1850

"Y"

M.F.B. 355
20M—11-41 (3373)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E57688	Pte.	MORIN. L.	F.du St Laurent.

1. The following is a fair and true summary of the entries in the field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets or ~~Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A.Sec. 15 (1) AWL .	times	3. times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct nil

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~nil~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~nil~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of ..... nil~~

4. The accused has been in confinement awaiting trial on the present charges, for ..... ~~days in civil custody, and~~ 15 days in military ~~Air Force~~ custody, making a total of 15 days in custody, ~~of which ..... days were spent in hospital.~~ nil

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 22years 7months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 3-3-42.

7. ~~The service which the accused is allowed to reckon towards discharge is~~ nil

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~ nil

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward. nil

10. ~~(If the accused is a warrant officer.) The accused became he was made a warrant officer last held the ~~regimental~~ Air Force rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Regiment
Name.....of.....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of March 1945.

G. De Roche Capt.
Officer ic Records.
S.D.D.Lauzon. P.Q.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. E57688 Name MORIN. L.

Corps F. Du St. Laurent

Sqn., Battery, or Company

No. and date of last drunk

Period to be reckoning towards freedom from extra fine

Date of enlistment 3-3-42.

Sheet No. 1.

G.C. Badges

Signature O.C. Company, etc.

Tradesmen's Rates of Pay

M.F.M. 6 (A.F.B. 122) 3038—11-41 (3400) H.Q. 1772-39-1052

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Character / Remarks
Valcartier.	6-4-42	Pte.		AWL 135hrs abs. AWL 2200 31-3-42.	Docum				9days. pay.
Valc.	18-6-42	"		AWL 11jrs. 15hrs. 10m.	-				12days. pay.
Valcartier.	14-7-42	"		AWL 4jours 8hrs.	-				5jours pay.

CERTIFIED TRUE COPY.
G. Le Roche Capt.
A/ Officer i-c Records.
5.D.D. Luzon. P.Q.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No E576 88 Pt Morris L

of S DA S is in a Good state of health,

and fit to undergo Trial by Court martial.

H [illegible] Maj MC

Medical Officer

Medical Detention Room
U.D. M.D. No. 6
MAR 9 1945
LAUZON, P.Q.

Station Guard Room Layn

Date Mar 4 45

M. F. B. 246
MM—5-43 (254)
H.Q. 1772-30-499

RESUME DE LA PREUVE

Proces de B-57688 Fusilier Laureat MORIN, Les Fusiliers du St-Laurent, A.C., Attache au Depot Regional No. 5 A.C.

ACCUSATIONS:
1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375
2. M.F.M. 216A
3. M.F.B. 1481
4. M.F.B. 1481A
5. M.F.B. 1482

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

(Jean LA FONTAINE) Colonel
Commanding No. 5 District Depot, CA

H.Q.C.55-M-1603(JAG/D-9)
Your Q.39-M-2496

March 20th, 1945.

The District Officer Commanding,
Military District No. 5, Quebec, Que.

Standing Court-Martial
E.57688 Pte. Laurent Morin,
Les Fusiliers du St.Laurent, C.A.
att. to No. 5 District Depot, C.A.

Receipt is acknowledged of the proceedings of the marginally-noted Standing Court-Martial which were forwarded by the President named therein.

2. It is noted that M.F.B.1481 is signed by Capt. G.W.Wells, while it appears that Major J.E.R. Beaudet, O.C.#46 Coy., C.Pro.C., was the officer authorizing the transportation. This is an irregularity as this form may be signed only by the officer authorizing or issuing the transportation warrant himself. However, in view of the Sentence of the Court with regard to the costs of apprehension, no prejudice was done by the admission of this form in the present instance.

3. It is assumed that question 7 on page D-7 of the proceedings is due to a clerical error and should read "13 December 1943" instead of "16 December 1943", as this date is inconsistent with the rest of the evidence.

4. On M.F.M.216A there is nothing to indicate that the two NCOs who apprehended the accused, belong to the Riviere-du-Loup Detachment of No. 46 Coy., C.Pro.C.

5. The proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LYV/MM

THIS COPY FOR: H.Q.D.55-M-1603
M.D.Q.32-[illegible]-2496

G.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. Z.57688 Name MORIN, Laurent

Rank Fus Unit Les Fus du St.Laurent C.A. att No. 5D.D. CA

Charge (1st) A.A. 12 (1) (a) - Desertion

(2nd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 13-12-43; (2) 14-12-43

Date of Arrest (1) 22-2-45 Charge Signed 8-3-45

Orders for D.C.M.

Place and Date of Trial No. 5 D.D. C.A. Lauzon Que 9-3-45

Sentence Det 150 days; stoppages $33.34

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36198

Date 19-3-45

MEMO Balance of sentence remitted by Conf. Auth Guilty A.W.L.

M.D. 5 - No. 5 D.D.

Absent Sentence

14½ mos. Det 150 days

for Judge Advocate General

10M-1-45(M-4829)

IN REPLY PLEASE QUOTE
No. Q:39-M-2496

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Quebec, P.Q., March 13th. 1945.

THE JUDGE ADVOCATE GENERAL,
Dept. of National Defence,
Ottawa, Ont.

C.55-M-1603

STANDING COURT-MARTIAL
E/57688, Pte. Laurent MORIN,
Les Fusiliers du St-Laurent, C.A.,
(Att. to No.5 D.D., C.A.)

Enclosed herewith please find the proceedings of the m/n Standing Court-Martial, which are forwarded to you pursuant to C.A.R.O. 4565 (11)(a).

(ARMAND SYLVESTRE) - Major,
Permanent President S.C.M.

36198

N.D. 23
3 M.,--11-43 (2979)
H.Q. 1772-101-23

H.Q.C. 55-[illegible]-1605 CONFIDENTIAL

M.F.D. 8078

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MERKEL, ARTHUR GEORGE L-609381 PTE.

CONFIDENTIAL
H.Q.C. 55-[illegible]-1605

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS (If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")	INITIALS	DATE
MAR 21 1945	~~cancelled~~	cancelled	cancelled	~~cancelled~~	NEW FILE C.R.		MAR 17 1945
					Papers C.R. APR 2 1945		
APR 4 1945				JCM.	To note, pls.	M.M.	3-4-45
APR 5 1945					PER B.F. APR 22 1945		
APR 23 1945					Papers C.R. MAY 3 1945		
MAY 4 1945		P.A.		JCM			

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

File; C.36-M-3656 (JAS)

DEPARTMENT OF NATIONAL DEFENCE
Army
Headquarters, M.D. 13
CALGARY ALBERTA

310848

AIR MAIL

1st May, 1945.

The Secretary
Department of National Defence
OTTAWA, Canada

CENTRAL REGISTRY Army
CONF. SEC.
MAY 3 1945
File 55-M-1605
Chgd. to
Referred to

REPORT ON CONDUCT

No. L.609381, Pte. A.G. MERKEL
No. 13 District Depot, C.A.

Reference H.Q.C. 55-M-1605(ICM) dated 23rd April, 1945.

1. Returned herewith is "REPORT ON CONDUCT" duly completed on the marginally noted soldier.

(F.M.W. Harvey) Brigadier
District Officer Commanding
Military District No. 13

I.C.M. - B

REPORT ON CONDUCT

Department of National Defence,
H. Q. C. 55- M-1605,(ICM)
OTTAWA, 23 APR 1945.

To:- Commandant No. 81 Calgary, Military Detention Barracks.

1. Soldier under sentence	L609381 Pte. A.G. MERKEL,
2. PLEASE STATE:-	
(i) Date of sentence	8-3-45
(ii) Sentence	130 days
(iii) Date you received soldier	9-3-45
(iv) (a) Can soldier read and write?	Yes.
(b) Religion	C.E.
(c) Married, Widower, Single	Single
(d) What Army trade has soldier?	None
(v) (a) Conduct of soldier	Good
(b) Industry of soldier	Good
(c) Remission earned:-	
(i) Number of days actually earned	17 days
(ii) Number of days obtainable to date	17 days
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	Not ill
(a) Whether detention will seriously aggravate soldier's condition.	N/A
(b) Whether further confinement is likely to prove fatal.	N/A.
(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence?	No.
(b) Moral effect confinement has had?	Good
(c) If returned to Army, is soldier likely to become a good soldier?	Yes.
(viii) Date term will expire if all remission earned from now on.	28-5-45

(A. E. Walford)
Major-General
Adjutant-General.

Signature J.S. Browning Lieut.
Commandant.
Date of Report: 28-4-45

LHC:WS.
5M-1-45(M-4515)

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1605,(ICM)
OTTAWA, 23 APR 1945.

Your File - C.36-M-3656

District Officer Commanding,

Military District No. 13,

CALGARY, Alta.

L609381, Pte. A.G. MERKEL,

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in No. 81 Calgary, Military Detention Barrack, under your command, a sentence of 130 days' detention awarded by a Standing, Court-Martial on the 8 day of MAR 1945.

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC:WS.

5M-2-45(M-4516)

HQC.55-M-1605 (JAG/D)

3 Apr 45

District Officer Commanding,
Military District No. 13,
CALGARY, Alberta.

Standing Court-Martial
L.609381, Pte. Arthur George Merkel,
No. 13 District Depot, C.A.

Receipt is acknowledged of your C.36-M-3656 (JAF) dated 29th March, 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M. 288.

/AB

for (R.J. Orde), Brigadier,
Judge Advocate-General.

Noted
L. H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 5 1945

2M-1-44 (M-3431)

I.C.M. - L 1994

REVIEW OF SENTENCE

DATE APR 5 - 1945

H.Q.C. File: 55-M-1606

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES AWOL from 17 aug. 44 till be surrendered 2 March 45 6½ mos.

8. PREVIOUS CONDUCT ~~ENLISTED~~ ENROLLED 7 June 42 AGE 22
Enrolled 22-11-41
1-2-44 Failing to appear 5 days CB on 3-2-44
2-2-44 absent off parade while under stoppage 5 days CB on 3-2-44

9. STATEMENT OF ACCUSED B.T. & A.T. Then 3 months leave as both parents in hospital. Then driving for Admlty Staff. Then 2 months spring leave. Then A.T. once again. Then B.T. again. Parents born in Germany. In Canada since 1912. Naturalized. Willing to go active & go O/S. Want transfer to Airborne Troopers. Left because sent to do B.T. again. Come back to do my duty.

10. RECOMMENDATION

IN REPLY PLEASE QUOTE No. C.36-M-3656 (JAF)

R297

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY
Headquarters, M.D. 13,
Calgary, Alberta.

303655

29th March, 1945.

REGISTERED
CONFIDENTIAL

CENTRAL REGISTRY Army
CONF. SEC.
APR 2 1945
File C 36-7h-160 S-
Chgd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Canada.

STANDING COURT-MARTIAL
No. L.609381, Pte. Arthur George Merkel,
No. 13 District Depot, C.A.

Reference H.Q.C.55-M-1605 (JAG/D-1) dated 20th March, 1945.

1. Returned herewith are the Proceedings of the marginally-noted Standing Court-Martial for registration and safekeeping.

2. The time between the return of the soldier to his Unit (3rd March, 1945) and trial (8th March, 1945)

is five days.

The time between surrender and trial is six days.

3. The soldier is undergoing training while in detention with a view to his despatch overseas under provisions of C.A.R.O. 1960.

4. Enclosed is M.F.M. 288 in the above case.

5. Upon review, no remission has been ordered by the District Officer Commanding, Military District No. 13.

(F.M.W. Harvey) Brigadier,
District Officer Commanding,
Military District No. 13.

NAT. DEF. B. 480
250M 3-44 (3305)
H.Q. 1732-29 JAF

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of L609381 (Number) Private (Rank) Arthur George Merkel (Name in full)

No.13 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to 130 days detention, put under stoppages of pay $11.34 in respect deficiencies of equipment, clothing and regimental necessaries.

on 8th March 1945 at Calgary, Alberta.

being served at No. 81 Military District Depot, C.A. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 20 years 6½ months -- 7 January 1943

Medical grade or category 22- 1111121

FIRST TRIAL—PART II

To Adjutant-General (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~not~~ committed to undergo his sentence, which I recommend should (not) be (suspended) ~~put into execution, reviewed on~~ for ~~reasons given in paragraph Xc~~

Place Calgary, Alberta,

Date 29th March, 1945.

(F.M.W. Harvey) Brigadier,
District Officer Commanding,
Military District No. 13.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Superior Military Authority

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offence, see pars. VIII. For C.O.'s remarks, see pars. XII.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Confirming Authority

Date .....

M.F.M. 265
(Army Form A-2500)
25M—6-43 (3940)
H.Q. 1172-29-7[illegible]

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
MAY 4 1945	No Suspension or Remission No further Review	Adjutant-General for Superior Military Authority	

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
First Charge Sec.12(1) (a) A.A.	Desertion. At 0600 hrs. on 17 Aug. 1944, at Camrose Alberta, absented himself from No. 131 Canadian Infantry (Basic) Training Centre, C.A., until surrendering at Camrose, Alberta, to military authorities at 0600 hrs. on 2 March 1945, the cost of return to his corps being $10.15. Absent 197 days.	17 Aug.1944	8 March 1945
Second Charge Sec.24(2) A.A.	Losing by neglect his equipment, clothing and regimental necessaries, at Calgary, Alta, on 6 March 1945, was deficient articles to value of $11.34.		

Signature of Officer making entry

Lieut.-Col.,
(J.W.Littleton) Officer Commanding,
No.13 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
29th March 1945	nil	.....Lieut.-Col., (J.W.Littleton) Officer Commanding, No.13 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
29 Mar 45	No suspension recommended. Soldier will be trained while in detention with a view to despatch overseas under provisions of C.A.R.O. 1960.	(F.M.W. Harvey) Brigadier, District Officer Commanding, Military District No. 13.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

REVIEW OF STANDING COURT-MARTIAL

Trial by Standing Court-Martial of No. L.609381, Pte. Arthur George MERKEL, No. 13 District Depot, C.A.

Reviewed on 27th day of March, 1945.

Decision Confirmed

District Officer Commanding, M.D.13.

MEDICAL OFFICER'S REPORT

I certify that No. L609381 Private Arthur George Merkel of No. 13 District Depot, C.A. is in a good state of health, and fit to undergo Trial by Court martial.

A. E. Lawson Capt.,
Medical Officer
R.C.A.M.C., C.A., attached
No. 13 District Depot, C.A.

Station Calgary, Alberta.

Date 8th March 1945.

M. F. B. 246

50M—9-44 (5437)
H.Q. 1773-39-400

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries Calgary

on the 8th day of March 1945 at 10.45 hours,

for the trial of: H. 60 9331 Pte Arthur George Merkel
Number Rank Full Name

No. 13 District Depot C.A.
Unit Attachment, if any

PRESIDENT: Lt. Col. Walter Kingsley Lall M.C., V.D.
(Ret) Army Tank Regt. Calgary Regt (Tank).

PROSECUTOR: Captain Duncan Bingham No. 13 D.D., C.A.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lt. John William Pryke No. 13 D.D., C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused not guilty of desertion but guilty of absence without leave in respect of the first charge. Guilty of the second charge.

SENTENCE: The Court sentence the Accused to undergo detention for ~~15~~ 130 days. To be put under stoppages of pay until he has made good the sum of $11.34 in respect of deficiencies of equipment, clothing and regimental necessaries.

Signed at The Armouries Calgary this 8th day of March 1945.

President, Standing Court-Martial.

M.F.B. 1486 Extracts entered as No. 36236 in the
2M 6-44 (4908) Record of Courts-Martial kept in the
H.Q. 1772-39-2296 Office of the Judge Advocate-General
this 20 day of Mar 1945

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~ as interpreter?

Answer: MS0IN8. C.S.M. W.O.II. H.R. Collaney.

Question to the accused. Do you object to (CMSC) 1CD M.D. No. 13 as shorthand writer?

Answer: No Sir.

The shorthand writer ~~and interpreter (if any) are~~ 15 duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No sir. The accused was remanded for trial by a Standing Court-Martial

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes sir

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Answer: Not guilty

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer. Guilty sir

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to the second charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

1. 2. 5

"B2"
~~B2~~ at C1.
President.

CHARGE SHEET

The accused, No. L609381 Private Arthur George Merkel, No. 13 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:

First Charge
Sec. 12(1)(a)
Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

at Camrose, Alberta, at 0600 hours on 17th August 1944, absented himself from No. 131 Canadian Infantry (Basic) Training Centre, C.A., until surrendering at Camrose, Alberta, to military authorities at 0600 hours on 2nd March 1945, the cost of return to his corps being $10.15.

Second Charge
Sec. 24(2)
Army Act

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES

in that he

at Calgary, Alberta, on 6th March 1945, was deficient of the following articles, viz:-

Vocabulary Less 25%
Rate CARO 3464

Clothing Division "B"		
Boots, Ankle prs. 1	5.82	4.36
Shirts, Cotton Khaki 1	1.54	1.15
Shoes, Leather black prs. 1	4.84	3.63
Socks, prs. 2	.92	.69
Clothing Division "C"		
Brushes, Boot polishing 1	.21	.16
Brushes, Shaving 1	.42	.32

	Vocabulary Rate	Less 25% CARO 3464
Clothing Division "C" con't.		
Brushes, Tooth 1	.09	.07
Combs 1	.04	.03
Pins, Collar Safety 1	.06	.05
Socks, Black prs. 2	.56	.42
Towels, Hand 2	.62	.46
TOTAL		$ 11.34

.....Lieut.-Col.,
(J.W.Littleton) Officer Commanding,
No.13 District Depot, C.A.

CALGARY, ALBERTA,
7th March 1945.

C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No. sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

~~The Prosecutor proceeds to call witnesses.~~

~~*First Witness for prosecution.*~~

~~being duly sworn, is examined by the Prosecutor.~~

Question Capt. D. Bingham, No. 13 District Depot, C.A., the Prosecutor, tenders to the Court the following documents:-

M.F.B. 375.

(M.F.B. 375 is read, marked "Exhibit F", signed by the President, and attached to the proceedings.)

M.F.M. 216.

(M.F.M. 216 is read, marked "Exhibit G", signed by the President, and attached to the proceedings.)

M.F.B. 1481.

(M.F.B. 1481 is read, marked "Exhibit H", signed by the President, and attached to the proceedings.)

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No. sir

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No sir

First Witness for the Defence

The accused, No. L.609381, Pte. Arthur George Merkel, No. 13 District Depot, C.A., being duly sworn, is examined by the Defending Officer.

Q. You are No. L.609381, Pte. Arthur George Merkel?

A. Yes, Sir.

Q. And you do belong to No. 13 District Depot?

A. Yes, Sir.

Q. How do you know -- who told you?

A. (witness hesitates)

Q. How long have you been known to belong to No. 13 District Depot?

A. When they escorted me down they told me I was going to be attached to No. 13 District Depot.

Q. The escort told you?

A. The Sgt. at Camrose.

Q. How old are you?

A. 22, Sir.

Q. Were is your home?

A. Raymore, Saskatchewan.

Q. You left No. 131 C.I. (B) T. C., on the 17th day of August, is that correct?

A. Yes, Sir.

Q. What were you doing there?

A. I was supposed to do my basic training over again, Sir.

Q. Had you had any previous training?

A. Yes, Sir.

Q. Will you tell the Court how much training you have had?

A. I have had all my basic and advanced training.

Q. Where?

A. At Vernon, B.C., with the First Battalion Irish Fusiliers.

Q. And?

A. From there I was drafted to the Winnipeg Light Infantry.

Q. And then where?

A. I got three months' leave from both my parents being in the hospital.

Q. And after that?

A. I returned to the Regina depot and from there to Vancouver depot,

where I was driving and then to Port Alberni and was driving for the Administration Staff.

Q. You were driving a car?

A. Yes, Sir.

Q. Are you a fully qualified driver?

A. Yes, Sir.

Q. And from there?

A. I went home to Regina on two months' spring leave and then I went back to the Regina depot and from there to the Vancouver depot.

Q. And then?

A. And then I was sent to Calgary, Alberta, Currie Barracks.

Q. That would be to A.16 would it?

A. Yes, Sir, to do my advanced.

Q. Yes.

A. To do my advanced training over again. From there I was sent to Camrose to start over at the beginning.

Q. To start your basic training again?

A. Right.

Q. Where were you born?

A. At Raymore, Saskatchewan.

Q. Where were your parents born?

A. They both were born in Germany.

Q. How long has your father been in this country?

A. Since 1912.

Q. And is he a naturalized citizen?

A. Yes, Sir.

Q. When the current war broke out, did your father receive any instructions from the Government?

A. Yes, Sir, he had to report once a month and his firearms were taken from him.

Q. Is he still doing that?

A. He is not since I have been in uniform.

Q. Since you came into the army, he hasn't had to do that?

A. No, Sir.

Q. What is your attitude towards the army now?

A. Well, I come back under circumstances and I am willing to soldier.

Q. Do you wish to be an active service soldier?

A. Yes, Sir.

Q. And you are prepared to go overseas?

A. Yes, Sir, and I also wish to transfer to the Airborne Troopers.

Q. If it is possible?

A. If it is possible.

Q. The fact that your parents had to report once a month, did that disturb your mentality at all?

A. Well, it has been disturbing me right along as to why they called me into the army and my parents were supposed to report.

Q. Do you consider yourself a good citizen of Canada?

A. Yes, Sir.

Q. And you look upon yourself as a Canadian?

A. Yes, Sir.

Q. If things had been explained to you a little more fully, would that have made any difference to your service?

A. It may have, Sir.

Q. What made you give yourself up?

A. I was going to come back and soldier again.

Q. Why?

(witness hesitates)

Q. Did you consider it your duty, or otherwise, or what?

A. I figured it would be my duty.

Q. And you -- just tell the Court -- I can't tell you what you can say -- I may be overstepping the bounds now. Would you tell the Court why you decided to surrender yourself to your unit?

A. I came back to my unit to take my training over again and then go overseas.

Q. Would you say that you had done considerable training in the army?

A. I believe I have, Sir.

Q. And you returned to Camrose to undergo basic training?

A. Well, that was the only choice they gave me.

Q. Did that have any bearing on the fact that you left here, that you had to undergo basic training?

A. That was the exact reason I did leave.

Q. You were a driver?

A. I was not driving in Camrose, I was taking basic.

Q. Did you enjoy driving?

A. It is as good a job as any.

Q. And are you happy in that job?

A. Yes, Sir.

Cross-examined by the Prosecutor.

Q. When were you called up first?

A. I was called up on January 4, 1943.

Q. What was the first thing that happened to you then with regard to your training?

A. I got my uniform and was sent to Vancouver, B.C.

Q. For what purposes?

A. For basic and advanced training.

Q. And did you complete that?

A. Yes, Sir.

Q. At Vancouver?

A. At Vancouver.

Q. And when, approximately, was that?

A. On July -- I believe it was July 24th or 25th.

Q. It was during the month of July, 1943?

A. Right.

Q. Then what happened?

A. Then I was at Wainwright, Alberta.

A. Doing what?

A. Going through the battle school.

Q. And you went to Wainwright at the end of July, 1943?

A. Right.

Q. How long were you there?

A. I was there anywhere from fourteen days to three weeks.

Q. Then what did you do?

A. I got three months' leave -- two from Wainwright, and an extension from Regina.

Q. Then what?

A. I returned to the depot at Regina and then was sent to the depot at Vancouver, Sir.

Q. And how long a period were you there?

A. About two months.

Q. Then where did you go from Vancouver?

A. I was a driver at Port Alberni, Sir.

Q. For how long?

A. Until some time in April, at which time I had my furlough.

Q. How long, approximately, were you in Port Alberni, just approximately.

A. Somewhere around about two and a half months.

Q. And then you went on two weeks' leave?

A. Two months.

Q. You went from Port Alberni on your furlough?

A. Yes, Sir.

Q. And you had two weeks then?

A. Right.

Q. And two months leave, did you say?

A. Right, Sir.

Q. Then what happened?

A. Then I came back to Regina.

Q. How long were you in Regina?

A. I could not say definitely how long.

Q. Can you give us some idea?

A. It would be two weeks and it could have been a month.

Q. You would say approximately three weeks?

Court I think he has given as close an answer as he can.

Q. And then where did you go?

A. I was sent back to Vancouver.

Q. What were you doing in Regina?

A. Just lying around and sleeping.

Q. And how long were you in Vancouver?

A. Three weeks or a month.

Q. And what did you do in Vancouver?

A. Nothing.

Q. And from there?

A. Back to Currie.

Q. How long were you in Currie?

A. I was doing my advanced training.

Q. Was that not a recap on your advanced?

A. Yes, Sir.

Q. How much of that training had you completed before you went to Camrose?

A. I don't know how much we had completed.

Q. It was while you were doing a recap on your advanced training that you were sent to Camrose?

A. Right, Sir.

Q. And how long were you at Camrose before you went absent without leave?

A. Two days.

Q. So that from July, 1943, until you went absent without leave in August, 1944, for a year and a month approximately, you had done no soldiering at all?

Court Wait a minute now.

Prosecutor May I put the question another way?

Court Do you need to put the question?

Prosecutor I do, Sir.

Q. During the period of 1943 -- July until August, 1944, you had no training as a soldier?

Defending Officer I must object, Sir, to that question because I don't know whether the accused is qualified to answer that.

Q. During -- from the period July, 1943, until August, 1944, you had no training as a soldier?

A. I didn't do any training, no, Sir.

Q. That is for a period of approximately a year?

A. Yes.

Q. And I believe you said it was by reason of the fact that you had to start over basic training again that you went absent without leave. That was the reason you went absent without leave because you didn't want to get your basic over again. You figured you were a fully trained soldier?

A. I figured that I had enough training.

Q. Didn't you think you were a little rusty over a period of a year, not doing any training?

A. I believe they gave me enough recap in Currie to overcome that. We understood it was because the active men couldn't get along with the reserve men.

Q. You are charged in that you at Camrose, Alberta, at 0600 hours on 17th August, 1944, absented yourself from No. 131 Canadian Infantry (Basic) Training Centre, C.A. Did you absent yourself from that place and at that time?

A. Yes, Sir.

Q. And did you remain absent from No. 131 Canadian Infantry (Basic) Training Centre, C.A., at Camrose until you surrendered yourself at Camrose again?

A. Yes, Sir.

Q. And you surrendered to military authorities?

A. Yes, Sir.

Q. At 0600 hours on the 2nd March, 1945?

A. Yes, Sir.

Q. Your present unit is No. 13 District Depot, C.A., is that right?

A. That's the way they made me understand it.

Q. As far as you know?

A. Right, Sir.

The Defending Officer declines to re-examine.

Questioned by the Court.

Q. Where did you go when you went absent without leave?

A. I was working on the farm.

Q. Where?

A. If I would answer that question, it would involve certain people. It was in the Prairie Provinces.

Q. Did you go home?

A. No, Sir.

Q. How close were the Mounted Police to where you were?

A. At times I was right in the same place.

Q. Where would that be?

A. It was down in Regina.

Q. Did you work close to Regina?

A. I was a ways out from Regina.

Q. How far?

A. Oh, about one hundred miles.

Q. How far were you away from the Mounted Police detachment?

A. You mean at that time?

Q. Yes.

A. Sir, I have worked at different places and I have worked in towns where the Mounted Police were living and at times I worked a long ways off from them.

Q. What did you do with your army clothes?

A. I have got my army clothes.

Q. What did you do with them?

A. I wore them.

Q. How frequently?

A. All the time.

Q. What identification did you carry with you?

A. My own identification.

Q. Would that be your army identification?

A. My army identification.

Q. And how far were you away from your home?

A. Well, I never -- I was within about one hundred miles of home all the time.

Q. Did you go home at any time?

A. Well, if I had gone home they would have picked me up right away.

Q. Did you go home?

A. No, Sir.

Q. What led you to come back?

A. I come back and was going to do my duty as a soldier.

Q. What intentions did you have in your mind while you were working during this period?

A. I was thinking of coming back and trying to get my place back with the army.

Q. And you said that as far as your feelings for the army are concerned, you are prepared to go overseas?

A. Yes, Sir.

Q. And do your duty as a soldier?

A. Yes, Sir.

The witness resumes his seat.

The Prosecutor makes a Closing Address.

The Defending Officer makes a closing address.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the second charge, is found guilty of the said charge[*].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No sir

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No sir

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No sir

Question to the accused. Do you wish to call any witness as to character?

Answer. No sir

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No

Question to the accused. Do you wish to address the Court?

Answer. Yes sir through my defending officer

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE ACCUSED ADDRESSES THE COURT THROUGH HIS DEFENDING OFFICER

Sir, in reference to the accused, there is not a great deal I can say. He has given his evidence before you and he has told his story. This speaks for itself. This man has expressed his intention of going active and I understand that he can do his basic and advanced during detention and get himself ready to go overseas as soon as possible. There is not a great deal I can say but I would ask you to take into consideration his desire to go active and get overseas. Therefore, in the opinion of the defence, the best thing we can do is to get him overseas as soon as possible. In closing, I would just say this, Sir, that I know he will receive every consideration from you possible, knowing from your experience in matters of this kind and your sound judgment that he will receive consideration, therefore, I leave any sentence that you pass in your hands. Sir.

Sgt Regt'l I.
Lieut Col.
President.

RECORD of the Declaration of a Court of Inquiry assembled at Camrose, Alberta, on the 8th day of September, 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L.609381 Pte Arthur George Merkel, No. 131 C.I.(B) T.C., C.A., Camrose, Alberta.

DECLARATION

The Court declare that No. L.609381 (Regt'l No.) Pte. (Rank) Arthur George Merkel (Full Name) No. 131 C.I.(B) T.C., C.A., Camrose, Alberta, (Unit) illegally absented himself without leave from No. 131 CANADIAN INFANTRY (BASIC) TRAINING CENTRE, C.A., at Camrose, Alberta, (Place) at 0600 hours on the 17th day of August, 1944; that he is still so absent, and that on the 18th day of August, 1944, he was deficient, and that he is still deficient of the following articles:—

ARTICLES Cat. Sec "B"	Vocabulary Rate	VALUE Less 25% CARO	3436
Blouses Battledress Serge	6.50	4	88
Boots Ankle 2 prs @ 5.82	11.64	8	74
Caps Field Service	.70		53
Shirts Khaki Cotton	1.54	1	16
Shoes Leather Black	4.84	3	63
Socks Army 2 pr @ .46	.92		70
Trousers Battledress Serge	6.55	4	91

ARTICLES Cat. Sec. "C"	Vocabulary Rate	VALUE Less 25% CARO	3436
Brushes Boot Polishing	.21		16
Brushes Shaving	.42		32
Brushes Tooth	.09		07
Combs Hair	.04		03
Holdall	.22		17
Neckties Black	.19		14
Pins Collar Safety	.06		05
Razors Safety Sets	.42		32
Socks Black 2 pr @ .28	.56		42
Towels Hand 2 @ .31	.62		46
		$ 26	69

J. Fotheringham, Lieut No. 131 CI(B)TC CA. President
(Name) (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Signed at Camrose, Alberta,

this 8th day of September, 1944

Member
(Name) (Rank) (Unit)

Signature of Commanding Officer P.J.A. Fleming Lt.-Col. No. 131 CI(B)TC CA.
(Name) (Rank) (Unit)

Certified true copy (R. MacDonald) (Name) Capt.& Adjutent.No.131 CI(B)TC CA.
(Rank) (Unit)
(Signature of Officer having custody of original record)

M.F.B. 975
A.F.B. 115
1001M—10-42 (9530)
H.Q. 1772-39-297

Soldier's

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(~~APPREHENSION~~ SURRENDER TO SERVICE AUTHORITIES)

I, Lt.-Col. P.J.A. Fleming No. 131 C.I.(B)T.C. C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that L.609381 Pte MERKEL Arthur George
(Number) (Rank) (Name in full)

of the No. 131 Canadian Infantry (Basic) Training Centre, C.A.
(Unit and attachment, if any)

Strike out words not applicable) ~~was apprehended by~~ (surrendered to) M.69051 Sgt
(Number) (Rank)

David SPINK #131 C.I.(B)T.C. C.A.
(Name) (Unit or appointment)

at Camrose at 0600
(Place) (Hour)

on the 2nd day of March 19 45.

Strike out words not applicable) as a ~~deserter~~ (or absentee without leave), and that at the time of his ~~arrest~~ surrender he was wearing military (~~air force~~) uniform (~~dressed in civilian clothes~~).

Dated at Camrose, Alberta this 2nd day of March 19 45.

Fleming Lt.-Col.
(Signature, Number, Rank, Unit or appointment)
(P.J.A. Fleming) Commanding #131 CI(B)TC CA

NOTE - Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
50M- 5-42 (4731)
H.Q. 1772-39-1936

Sergeant H. [illegible] RCR
President

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. (Rank) Ellen K. Edis, (Name) RCASC, (Unit) C.S. & T.O., Wetaskiwin, Alta.

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from Wetaskiwin, Alberta (Place) to Calgary, Alberta (Place)

and return to Wetaskiwin, Alberta (Place) for the purpose of escorting

Full description of soldier being escorted — L609381 (Number) Private (Rank) MERKEL, Arthur George (Name in full)

No. 131 Canadian Infantry (Basic) Training Centre C.A. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a (~~deserter~~) absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~transportation~~) and the cost thereof for said soldier and escort being as follows:

	PARTICULARS	COST
M.D. 13	Transportation Warrant No. C.819909, dated 2nd March 1945, covering one single second class fare from Wetaskiwin, Alberta, to Calgary, Alberta, for absentee, No. L.609381, Private Arthur George Merkel..	$ 2.55
	Also one meal ticket @ .75¢.....	$ .75
M.D. 13	Transportation Warrant No. C.819909, dated 2nd March 1945, covering one second class fare from Wetaskiwin, Alberta, to Calgary, Alberta, and return, for escort, No. M35190 L/Cpl. T. Denney.....	$ 5.10
	Also one meal ticket @ .75¢.....	$ .75
	Also one meal ticket @ $1.00.....	$1. 00
	TOTAL	$10.15

Dated at Wetaskiwin, Alta. this 2nd day of March A.D. 19 45

(Ellen K. Edis) Lieut.
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~transportation~~)
Strike out description not applicable.

R.C.A.S.C. C.A.
C.S. & T.O., Wetaskiwin, Alta.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482

M.F.B. 1481
(274)—10-42 (5455)
H.Q. 1773-89-1481

"Y" Gen al Ct. Precedent

41

M.F.B. 355
75M—5-43 (148)
H.Q. 1773-99-699
A.F.B. 298

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L609381	Private	Arthur George Merkel	No.13 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Regimental ~~Service and General and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For	times	Failing to appear at place	times
For	times	of parade	1 times
For	times	AWL	1 times
For	times		times

~~Number of instances of gallantry or distinguished conduct~~ ~~or~~

~~There are no entries in the conduct sheets of the accused.~~

~~NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act~~ ~~A.F.A. 73~~ ~~Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 6 days in military ~~Air Force~~ custody, making a total of 6 days in custody, of which nil days were spent in hospital. in close arrest ~~nil~~ 6 days in open arrest ~~nil~~ days

5. The present age of the accused according to his ~~record of service is~~ ~~Attestation paper~~ enrolment 22 years 7½ months

6. The date of his ~~commission~~ ~~attestation~~ enrolment specified in his ~~record of service is~~ ~~attestation paper~~ enrolment 7 January 1943

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no military decoration or military reward. ~~The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ military military

10. ~~(If the accused is a warrant officer.)~~ ~~The accused before he was made a warrant officer last held the regimental rank of .....~~ Air Force

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Air Force Unit Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of March 1945 W M Sellar Capt.,

(W.M.Sellar) Adjutant,
No.13 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Y signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.B. 122)
B.Q. 1172-45

No. 1609381 Name Arthur George MERKEL

Sqn., Battery, or Company: 3rd Bn Irish Fusiliers (Vancouver Regt) C.A. CIC

Date of enlistment: 4 Jan. 43

G.C. Badges: Nil

Service or Proficiency Pay:

Date of last entry in Company Conduct Sheet:

No. and date of last drunk: Nil

Period (if any) remaining towards freedom from extra fine: REGINA SASK

Sheet No. One

Signature O.C. Company, etc.: "A.G.Carter" Lieut.

Character: Fair

Remarks: Recommended.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified no entries with effect 4 Jul 43. "Francis Neal" Capt. A16 C.I.T.C. "FN"					
Little Mountain Camp, Vancouver, B.C.	1 Feb. 44	Pte.		Sec. 15 (2) A.A. Failing to appear at the place of parade appointed by his C.O.	L36116 Sgt. Lindstrom, E.F.	5 days C.B.	3 Feb. 44	"E.A.Young" (EA Young) Capt.	Forfeits 2 days pay FR&I 1 a
Little Mnt. Camp, Vancouver, B.C.	2 Feb. 44	Pte.		Sec. 15 (2) A.A. Absenting himself off parade whilst under open arrest.	PSM Metcalfe, Sgt. Lindstrom E.F.	5 days C.B.	3 Feb. 44	"E.A.Young" (EA Young) Capt.	Capt. Forfeits 1 days pay FR&I 1 a.

CERTIFIED TRUE COPY OF M.F.M. 6
of which it purports to be a copy.

W.M. Sellar .....Capt.,
(W.M.Sellar) Adjutant, No.13 District Depot, C.A.

(P.T.O.)

PRECIS OF EVIDENCE

in respect to the trial by Standing Court-Martial of

The accused, No. L609381 Private Arthur George Merkel, No. 13 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:

Charges:- 1. Desertion,

2. Losing by Neglect.

To prove the first charge the following evidence is available:

Documentary: M.F.B. 375
M.F.M. 216
M.F.B. 1482
M.F.B. 1481

To prove the second charge the following evidence is available:

Documentary: M.F.B. 375

Verbal: No. M37140 R.Q.M.S. J. McIlhagga, No. 13 District Depot, C.A., who will give evidence that on the 6th March 1945, he personally checked the kit of the accused against his M.F.B. 375 and M.F.C. 800 and found him to be deficient the following articles:

	Vocabulary Rate	Less 25% GARO 3464
Clothing Division "B"		
Boots, Ankle prs. 1	5.82	4.36
Shirts, Cotton Khaki 1	1.54	1.15
Shoes, Leather black prs. 1	4.84	3.63
Socks, prs. 2	.92	.69
Clothing Division "C"		
Brushes, Boot polishing 1	.21	.16
Brushes, Shaving 1	.42	.32

	Vocabulary Rate	Less 25% CARO 3464
Clothing Division "C" con't.		
Brushes, Tooth 1	.09	.07
Combs 1	.04	.03
Pins, Collar Safety 1	.06	.05
Socks, Black prs. 2	.56	.42
Towels, Hand 2	.62	.46
TOTAL		$ 11.34

.....Lieut.-Col.,
(J.W.Littleton) Officer Commanding,
No.13 District Depot, C.A.

H.Q.C.55-M-1605(JAG/D-1
Your File No. C.36-M-3656(JAJ)

March 20, 1945.

District Officer Commanding,
Military District No. 13,
Calgary, Alberta.

STANDING COURT-MARTIAL
L.609361, Pte. Arthur George Merkel
No. 13 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde), Brigadier,
Judge Advocate-General.

ALT/MR

THIS COPY FOR H.Q.C.55-[illegible]-1605
M.D. C.56-[illegible]-3650
C.36-[illegible]-3656

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. L.609381 Name MERKEL. Arthur George

Rank Pte Unit No. 13 D.D. CA

Charge (1st) A.A. 12 (1) (a) - Desertion

(2nd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 17-8-44; (2) 6-3-45

Date of Arrest (1) 8-3-45 Charge Signed 7-3-45

Orders for D.C.M.

Place and Date of Trial The Armouries Calgary 8-3-45

Sentence Det 130 days; stoppages $11.34

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36236

Date 20-3-45

MEMO Guilty A.W.L.

M.D. 13 - No. 13 D.D.

Absent Sentence

6½ mos Det 130 days

H. Thurlow Capt
for Judge Advocate-General

10M-1-45 (M-4629)

R154

IN REPLY PLEASE QUOTE
No. C.36-M-3660 (JAJ)
C.36-M-3656 (JAJ)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

AIR MAIL

ARMY
Headquarters, M.D. 13,
Calgary, Alberta.

REGISTERED

9th March, 1945.

CONFIDENTIAL

C.55-M-1665

The Judge Advocate General,
Department of National Defence,
Ottawa, Canada.

Standing Courts-Martial
No. K.76952, Pte. Leonard Matthews
N o. L.609381, Pte. Arthur George Markel
No. 13 District Depot, C.A.

1. Enclosed are the proceedings of the marginally-noted Standing Courts-Martial.

36336

(W. K. Jull) Lieut.-Col.,
President,
Standing Court-Martial.

N.D. 25
3 Mil.—11-43 (2979)
H.Q. 1773-101-25

H.Q.C. [illegible] - 1606

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MATTHEWS, LEONARD K-76952 PTE.

CONFIDENTIAL H.Q.C. [illegible] - 1606

CENTRAL REGISTRY	DATE	F.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
MAR 22 1945					NEW FILE C.R. MAR 17 1945		
				JAG	With Papers C.R. APR 7 1945		
APR 3 1945				JCM	To note		
APR 10 1945					PER B.F. APR 22 1945		
APR 23 1945							
MAY 4 1945		P.A.		JCM	With Papers C.R. MAY 3 1945		
JUL 25 1945	JUL 24 1945	P.A.		JCM			
				JAG	With Papers C.R.		
AUG 6 - 1945				JCM	To NOTE		6/8/45
OCT 2 1945		cancelled		JAG	With Papers C.R. OCT 16 1945		
NOV 7 - 1945		P.A.		JAG	With Papers C.R. NOV 6 1945		
FEB 21 1946		P.A.		JAG	With Papers C.R. FEB 20 1946		
				JAG	With Papers C.R. MAY 6 1946		
MAY 15 1946	cancelled	cancelled		cancelled	Memo please		14 May 46
MAY 17 1946	cancelled	cancelled		cancelled			16/5/46
MAY 20 1946					With Papers C.R. MAY 30 1946		
MAY 31 1946	31/5/46			JAG			31/5/46
JUN 7 - 1946	6/6/46			JAG	With Papers C.R. JUN 7 1946		
OCT 11 1946	11/10/46				SEP 27 1946		
AUG 19 1947	19-8-47	P.A.			FOR RECONSIDERATION MAY 2		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-M-1606(JAG/D-6)

Office of the Judge Advocate General

6 Jun 46

District Officer Commanding
Military District No.11
VANCOUVER B.C.

Standing
K-76952 Pte Leonard MATTHEWS Court Martial.

11/K-76952(JAG)

Receipt is hereby acknowledged of your 27th May, dated 194 , under cover of which you returned to this office for Standing the proceedings of the marginally noted Court-Martial.

E.L.M

for (R.J. Orde), Brigadier,
Judge Advocate-General.

/kb

8M-5-45(M-96)

11/K-76952 (JAG)
11/K-608618

DEPARTEMENT OF NATIONAL DEFENCE
ARMY

Headquarters, MD. No. 11
Vancouver, B.C.

27 May 1946

CENTRAL REGISTRY Army
CONF. SEC.
25017
MAY 31 1946
File 55-M-1606
Chgd. to
Referred to

JUDGE ADVOCATE GENERAL,
NDHQ,
OTTAWA, Ont.

STANDING COURTS MARTIAL
M- 1780, Pte. A.R. Miller, No.11 Ord.Depot
K-608618, Pte. D. Gus, No.11 Ord.Depot
K- 76952, Pte. L. Matthews No.11 D.D.,C.A.

1. Reference your HQC 55-M-3378(JAG/D-4, HQC 55-G-879(JAG/D/10), HQC 55-M-1606(JAG/D-2) dated 18 May 46.

2. The proceedings in the m/n cases, having served their purpose, are returned herewith for custody

(S.S. Penny) Major,
for(E.C. Plow) Birgadier,
District Officer Commanding,
M.D. NO. 11.

CENTRAL REGISTRY Army
CONF. SEC.
MAY 31 1946
File JAG-M-1606
Chgd. to
Referred to

A

PROCEEDINGS OF A STANDING COURT MARTIAL HELD AT NO. 11 DISTRICT DEPOT, (CA), VANCOUVER BC at 1030 hours on the 1st day of May 1946, for the trial of:-

K.76952 Pte Leonard Matthews
No. 11 District Depot CA

PRESIDENT: Major J A V Cade
Headquarters M D 11

PROSECUTOR: Capt. Max Osten
Headquarters M D 11

DEFENDING OFFICER: Capt. John Patrick Keen
No. 11 District Depot CA

FINDING: NOT GUILTY OF DESERTION BUT GUILTY OF AWL ON THE CHARGE

SENTENCE: The Court sentence the accused TO UNDERGO DETENTION FOR FIFTY (50) DAYS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF $57.91 IN RESPECT OF COSTS OF APPREHENSION AND RETURN TO HIS UNIT.

SIGNED at Vancouver B.C. this 1st day of May 1946.

Extracts entered as No. 4462 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 8 day of May 1946

(J A V Cade) Major
President
Standing Court Martial

Question to the accused:

Q Do you object to be tried by me as President of the Court?
A No, sir.

Q Do you object to K.578 Cpl. Ray, J.C., Headquarters M D 11, acting as shorthand writer in your case?
A No, sir.

(K.578 Cpl. Ray, J.C., Headquarters, M.D. No. 11, is duly sworn in as shorthand writer)

Question to the Prosecutor:

Q Has the accused elected to be tried by court-martial rather than summarily by his Commanding Officer?
A Remanded, sir.

The Accused is arraigned upon the charge in the Charge Sheet, which is marked "B-2" signed by the President and annexed to the proceedings.

Question to the accused:

Q Is that your number, rank, name and Unit?
A Yes, sir.

Q Are you guilty or not guilty of the charge against you which you have heard read?
A Not guilty, sir.

"B-2"

(J A V Cade) Major
President S C M

CHARGE SHEET

The accused, K-76952 Pte Leonard MATTHEWS, of No.11 District Depot, C. A., a G.S. soldier of the Canadian Army, placed on Active Service, is charged with:-

CHARGE
SEC 12(1)(a) ARMY ACT

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at Vancouver, B. C., at 0800 hours on the 25th day of February 1946, absented himself without leave from No.11 District Depot, C. A., and remained so absent until apprehended by Civil Authorities at Cranbrook, B. C., at 2120 hours on the 20th day of April 1946. DRESSED IN CIVILIAN CLOTHES.

COSTS OF APPREHENSION AND RETURN TO UNIT - $57.91

Vancouver, B. C.,
29th April 1946.

(M. OSTEN) Capt.,
Permanent Prosecutor,
M. D. XI.

PROCEEDINGS ON A PLEA OF NOT GUILTY

Question to the accused

Q Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby or on the ground that you have not had sufficient opportunity for preparing your defence?

A No, sir.

THE PROSECUTOR DECLINES TO MAKE AN OPENING ADDRESS

THE PROSECUTOR UNDER THE PROVISIONS OF C A R O 5126 FILES WITH THE COURT THE FOLLOWING DOCUMENTARY EVIDENCE:

1. MFB 375, signed at Vancouver, B.C. on 19 March 46 relating to the accused.

2. MFM 215, signed at Cranbrook, B.C. on 20 April 46 relating to the accused.

3. Certified True Extract of Daily Order Part II No. 98, dated 29 Apr 46 of No. 11 District Depot CA.

4. MFB 1481, signed at Vancouver, B.C. on 24 April 46, relating to the accused.

The Defending Officer does not object to the admission of any of the above documents which are marked "F" "G" "H" and "I" respectively read, signed by the President and annexed to the proceedings.

D

THE PROSECUTION IS CLOSED

DEFENCE

The President informs the accused as to his rights in the general conduct of his defence.

Question to the accused:

Q Do you apply to give evidence yourself as a witness or do you wish to make an unsworn statement?
A On oath, sir.

Q Do you intend to call any other witness in your defence?
A No, sir.

First witness for defence:

The accused K.76952 Pte L. Mathews, No. 11 District Depot CA having been first duly sworn, is examined.

BY THE DEFENDING OFFICER

Q Will you tell the Court as fully as possible your story as to why you went Absent Without Leave. Give your reasons as you told them to me.
A Sir, the reason I went AWL was to support my father, who is old but not old enough for a pension. He is 60 years old.

Q I believe your father is in very poor health as supported by medical documents?
A Yes, sir. I wasn't able to make enough money in the Army. I only made $6.00 a month to help support him. I did not intend to desert, I wanted to report back after making some money to support him, also a little for transportation back to Vancouver. You see I was the only one he could depend on. I have a brother and a sister. My sister is married and is living in Lethbridge. My brother left home. No one gets along with my father. I am the only one that does. That is all I have to say, sir.

CROSS EXAMINED BY THE PROSECUTOR

Q Mathews, did you absent yourself without leave from No. 11 District Depot CA at Vancouver, B.C. at 0800 hours on the 25th day of Feb 46.
A Yes, sir.

Q And did you remain so absent until you were apprehended by Civil Authorities at Cranbrook, B.C. at 2120 hours on the 20th day of Apr 46.
A Yes, sir.

Q Were you dressed in civilian clothes at the time you were apprehended?
A Right, sir.

Q You have told the Court that the reason you went absent was because you wanted to support your father.
A That's right, sir.

Q Who was supporting your father up until the time you absented yourself?
A My brother. He left home and when he left home he was broke. That meant no money coming in for my Dad.

Q What made you decide to go absent on the 25th of Feb 1946?
A I wanted to support him. I told him a lie and said that I was on leave. He didn't know the difference but I had no intention to desert the Army, sir. I intended to come back a week before I was apprehended.

Q How much money had you made up to the time you were apprehended?
A I don't know exactly, you see sir, it was the day before pay-day and our time wasn't made up.

Q How much money had you made towards the support of your father. In actual cash I mean.
A I was making about $10.00 a day.

Q How much money did you have accumulated at the time you say you were going to surrender?
A I am not positive, but I think it was about $50.00.

Q How much money did you need for the support of your father?
A I don't know, sir.

Q How did you know you had enough then?
(no answer)

Q You just told the Court that you decided to come back to the Army a week before you were apprehended. Now how much money did you have to support your father at that time?
A About $75.00.

Q You thought that was enough?
A Yes, sir. Also the points dropped down and I figured I could get out quick to go back to supporting him again.

Q What was the address you gave the Army when you were attested?
A Cranbrook, sir.

Q Where did you go after absenting yourself without leave from the Army.
A To the B.C. Electric Company, that's where my mother was working, but when I got there I found that she was in uniform.

Q What did you do after that?
A Hitch-hiked to Cranbrock

Q Did you wear your uniform at Cranbrook?
A No sir, I didn't wear it as I was working.

Q Were you ever questioned by provost personnel in Cranbrook?
A No sir, there are no provosts there.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE THE ACCUSED
THE PROSECUTOR DECLINES TO RE-EXAMINE THE ACCUSED

QUESTIONED BY THE COURT.

Q When did you first start working after you left No. 11 District Depot?
A On the first of March 1946, sir.

Q What is your correct age?
A 22 years, sir.

THE WITNESS RESUMES HIS SEAT AS THE ACCUSED.

THE PROSECUTOR DECLINES TO MAKE A CLOSING ADDRESS

THE DEFENDING OFFICER DECLINES TO MAKE A CLOSING ADDRESS.

E

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

The Court having arrived at a finding on the charge, such finding is announced to the Court.

The Prosecutor tenders to the Court MBF 355, and informs the Court that no MFM 6 for the accused is available. This document is marked "Y", signed by the President and annexed to the proceedings.

Question to the accused:

Q Have you any statement to make concerning the documents which have just been read to you?
A No, sir.

Q Do you wish to address the Court?
A Yes, sir, I wish my Defending Officer to speak for me.

THE DEFENDING OFFICER: (In Mitigation)

Sir, the accused volunteered for the Canadian Army as a GS soldier at the age of 18 years. At that time his father was partially supported by his brother and was getting along fairly well. The accused did soldier as well as he knew how for a lengthy period. His sister didn't support his father and being married, had to work herself. The accused felt that it was his responsibility towards his father to contribute something towards his support. Unfortunately his mother is not residing at the same place as his father which doesn't help, and makes life for a chap of 22 years, very difficult. Having spent his time in the Army with a clean record until he took the law in his own hands and decided to go absent to support his father, I ask the Court to be lenient with the accused. I might state that his father still has to have support within the next few weeks. That's all sir, thank you.

THE SENTENCE HAVING BEEN RECORDED IT IS ANNOUNCED TO THE ACCUSED.

F

RECORD of the Declaration of a Court of Inquiry assembled at Vancouver, B.C.

on the 19th day of March 19 46, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. K76952 Pte. Matthews L. No. XI District Depot C.A.

DECLARATION

The Court declare that No. K76952 (Regt'l No.) Private (Rank) MATTHEWS Leonard (Full Name) No. XI District Depot C.A. (Unit) illegally absented himself without leave from No. XI District Depot C.A. at Vancouver BC (Place) at 0800 hours on the 25th day of February, 1946, that he is still so absent, and that on the 25th February 1946 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
		"F" J A V Cade (J A V Cade) Major President Standing Court Martial	

D.K. Brown Capt. No.XI DD CA President
(Name) (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Signed at Vancouver, B.C.

this 19th day of March 1946

Signature of Commanding Officer F.A. Clift Lt-Col O.C. No. XI DD CA
(Name) (Rank) (Unit)

Certified true copy R H Bruce Capt. & Adjt. No. XI DD CA
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

Officer i/c Records,
No. XI District Depot CA,
29 April 46.

M.F.B. 375
A.F.B. 118
150M—10-42 (6530)
H.Q. 1772-29-257

"C"

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942,
AS PUBLISHED IN GENERAL ORDER No. 127, 1942.

(Apprehension by or Surrender to Civil Authorities)

J A V Cade
(J A V Cade) Major
President
Standing Court Martial

I CERTIFY that the person whose description is given below was arrested by [redacted]

Strike out words not applicable

Cpl. M. B. MacBrayne, B. C. Police
(Name of Peace Officer or Constable)

at Cranbrook, B. C. (Place) at 9.20 P.M. (Hour)

on the 20th day of April 1946

Strike out words not applicable

and at the time of arrest [redacted] he was wearing [redacted] (dressed in civilian clothes).

Regimental particulars of officer or soldier referred to above.

No. K 76952
Rank Pte
Name MATTHEWS, Leonard
Unit No. 11 D.D.

Description

Age 23
Height 5'5½"
Complexion Dark
Hair Black
Eyes Hazel
Marks 3" scar extending from between left thumb & finger to head radius

8800
21

Signature of peace officer or constable by whom arrest, or to whom surrender, was made, or of officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.

M B MacBrayne
(Peace Officer) Cpl.

[redacted]

Strike out words not applicable

N.F.M. 215
75M—12-45 (3110)
H.Q. 1773-39-2935

"H"

(J A V Cade) Major
President
Standing Court Martial

Stencil # 667

DAILY ORDERS PART II

BY

LIEUT. COL. F.A. CLIFT DSO ED

Commanding

NO XI DISTRICT DEPOT C.A.(A)

ORDERS NO 98
29 APRIL 1946
VANCOUVER B.C.

LAST ORDERS ISSUED NO. 97 d. 27 Apr 46

24 STRENGTH INCREASE

(g) Having been S.O.S. Des. No. XI District Depot, C.A. by a Ct. of Inq. held 19 Mar 46 for A.W.L. from 0800 hrs 25 Feb 46. T.O.S. at regimental rate of pay $1.50 per diem. on Apprehension by Civil Authorities at Cranbrook, B.C. at 2120 hrs 20 Apr 46 (Dressed in Civilian Clothes). 20 Apr 46

K.76952 Pte. MATTHEWS, L. (Hold)

"H.E.Drab" Capt.,
for (D.K. BROWN) Capt & Adjt.
No. XI District Depot C.A.(A)
Vancouver, B.C.

CERTIFIED TRUE EXTRACT:

R Bruce Capt., Adjt.
Officer i/c Records,
No. XI District Depot C.A.
30 April 46.

M.F.B. 1481
Lit[illegible]-43 (3306)
H.Q. [illegible]-39-165)

"I"

ABSENTEES AND DESERTERS

(J A V Cade) Maj
President
Standing Court Martia

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. M.S. PATTERSON, Transportation Officer, DS & TO, MD 11
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~(authorized)~~ the bereinafter itemized transportation for escort

Complete — to proceed from Vancouver, B.C. (Place) to Cranbrook, B.C. (Place)
and return to Vancouver, B.C. (Place) for the purpose of escorting

Full description of soldier being escorted — K76952 (Number) Pte. (Rank) Matthews, L. (Name in full)
No. 11 District Depot (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(the transportation required)~~ and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	Prisoner: K76952 Pte. Matthews, L.	
	One second class single fare, Cranbrook to Vancouver, B.C.	$10.83
	Tax	1.60
	Two breakfast @ .75	1.50
	One lunch @ .75	.75
	One dinner @ 1.00	1.00
	Escort: K2601 L/Cpl. Chapple, G., No. 41 Provost Coy.	
	One first class single fare Vancouver to Cranbrook, B.C.	$16.25
	Tax	2.45
	One upper standard berth Vancouver to Cranbrook, B.C.	4.00
	Tax	.60
	One second class single fare Cranbrook to Vancouver, B.C.	10.83
	Tax	1.60
	Four breakfast @ .75	3.00
	Two lunches @ .75	1.50
	Two dinner @ 1.00	2.00
	TOTAL	$ 57.91

Dated at Vancouver, B.C. this 24th day of April A.D. 19 45

M S Patterson
(M.S. PATTERSON) Lieut., Transportation Officer,
Signature, rank, unit, attachment (if any) and appointment of officer
(issuing transport warrants) ~~(authorizing transportation)~~ DS & TO,
Strike out description not applicable. MD No. 11.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and not by an Officer "for" him.

"Y"

(J A W Cade) Major
President
Standing Court Martial

M.F.B. 558
50M—9-42 (5992)
H.Q. 1772-59-620
A.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (or unit)
K76952	Pte	Leonard MATTHEWS	NO XI DD CA

1. The following is a fair and true summary of the entries in the field ~~Service and Quarterly~~ ~~Regimental and Squadron~~ ~~Battery~~ Conduct sheets ~~or Company Conduct Books~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act, Air Force Act~~ and dispensations with trial under ~~A.A. 77~~ ~~are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of~~ ..... ~~beginning on the~~ ..... ~~day of~~ .....

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 11 days in ~~Air~~ military custody, making a total of 11 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of enlistment~~ is attestation paper is 22 years 10 mos

6. The date of his ~~enlistment~~ attestation specified in his ~~record of enlistment~~ attestation paper is 24 Feb 1942

~~7. The service which the accused is allowed to reckon towards discharge is~~

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force military decoration, or air force military reward (or is in possession of or entitled to). State any air force military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force .....

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....

Permanent Force
unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date;—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused Number..... Rank.....

Unit
Name..... of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1st day of May 46

R.B. Bruce Capt., Adjt.,
Officer i/c Records
No.11 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

MEDICAL OFFICER'S REPORT

I certify that No. K-76952 Pte Leonard MATTHEWS

of NO. XI D D CA is in a good state of health,

and fit to undergo Trial by Court martial.

J. G. McKenzie (RCAMC)
Medical Officer
NO XI DD CA

Station VANCOUVER B.C.

Date 1 MAY 1946.

M. F. B. 246
DEM—12-43 (12225)
H.Q. 1772-30-460

IN REPLY PLEASE QUOTE No. 11/M 76952(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, M.D. No.11,
Vancouver, B.C., 23 MAY 46.

NATIONAL REGISTRY ARMY
CONF. SEC.
21517
MAY 29 1946
File
Chgd. to
Referred to advised

The Secretary,
Dept. of National Defence,
Ottawa, Ontario.

(1)

STANDING COURT-MARTIAL
M 76952 Pte. MATTHEWS, L.

Your HQC 55-M-1606 Adm 3bSC, dated 17 MAY 46.

1. This soldier's MFM 6 was not lost. His MFM 6 with other regimental documents had been forwarded to NDHQ on 19 MAR 46, the date he was s.o.s.* It was not considered desirable to delay bringing this soldier before the Standing Court-Martial because of his MFM 6 not being available.

2. Later his MFM 6 was received from Records but not before the charge had been disposed of by the Standing Court-Martial.

* as a Deserter.

(2)

JAG

For note with respect to your memo of 14 May 46 herewith

31 May 46

(S.S. Perry) Major,
for (E.C. Plow) Brigadier,
District Officer Commanding,
M.D. No.11.

DEF. B. 469

IN REPLY PLEASE QUOTE No. M 76952 (AD)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

AIR MAIL

HQ MD 11
VANCOUVER BC 28 MAY 46

Secretary
Dept of National Defence
OTTAWA Ont

CENTRAL REGISTRY Army
CONF. SEC.
24674
MAY 30 1946
File
Chgd to
Referred to Admin 30-5-46

M.76952 - Pte. MATTHEWS L.

Ref: HQC 55-M-1606 Adm 3b8C, d/17 May 46.

1. Advice has been received at this HQ to the effect that the a/m soldier was discharged from the CA w/e 21 May 46 under the provisions of CARO 1029(8).

PA 4281
EXT:155

LC Robson Maj
(LC ROBSON) Maj
for DOC MD 11

DB/ra

NAT. DEF. B. 440
250000-4-46 (A327)
H.Q. 1772-39-767

H.Q.C.55-M-1606 (JAG/D-2)
Your 11/K-76952

Office of the Judge Advocate-General

18 May 46

The District Officer Commanding,
Military District No. 11, Vancouver, B.C.

STANDING COURT-MARTIAL

K. 76952 Pte. Leonard Matthews,
No. 11 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the [illegible] proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R. J. Orde) Brigadier
Judge Advocate-General.

LYV/MM

12M-11-45 [M-430]

THIS COPY FOR: H.Q. C.55-M-1606
M.D. 11/K-76952

GS

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. K-76952 Name MATTHEWS, Leonard

Rank Pte Unit No 11 DD CA

Charge AA 12(1)(a) WOAS, Desertion

Date of Crime 25-2-46.

Date of Arrest 29-4-46. Charge Signed 29-4-46.

Orders for D.C.M.

Place and Date of Trial No 11 DD CA; 1-5-46.

Sentence Det 50 days; stoppages $57.91

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 44621

Date 8-5-46

MEMO Guilty AWL

MD 11 - No 1 1 DD CA

Absent	Sentence
1¾ mos;	det 50 days.

R G Stern Maj

for Judge Advocate-General

10M-11-45 [M-425]

HQC 55-M-1606 Adm 3bSC

17 May 46

District Officer Commanding,
Military District No 11,
Vancouver, B.C.

Standing Court-Martial
K.76952 Pte Matthews, L.

1. Reference your 11/K 76952 (JAG) dated 3 May 46 forwarding proceedings of the above SCM.

2. It is noted on page "E" of the proceedings that this soldier's MFM 6 was not available at the trial.

3. May this HQ be informed whether the provisions of KR (Can) 1520 have been complied with.

For (E.G. Weeks),
Major-General,
Adjutant-General.

FMB/EMR

In reply quote No. H.Q.C.55-M-1606 (JAG/D-2)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE
Office of the Judge Advocate-General

OTTAWA, 14 May 46

TO: D. OF ADMIN.

Standing Court-Martial
K.76952 Pte. Leonard Matthews,
No. 11 District Depot, C.A.

It is noted on page "E" of the proceedings that the M.F.M.6 of the m/n was not available when he was tried by SCM. You may desire to inquire as to whether or not K.R.(Can) 1520 has been complied with in this case.

2. As the proceedings have not yet been forwarded to DOC MD 11 pursuant to C.A.R.O. 4565, may they be returned to this office when they have served your purpose, please.

(R.J.Orde) Brigadier
Judge Advocate-General.

LYV/MM

M.F.A. 1326
[illegible]
H.Q. 1772-59-2008

11/K.547752(JAG) 11/K.76952(JAG)
11/K.606898 11/B.122060

HQ, Military District No. 11
VANCOUVER, B.C. 3 May 6

AIRMAIL

CENTRAL REGISTRY
20998
MAY 6 1946
6-55 M. 1606

Judge Advocate General
National Defence Headquarters
O t t a w a, Ontario

STANDING COURT MARTIAL

K.547752 Pte Frank De Wolfe Hendrix
K.606898 Pte Andrew Kepes
K.76952 Pte Leonard Matthews
B.122060 Pte James Wilson MacNeil

1. Pursuant to GARO 4565 herewith the proceedings in the a/m trials.

J A V Cade

(J A V Cade) Major
President
Standing Court-Martial

4621

405-M-16715

IN REPLY PLEASE QUOTE
No. M-76952(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, M.D. No. XI
VANCOUVER, B.C. 13 Feb 1946

QR
C-55-M-1206

CENTRAL REGISTRY ARMY
COMP. S.R.C.
FEB 20 1946
File CJS. 22-1606
Check to
Referred to

The Secretary
NDHQ
Ottawa, Ontario

M-76952 Pte. MATTHEWS, Lenard

1. Enclosed herewith MFM 288 in the m/n case for custody.

2. The sentence expired 13 Feb 46.

Director of Records
A. G. Branch
FEB 19 1946
Nat. Defence Hqr.
Ottawa, Canada

E.C. Plow

(E.C.PLOW) BRIGADIER
District Officer Commanding
Military District No. XI

N.D.-23
3000M—10-44 (5769)
H.Q. 1772-101-23

JAG

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

22-M-2079

PART I

Case of K.76962 (Number) Pte. (Rank) Leonard MATTHEWS (Name in full)

A.16 Canadian Infantry Training Centre C.A. (Unit) (Attachment (if any))

Sentenced to Six months detention, Stoppages of pay $15.00

on 12 October 1945 at Calgary, Alberta

being served at No. 81 Military Detention Barracks, C.A. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19 years 6 mos. 25 Feb 42

Medical grade or category 23 - 1111111

FIRST TRIAL—PART II

To Adjutant-General (Superior Military Authority)

For details of offence see Part VII.

I have directed that the above-named be ~~XXX~~ committed to undergo his sentence, which I recommend should (not) be (suspended) ~~XXXX

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

.....(and) be reviewed on .....

Place .....

.....
Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be posted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
16 Nov 45	No Remission No Suspension EF 5 Jan 46	S.S. Feeney for Brig "A" Pacific Command	
8 Jan 46	EF to Feb 46 No action.	S.S. Feeney Maj Gen GOC-in-C Pac Comd	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
When on Active Service, Deserting His Majesty's service in that he at Calgary, Alberta, at 0630 hours on the 4th day of September 1945, absented himself from A.16 Canadian Infantry Training Centre, C.A., until he was apprehended at Cranbrook, British Columbia, by Civil Authorities, at 1155 hours on the 6th day of October, 1945, dressed in plain clothes, the cost of his apprehension and return to his Corps being $23.99. Absent 32 days, 5 hrs., 25 mins. Capt. Signature of Officer making entry (B. G. WEST) Capt. & Adjt.		

A.16 CITC CA

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
30 Oct 45	That sentence be satisfied.	..... (LOUIS SCOTT) COLONEL COMMANDANT A.16 C.I.T.C., C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
1st November 1945	Suspension not recommended	(F M W Harvey) Brigadier District Officer Commanding Military District #13

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC.55-M-1606 (JAG/D)

7 Nov 45

District Officer Commanding,
Military District No. 13,
CALGARY, Alta.

Standing Court-Martial
K.76952, Pte. Leonard MATTHEWS

Receipt is acknowledged of your C.36-M-3650 dated ??????? 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

EKM

/AB

for (R.J. Orde), Brigadier,
Judge Advocate-General.

E.T

PA on file pls
GSB

c. 55-p. 1606
NOV 5 1945
7209
CmBR

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

22-M-2079

Headquarters, Pacific Command.
Vancouver, B.C.
1 November 1945

Secretary,
Dept. of National Defence,
Ottawa, Ont.

SOLDIERS UNDER SENTENCE - Transfer
Military Detention Barracks

K.76952 Pte. MATTHEWS, L.

In accordance with the provisions of C.A.R.O. 4567, para 15, the attached notification of transfer of the m/n S.U.S. is forwarded herewith.

Major-General.
G.O.C. in C., Pacific Command.

ADMIN. TO NOTE & P. A.

Secretary
Courts - Martial Board of Review

NOV 6 1945

Headquarters,
Pacific Command.
(Attention C.A.P.M.)

S.U.S. TRANSFER BETWEEN M.D.HKS.

The transfer of the u/m S.U.S. has been completed with effect date stated hereunder

No.	Rank	Name	Unit
K-76952	PTE.	MATTHEWS, L.	A16 C.I.T.C.

Transferred from No. 81 M.D.Hks. at CALGARY, ALBERTA.

to No. 92 M.D.Hks. at CHILLIWACK, B.C.

with effect 26 OCT. 45.

for Commandant
No. 92 M.D.Hks.

Submitted in duplicate

R214

File: C.36-M-3650 (

DEPARTMENT OF NATIONAL DEFENCE
Army
Headquarters, M.D. 13
CALGARY ALBERTA

AIR MAIL
REGISTERED
CONFIDENTIAL

7345
NOV 5 194
C.55-M-1606
Referred to

The Secretary
Department of National Defence
OTTAWA, Canada

STANDING COURT-MARTIAL

K.76952 Pte. Leonard Matthews.

Reference 55-M-1606

1. Returned herewith are the Proceedings of the marginally noted Standing Court-Martial for registration and safekeeping.

2. The time between the return of the soldier to his unit (10 Oct 45) and trial (12 Oct 45.)

is 1 day

The time between apprehension and trial is 5 days.

3. ~~Enclosed is N.S.M. 288 in the above case.~~

4. Upon review, no remission has been ordered by the District Officer Commanding, Military District No. 13.

(F.M.W. Harvey) Brigadier
District Officer Commanding
Military District No. 13.

REVIEW OF STANDING COURT-MARTIAL

Trial by Standing Court-Martial of K.76952 Pte. Leonard Matthews

A.16 C.I.T.C., C.A.

Reviewed on 29th day of October 45

Decision Confirmed

(F. M. W. Harvey) Brigadier

District Officer Commanding, M.D. 13.

MEDICAL OFFICER'S REPORT

I certify that No. K.76952 Pte. Leonard Matthews

of A.16 C.I.T.C., C.A. is in a GOOD state of health,

and FIT to undergo Trial by Court martial.

C A Ross Capt. Capt.,
Medical Officer R.C.A.M.C.
Att. A.16 C.I.T.C., C.A.

Station Calgary, Alberta.

Date 12 OCTOBER, 1945

M. F. B. 246

50M—12-43 (3222)
H.Q. 1773-29-446

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Currie Barracks, Calgary,

on the 12th day of October, 1945 at 1400 hours,

for the trial of: No. K.76952, Pte. Leonard Matthews
Number Rank Full Name

A.16 Canadian Infantry Training Centre, C.A.
Unit Attachment, if any

PRESIDENT: Lieut.-Col. N. D. Dingle, E.D.,

PROSECUTOR: Lieut. Edward D. Strongitharm, A.16 C.I.T.C.,C.A.,
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lieut. Gerald M. D. Ridout, A.16 C.I.T.C.,C.A.
Rank Full Name Unit Attachment, if any

FINDING:

Not guilty of Desertion but guilty of absence without leave.

SENTENCE: "Six Months Detention", and to be put under stoppages of pay of $15.00 with respect to costs of apprehension.

Extracts entered as No. 4041 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 17 day of Oct 1945

Signed at Calgary this 12th day of October, 1945.

Lieut.-Col.
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: "No, Sir"

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to No. M 53148 L. & M. (W.O.I) N. R. ~~as interpreter~~?

Answer: Adjutant (L. M. & G.) Headquarters

Question to the accused. ~~Do you object to~~ M. D. No. 13 as shorthand writer?

Answer: "No Sir"

The shorthand writer and interpreter (if any) are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: "No he was remanded for trial, Sir"

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. "Yes Sir"

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read?

Answer: "Not guilty, Sir"

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

5

62
Minister of Nat. Def.
Ottawa Ont.

CHARGE SHEET

The accused, No. K.76952, Private Leonard Matthews, A.16 Canadian Infantry Training Centre, C.A., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:--

Charge
Sec.12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

at Calgary, Alberta, at 0630 hours on the 4th day of September, 1945, absented himself from A.16 Canadian Infantry Training Centre, C.A., until he was apprehended at Cranbrook, British Columbia, by Civil Authorities, at 1155 hours on the 6th day of October, 1945, dressed in plain clothes, the cost of his apprehension and return to his Corps being $23.99.

Louis Scott
(LOUIS SCOTT) COLONEL
COMMANDANT
A.16 CANADIAN INFANTRY TRAINING CENTRE CA

CALGARY, ALBERTA
11 OCTOBER, 1945

C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. Lieut. E. D. Strongitharm, A.16 Canadian Infantry Training Centre, C.A.,

being duly sworn, ~~is examined by the Prosecutor.~~

Question I am Lieut. E. D. Strongitharm, A.16 Canadian Infantry Training Centre, C.A.

I present M.F.B. 375.

(M.F.B. 375 is read, marked "Exhibit F", signed by the President, and attached to the proceedings.)

Certified true extract of M.F.B. 237.

(M.F.B. 237 is read, marked "Exhibit G", signed by the President, and attached to the proceedings.)

M.F.B. 1481.

(M.F.B. 1481 is read, marked "Exhibit H", signed by the President, and attached to the proceedings.)

M.F.B. 1482.

(M.F.B. 1482 is read, marked "Exhibit I", signed by the President, and attached to the proceedings.)

The Defending Officer declines to cross-examine.

The witness resumes his seat.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. "I wish to make an unsworn written statement Sir."

Question to the accused. Do you intend to call any witness in your defence?

Answer. "No, Sir"

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

On the 3 Sept. 45 I was on leave at my sisters place in Lethbridge, Alta. My pass expired on the 4th Sept. Learned from my sister that my father in Cranbrook was ill with lumbago. His illness kept him from working. I wired my Co. Commander in Currie Barracks ~~so~~ telling I did not have ~~fed~~ funds enough to return and asking for an extension. I received a wire telling me to report to #44 Provost Corps where I would receive transportation back to my Unit. I reported to the Provost who I signed for my transportation and was told to pick it up at the Railway Station any time within the next ten days. I left Lethbridge and hitchhiked my way to Cranbrook to see my father. I worked in place of my father in a logging camp as his lumbago would not allow him to do heavy labor. I wore working clothes. I was picked up in Cranbrook in civilian clothes but still in possession of my army registration card. As soon as my father recovered from his illness I intended to return to my unit. The doctor advised my father that he would be able to return to work within a short time.

Leonard Matthews

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. "No Sir"

Question to the accused. Do you wish to address the Court?

Answer. "I would like Mr. Lacoste to do so for me"

"Retract"

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE ACCUSED ADDRESSES THE COURT THROUGH HIS DEFENDING OFFICER

I wish to make a plea for leniency in the setting of the sentence for Pte. Matthews. Pte. Matthews did volunteer his services to his country. He is still a fairly young man and before he came into the army, he was never away from home for very long. From what he has told me, it seems he is very homesick when he is away and this may be the cause of some of his absences. From his record, it seems that he has got off to a bad start, in life and some steps, as well as punishment by the Court, should be taken to try and straighten this man out to try and prepare him to become a good citizen of this country once he is out of the army.

CLOTHING DIVISION "A"	ARTICLES	WOO. RATE	TRANS SHP CARGO 3464
Coats, waterproof	1	6.91	5.18
Dressings, first field	1	.27	.16
CLOTHING DIVISION "B"			
Blouses, S.D., serge	1	6.50	4.87
Trousers, S.D., serge, prs.	1	6.55	4.91
Caps, Field Service.	1	.70	.52
Drawers, cotton short, prs.	2	.84	.64
Shirts, undercotton	1	.86	.64
Shirts, cotton khaki	2	3.08	2.32
Shoes, leather black, prs.	1	4.84	3.63
Socks, Army prs.	2	.92	.70
CLOTHING DIVISION "C"			
Belts, waist web 1¼"	1	.25	.19
Brushes, boot polishing	1	.21	.16
Brushes, shaving	1	.42	.32
Brushes, tooth	1	.09	.07
Combs, hair	1	.04	.03
Forks, table	1	.08	.06
Knives, table	1	.18	.14
Neckties, black	1	.19	.14
Pins, collar safety	1	.06	.05
Razors, safety	1	.42	.32
Socks, black, prs.	2	.56	.42
Spoons	1	.08	.06
Towels, hand	1	.31	.23
CLOTHING DIVISION "D"			
Badges, cap	1	.09	.07
SECTION "1-A"			
Bags, ration	1	.04	.03
Braces, left	1	.35	.26
Haversacks	1	2.29	1.72
Straps, shoulder, haversack (L & R)	2	.62	.46
Tins, Mess, rectangular	1	.57	.43
SECTION "2-A"			
Outfits, a/Dimming	1	.15	.11
		$38.42	$28.84

RECORD of the Declaration of a Court of Inquiry assembled at Currie Barracks, Calgary, Alta.

this 27th day of September 1945, for the purpose of investigating

and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition,

Equipments, Instruments, Regimental Necessaries, or Clothing of No. K.76952 Pte. MATTHEWS, Leonard

A.16 Canadian Infantry Training Centre, C.A.

Exhibit "F"
Mrs. D. Boyd Abel
Feb 16th.

DECLARATION

The Court declare that No. K.76952 (Regt'l No.) Private (Rank)

MATTHEWS, Leonard (Full Name) A.16 Canadian Infantry Training Centre, C.A. (Unit)

illegally absented himself without leave from A.16 Canadian Infantry Training Centre, C.A.

at Calgary, Alberta (Place) at 0630 hours on the 4th day of September 1945,

that he is still so absent, and that on the 5th day of September 1945 he was deficient, and

that he is still deficient of the following articles:—

ARTICLES		ARTICLES	VALUE

"Y. R. Freeborn" Lieut. President
(Name) (Rank) (Unit)
A.16 C.I.T.C., C.A.

Member
(Name) (Rank) (Unit)

Signed at Currie Barracks, Calgary, Alta.

Member
(Name) (Rank) (Unit)

this 27th day of September 1945

Signature of Commanding Officer (LOUIS SCOTT) COLONEL
COMMANDANT A.16 C.I.T.C., C.A.
(Rank) (Unit)

Certified true copy
(Signature of Officer having custody of original record)

Capt. & Adj.
A16 C.I.T.C., C.A.

M.F.B. 375
A.F.B. 115
(5002—1-44 (3575))
H.Q. 1772-59-237

Exhibit "G"
Anna Bajkitch
Feb 26 44.

A

Soldiers under Sentence Confined in Detention Barracks or Civil Prison

No.	Corps	Coy. Etc.	RANK AND NAME	SENTENCE	HOURS DONE	HOURS TO DO	REMARKS

Curtis Barracks Station

REPORT OF THE

Reg. Police Guard

Mounted at 0900 *(Hour)* 10-10-45 *(Date)*

Dismounted at 0900 *(Hour)* 11-10-45 *(Date)*

To the Officer Commanding A.16 C.I.T.C., C.A.

Royal

Report of Offenders, and Soldiers under Sentence, Confined in Hospital

No.	Regtl. No.	RANK AND NAME	Corps	Coy. Etc.	DATE OF OFFENCE	Days	Nights	REMARKS

Commanding Guard

OBSERVATIONS

	Extreme of Temperature			Rain				Snow			
		Max.	Min.	Hour		Duration in hours	Ending	Commencing	Duration in hours	Ending	Commencing
Eastern											
Daytime											

I certify that the observations, thermometer were taken by me. The hours of snow and rain reported by the sentry were entered in the Observation Book in the Guard-Room.

Commanding Guard

DETAIL					SENTRIES		ARTICLES IN CHARGE OF GUARD																							
Officers	Sergeants	Bombardiers or Corporals	Lance-bombardiers or Lance-corporals	Acting Lance-bombardiers or Acting Lance-corporals	Trumpeters or Buglers	Troopers, Gunners, Privates, etc.	Tables	Forms	Fire Shovels	Hair Brooms	Bulbs, electric	Water Pails	Long Scrubbers	Hand Scrubbers	Lanterns	Mops	Coal Tray	Sentry Boxes	Locks and Keys	Pokers	Fenders	Padlocks	Water Cans	Arm Racks	Accoutrements, etc.	Boards of Orders	Handcuffs	Urine Tubs	Inventory Boards	Coal Box	Brushers	Ladders

	BROKEN OR DAMAGED		
	By whom	When	Remarks
Parole			
Countersign			

CERTIFICATE

I Relieved ..... at ..... o'clock.
Previously to the old Guard marching off, I inspected the several articles in charge of the Guard, and found them correct according to the above list, the Guard Room clean, and the Board of Orders legible. Immediately after the old Guard marched off, I read the orders to the Guard, and again to the sentries first posted, after they had been relieved, after which I visited the Sentries and found them properly posted and acquainted with their orders, and the Board of Orders hung up in the Sentry Boxes and complete. I inspected all Reliefs both going out and coming in, and found them regular. I also visited the Sentries frequently during my Guard and found them alert and on their posts and correct in their orders. The Guard was under arms at Retreat, Tattoo and Reveille sounding when all were present and sober. I inspected the Kits of the men on Guard and found them .....

Visited by the Field Officer ..... o'clock by Day, and at ..... o'clock by Night
" Captain at ..... o'clock by Day, and at ..... o'clock by Night
" Subaltern at ..... o'clock by Day, and at ..... o'clock by Night

Report by Guard Commander of any special occurrences during tour of duty (attached if necessary):—

Commanding Guard

TIME AND POST ROLL

Regtl. No.	NAME	Corps	Squadron, Battery or Company	Post	Time From	Time To	Time From	Time To	Time From	Time To	Time From	Time To	Time From	Time To	Time From	Time To	REMARKS

M. F. B. 237
20M—6-43 (4690)
17 Q. 1772-19-171

Commanding Guard
(OVER)

RETURN of Offenders Confined to the Guard Detention Room at Currie Barracks on 11 Oct 19 45

No.	Regt. No.	RANK AND NAME	Corps	When Confined	Date of Offence	CHARGE	EVIDENCE	DECISION	REMARKS Here insert particulars of arrest or surrender, the actual time, date and place, by whom arrested or to whom surrendered (name and unit), and whether in uniform or in civilian clothes.
K.76952	Pte	Matthews L.	C.I.C.	2310 10 OCT 45	0630 4 SEP 45	A.W.L.			Apprehended by Civil Authorities at CRANBROOK, B.C. at 1155 hours 6 OCT 45. At the time of his arrest he was wearing civilian clothes.

CERTIFIED TRUE EXTRACTS of M.F.B. 237

(G.E.W. HEMMANS) Lieut. & Asst/Adjt.,
A.16 Can. Inf. Training Centre, CA.

"M.49925 Cpl. McKay, R"
A.16 Can. Inf. Trng. Centre, C.A.

Commanding Guard

(OVER)

M.F.B. 1481
Tpt. 1943 (2206)
H.Q. 1711-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Exhibit "H"
Mathews & Daylor Case
Per Lam.

Fill in complete description — I, Captain W. A. Brennan, Assistant D.S. & T.O., M.D. 13
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~(authorized)~~ the hereinafter itemized transportation for escort

Complete — to proceed from CALGARY, Alberta (Place) to CRANBROOK, British Columbia (Place)
and return to CALGARY, Alberta (Place) for the purpose of escorting

Full description of soldier being escorted — No. K.76952 (Number) Private (Rank) L. A. MATHEWS (Name in full)
A.16, Canadian Infantry Training Centre, C.A. (Unit)

Strike out phrase not applicable — alleged to be ~~a deserter or~~ an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(the transportation required)~~ and the cost thereof for said soldier (Attachment, if any)
and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	M.D. 13, Transportation Warrant No. C.990650, dated 9th October 1945, covering one single second-class fare from Cranbrook, British Columbia, to Calgary, Alberta, for absentee, No. K.76952, Private L. A. Mathews.....	$5.33
	Also two meal tickets @ .75¢ each.....	1.50
	M.D. 13, Transportation Warrant No. C.990650, dated 9th October 1945, covering one second-class fare from Calgary, Alberta, to Cranbrook, British Columbia, and return, for escort, No. M.102930, Lance Corporal P. F. Niessen...	$10.66
	Also two meal tickets @ .75¢ each.....	1.50
	TOTAL	$ 18.99

Dated at Calgary, Alberta this 10th day of October A.D. 19 45

(W.A. Brennan) Capt.,
Assistant D.S. & T.O.,
M.D. No. 13.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~(authorizing transportation)~~
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his own unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1483.
This form must be signed by the Officer who authorizes or issues the transportation and not by an Officer "for" him.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER ~~1099, 1941~~ 1877, 1942

Exhibit "F"
Nemesis Digitized
Tim Nelson

(INCIDENTAL EXPENSES)

Complete description

Strike out words not applicable

Members of escort

Name and description of soldier escorted

I, M102930 L/Cpl. Niessen, P.F., No. 44 Coy., C. Pro. C. CA.,
(No.) (Rank) (Name) (Unit)

as (escort) ~~XXXXXXXXXXXXXXXX~~ PPC consisting of Myself

No. 44 Company - Canadian Provost Corps, CA. (A).

detailed to proceed from CALGARY, Alberta, to CRANBROOK, B.C.
(Place) (Place)

to return No. K76952 Pte. Leonard MATTHEWS, "H" Coy., A16 C.I.T.C.

alleged to be a ~~XXXXXXXX~~ PPC absentee without leave, to CALGARY, Alberta.
(Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
9th & 10th October 1945.	
Incidental expenses incurred by escort M102930 L/Cpl. Niessen, P.F., No. 44 Coy., C. Pro. C. CA., for returning absentee K76952 Pte. Leonard MATTHEWS, "H" Coy., A16 C.I.T.C. CA., Currie Barracks, from Cranbrook, B.C. to Calgary, Alta.,	
1 Supper on train between Lethbridge & Calgary, Alta., for escort M102930 L/Cpl. Niessen, P.F...	1.00
6th, 7th, 8th, 9th, 10th, October 1945.	
Incidental expenses incurred by the B.C. Provincial Police at Cranbrook, B.C., for the apprehension and detention of absentee K76952 Pte. Leonard MATTHEWS, "H" Coy., A16 C.I.T.C. CA., Currie Barracks.	
12 meals @ 3 meals for $1.00, at the Cranbrook City Lock-up.....	4.00
Total	$ 5.00

Dated at Calgary, Alberta this 11th day of October A.D. 1945

P.F. Niessen L/Cpl.
(M102930 Niessen, P.F.) ~~XXXXXXXXXXXXXX~~ PPC
No. 44 Coy., C. Pro. C. CA.
(escort)
Strike out descriptions not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.R. 1465
75M—2-42 (3590)
H.Q. 1373-99-1890

M.F.D. 355
75M—5-43 (145)
H.Q. 1772-39-630
A.F.B. 394

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Exhibit "V"
Memo dated 16 Mar 43

Number	Rank	Name	Regiment (or unit)
K.76952	Private	Leonard Matthews	A.16 Can.Inf.Trng.Centre,CA.

1. The following is a fair and true summary of the entries in the Field [redacted] Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, [redacted] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	1 times	A.W.L.	3 times
For	Losing by Neglect	1 times	Losing by Neglect	2 times
For		times		times
For		times		times

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [redacted] Previous convictions of the accused by a court-martial or a civil court, of summary awards under [redacted] Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time. [redacted]

4. The accused has been in confinement awaiting trial on the present charges, for 4 days in [redacted] civil custody, and 2 days in military custody, making a total of 6 days in custody, of which NIL days were spent in hospital.

NIL days in open arrest
6 days in close arrest

5. The present age of the accused according to his [redacted] is 22years 3 months
attestation paper

6. The date of his [redacted] specified in his [redacted] is 25 FEB 42
attestation attestation paper

7. [redacted]

8. [redacted]

9. The accused is in possession of or entitled to no [redacted] decoration, or [redacted] award [redacted]
military military

[redacted]

10. [redacted]

28

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank ..... Permanent Force unit ..... dated ....., and in his regiment (or corps) the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number K.76952 Rank Private Unit

Name Leonard Matthews of A.16 CAN. INF. TRNG. CENTRE CA.

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Standing Court-Martial	8 MAR 45 CALGARY, Alberta	A.W.L. Losing by Neglect	9 months detention. Stoppages of pay $27.45	160 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th day of October, 1945

(G.E.W.HEMMANS) Lieut.
Asst/Adjt., A.16 CITC CA.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Exhibit 'Y' signed by the president, and annexed to the proceedings.

M.F.M. 6

Date of Birth 3 JUL 23

Exhibit 7

Reg. No. K-76952 Name MATTHEWS Leonard Corps C.I.C. Date of enlistment or enrolment 25 FEB 42

Sheet No. of *1, 2, 3, 4, 5

Signature O.C. Company, etc. G.O. TUCKER MAJOR (Sgd.)

*Place check mark against number of sheet in use.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Calgary, Alberta	Sheet destroyed 2 yrs 6 mos service wef 25 AUG 44. Certified no further regt'l entries						G.O.Tucker	Major(Sgd)	A.16 CITC CA
Vernon, B.C.	4 APR 42	Pte.	---	AA 15(1) AWL from 22 hrs 4 APR 42 until 1800 hrs 8 APR 42 (Abs 3 days 17 hrs) Cost of App. $8.60	Cpl. LOCKE Documentary	28 days Det'n Stop of pay $8.60 FR& I 172(8)	13 Apr 42	Lt.Col. A. HAMILTON GRANT(GSWH)	Forf. 4 days pay FR&I 194(1)(a) sgd.
Red Deer, Alta.	3 AUG 42	Pte.	---	AA 15(1)AWL from 0600 hrs 3 AUG 42 until 0335 hrs 6 AUG 42(abs 2 days 21 hrs 35 min)Cost of App.$15.23	Cpl. HALL Documentary	10 days Det'n Stopp of pay $15.23 FR&I 172-8	11 AUG 42	Major E.BELL	Forf.3 days pay FR&I 149(1)a
Red Deer, Alta.	21 AUG 42	Pte.	---	AA 15(1)AWL from 0600 hrs 21 AUG 42 until 2130 hrs 24 FEB 45(abs 918 days 5 hrs 30 mins)Cost of appr.$20.00 AA 24(2) Losing by neglect to $27.45	Documentary	9 mos.det'n.Stop of $20.00. FR&I Stop of $27.45 FR&I 156(2)	8 MAR 45	S.C.M.	Forf.919 days pay FR&I 149(1)a

(P.T.O.)

M.F.M. 6—300M—6-43 (3386)
H.Q. 1771-39-1602

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Cal[illegible], Alta.	10 JUL 45	Pte.	----	AA 15(1) AWL from 0200 hrs 10 JUL 45 until 1030 hrs 21 JUL 45(abs.11 days 8 hrs 30 min) Cost of apprh.$25.00 AA 24 (2) Losing by neglect to $18.62	Cpl.WITHERS Documentary	28 days det'n Stop of $25.00 FR&I 172(8) Stop of $18.62 FR&I 158(2)	25 JUL 45	Col.Louis Scott	Forf.12 days pay FR&I 149(1)a.

CERTIFIED TRUE COPY OF N.F.N. & CONCERNING K.76952 Pte. MATTHEWS, L.,
of which it purports to be a true copy.

(G.E.N.HEMMANS) Lieut. & Asst/Adjt.,
A.16 CAN. INF. TRNG. CENTRE, C.A.

PRECIS OF EVIDENCE

in respect of the trial by Standing Court-Martial of

No. K.76952, Private Leonard Matthews, A.16 Canadian Infantry Training Centre, C.A., a G.S. soldier of the Canadian Army placed on active service.

Charge ---

Desertion ✓

To prove the charge, the following evidence is available:

Documentary:

M.F.B. 375 ✓
M.F.B. 237 ✓
M.F.B. 1481 ✓
M.F.B. 1482 ✓

Louis Scott

(LOUIS SCOTT) COLONEL
COMMANDANT
A.16 CANADIAN INFANTRY TRAINING CENTRE CA

CALGARY, ALBERTA
11 October, 1945

H.Q.C.55-M-1606 (JAG/D-4)
Your C. 36-M-3650 (JAD)

20 Oct 45

The District Officer Commanding,
Military District No. 13, Calgary, Alta.

STANDING COURT-MARTIAL

K.76952 Pte. Leonard Matthews,
A-16 C.I.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

JOGR/MM

SM-7-45(M-188)

THIS COPY FOR: H.Q. C.55-M-01606
M.D. 36-M-3660

3650

GS

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. K.76952 Name MATTHEWS, Leonard

Rank Pte Unit A-16 CITC CA

Charge AA 12(1)(a) WOAS, Desertion

Date of Crime 4-9-45.

Date of Arrest 6-10-45. Charge Signed 11-10-45.

Orders for D.C.M.

Place and Date of Trial Currie Bks, Calgary; 12-10-45.

Sentence Det 6 mos; stoppages $15.00

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40417

Date 17-10-45.

MEMO Guilty AWL

MD 13 - A-16 CITC CA

Absent	Sentence
1 month;	det 6 mos.

for Judge Advocate-General

10M-8-45(M-189)

R110

C.36-M-3650 (JAD)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -
Headquarters, M.D. 13
Calgary, Alberta.

AIR MAIL

REGISTERED

CONFIDENTIAL

12th October, 1945.

3235

OCT 16 1945
C.55-M-1606
Chgd. to
Referred to JAG

The Judge Advocate-General,
Department of National Defence,
Ottawa, Canada.

Standing Court-Martial
No. K.76952, Pte. Leonard Matthews,
A.16 Canadian Infantry Training Centre, C.A.,

1. Enclosed are the proceedings of the marginally-noted Standing Court-Martial.

(N. D. Dingle) Lieut.-Col.,
President,
Standing Courts-Martial.

40417

3 copies

IN REPLY PLEASE QUOTE
C.36-M-3650 (JAQ)
~~C.36-S-3851~~
C.36-D-2526
~~C.36-B-2477~~

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

333456

CENTRAL REGISTRY FILE
AUG 3 1945
C.55-M-1006
Chgd. to
Referred to

Calgary, Alberta.
28 July, 1945

The Secretary,
Department of National Defence,
Ottawa, Canada.

Officer Commanding,
No. 81 Military Detention Barracks,
Calgary, Alberta.

REMISSION of SENTENCES

No. K.76952, Pte. Leonard MATTHEWS
No. K. 69753, Pte. George Joseph STEWART
No. K.50860, Pte. Peter DOUGLAS
No. B.162336, Pte. Robert William DENNIS

1. Attached hereto are remission orders in connection with the marginally named soldier.

(F.H.W. Harvey) Brigadier,
District Officer Commanding,
Military District No. 13.

Encl. 4

N.D. 23
3 M.S.—11-43 (2979)
H.Q. 1772-101-23

APPENDIX TO CANADIAN ARMY ROUTINE ORDER NO. 3974
FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE
BY COURT-MARTIAL

N.D.H.Q. File No... HQC 55-M-1606 (JAG/D)
District File No... C36-M-3650(JAS)

PART I

No..... K-76952 .....Rank... Pte .....Name.. Leonard MATTHEWS .....
Unit..... A.16 Canadian Infantry Training Centre, C.A. .....

PART II

Date of Trial... 8th March 1945 .....
Charge(s)... 1. WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE .....
..... 2. LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES .....
Sentence..... Detention for 9 months .....
..... Stoppages of pay to the sum of $20.00 with respect to cost of apprehension
..... Stoppages of pay to the sum of $27.45 with respect to kit deficiencies....
Date of Sentence..... 8th March 1945 .....
Confirmation -- (a) Authority:..... District Officer Commanding, Military District #13....
(b) Date :..... 27th March 1945 .....

PART III
REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit ~~xxxxxxxxxxxxxxxxxx~~ # the balance of the sentence of detention as from the 30th day of June 1945.

Signed at....Calgary, Alberta.....this.....day of....June 1945.....

..... (H.M.Harvey) Brigadier
(Appointment) (District Officer Commanding Military District #13.)
To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (~~commutation~~) (~~mitigation~~) # promulgated and extracts taken at....CALGARY .....
....Alberta.....this..29th..day of.....June, 1945 .....194....

(X) ~~xxxxxxxxxxxxxxxxxx~~ (B.G.West)Lieut. & A/Adjt.,
A.16 C.I.T.C., C.A.

(X) Unit, attachment, and appointment to be stated.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No... K. 76952 ....Rank. Pte. .....Name.. MATTHEWS, L. .....
The sentence of..9 months detention .....
.....
.....
awarded by..Standing..Court-Martial on the.... 8th day of March 1945 .....194..
has been..remitted .....
.....
.....
on the...30th day of June, 1945 .194.....by... Brigadier F.M.M.Harvey .....
UNIT. D.O.C., M.D. 13. .....
Certified true Extract of Daily Orders Part II of. A.16 C.I.T.C., C.A. .....
No.... 169 .....Place... CALGARY, Alberta .....Date. 25. JUL 45 .....

A/Adjutant (B.G.West) Lieut.,
A.16 C.I.T.C., C.A.

Strike out and initial words not applicable.

DEPARTMENT OF NATIONAL DEFENCE
- Army -

NSC (ICM)
NDHQ 55-M-1606 Ottawa, Ont
24 July 1945

CONFIDENTIAL
C.M.

District Officer Commanding
Military District 13
CALGARY , Alta

K-76952 MATTHEWS Leonard

Ref
C. 36-M-3650

2. Enclosed herewith:-

(a) MFM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford)
Major-General
Adjutant-General

Capt

File; C.36-M-3650 (JAS)

DEPARTMENT OF NATIONAL DEFENCE
Army
Headquarters, M.D. 13
CALGARY ALBERTA

AIR MAIL

310849

1st May, 1945.

The Secretary
Department of National Defence
OTTAWA, Canada

CENTRAL REGISTRY Army
CONF. SEC.
MAY 3 1945
File C.55 M-1606
Chgd. to
Referred to

REPORT ON CONDUCT
No. K.76952, Pte. Leonard MATTHEWS
No. 13 District Depot, C.A.

Reference H.Q.C.55-M-1606 (ICM) dated 23rd April, 1945.

1. Returned herewith is "REPORT ON CONDUCT" duly completed on the marginally noted soldier.

(F.M.W. Harvey) Brigadier
District Officer Commanding
Military District No. 13

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1606, (ICM)
OTTAWA, 23 APR 1945.

Your File - C.36-M-3650

District Officer Commanding,

Military District No. 13,

CALGARY, Alta.

K76952 Pte. Leonard MATTHEWS,

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in No. 81 Calgary, Military Detention Barrack, under your command, a sentence of 9 months' detention awarded by a Standing Court-Martial on the 8 day of MAR 1945.

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC:WS.

5M-2-45(M-4516)

HQC.55-M-1606 (JAG/D)

9 Apr 45

District Officer Commanding,
Military District No. 13,
CALGARY, Alberta.

~~Standing~~ Court-Martial
No. K.76952, Pte. L. MATTHEWS
No. 13 D.D., C.A.

Receipt is acknowledged of your C.36-M-3650 (JAF) dated 2nd April, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M. 288.

E. L. M.
Capt

for (B. J. Orde), Brigadier,
Judge Advocate General.

Noted
E. L. M.
L. H. CLAYTON
Lieut.-Colonel
Director of Civil Law, JAG

APR 10 1945

2M-1-44 (M-3431)

I.C.M. - L 4039

REVIEW OF SENTENCE

DATE APR 10 1945

H.Q.C. File: 55- M-1606

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES

Deserting from 21 Aug. 42, still absent 24 Feb. 45 2½ yrs.

8. PREVIOUS CONDUCT

ENLISTED ~~ENROLLED~~ 25 Feb. 42 AGE 21

Fall Leave 23-12-41

31-3-42	A.W.L	8 Hrs.	1 day CB on 1.4.42
4-4-42	A.W.L	4 days	28 days detn. on 13.4.42
22-7-42	A.W.L	2 Hrs. 55 min.	7 days CB on 23.7.42
3-8-42	A.W.L	3 days	10 days detn on 11.8.42

9. STATEMENT OF ACCUSED Enlisted when 17½. Completed BT & AT. Got homesick. Asked furlough. Refused as AWL 8 times.

They nabbed me before I had a chance to make up my mind to come back.

Would like to go O/S as soon as I can finish my trg all over again.

10. RECOMMENDATION

304692

File: C.36-M-3650 (JAF)

DEPARTMENT OF NATIONAL DEFENCE
Army
Headquarters, M.D. 13
CALGARY ALBERTA

[redacted]
REGISTERED
CONFIDENTIAL

2nd April, 1945.

CENTRAL REGISTRY Army
CONFIDENTIAL
APR 6 1945
File 22-m-1606
Chgd. to
Referred to

The Secretary
Department of National Defence
OTTAWA, Canada

STANDING COURT-MARTIAL
No. K.76952, Pte. L. MATTHEWS
No. 13 District Depot, C.A.

Reference H.Q.C.55-M-1606 (JAG/D/3)
dated 21st March, 1945.

1. Returned herewith are the Proceedings of the marginally noted Standing Court-Martial for registration and safekeeping.

2. The time between the return of the soldier to his unit (1st March, 1945.) and trial (8th March, 1945.)

is seven days.

The time between apprehension and trial is twelve days.

3. Enclosed is M.F.M. 288 in the above case.

4. Upon review, no remission has been ordered by the District Officer Commanding, Military District No. 13.

for (F.M.W. Harvey) Brigadier
District Officer Commanding
Military District No. 13.

REVIEW OF STANDING COURT-MARTIAL

Trial by Standing Court-Martial of No. K.76952, Pte. Leonard MATTHEWS, No. 13 District Depot, C.A.

Reviewed on 27th day of March, 1945.

Decision Confirmed

District Officer Commanding, M.D. 13.

MEDICAL OFFICER'S REPORT

I certify that No. K76952 Private Leonard Matthews

of No.13 District Depot,C.A. in a good state of health,

and is fit to undergo Trial by Court martial.

R. E. Shum Capt.,
Medical Officer
R.C.A.M.C.,C.A., attached
No.13 District Depot, C.A.

Station Calgary, Alberta.

Date 8th March 1945.

M. F. B. 246

50M—8-44 (5497)
H.Q. 1775-30-460

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries, Calgary

on the 8th day of March, 1945 at 14.15 hours,

for the trial of: K.769.32 (Number) Pte. (Rank) Leonard Matthews (Full Name)

No. 13 (Unit) District Depot C.A. (Attachment, if any)

PRESIDENT: H. Col. Walter Kingsley Hall M.C. V.D. 14 (R) ~~Armoured~~ Army Tank Regt. Calgary Regt. (Tank)

PROSECUTOR: Captain (Rank) Duncan Bingham (Full Name) No. 13 D.D.C.A. (Unit, Attachment, if any)

COUNSEL OR DEFENDING OFFICER: H. John William Pyke (Full Name) No. 13 D.D.C.A. (Rank, Unit, Attachment, if any)

FINDING: The Court find the accused –
Guilty of the first charge.
Guilty of the second charge.

SENTENCE: The Court sentence the accused
To undergo detention for 9 months
To be put under stoppages of pay until he has made good the sum of $20.00 in respect of costs of apprehension and return to this corps and a further sum of $27.45 in respect of differences of clothing equipment and regimental accoutrements.

Signed at The Armouries, Calgary, this 8th day of March, 1945.

President,
Standing Court-Martial.

M.F.R. 1488
25M-6-44 (4826)
H.Q. 1772-39-8296

Extracts entered as No. 36735 in the Record of Courts Martial kept in the Office of the Judge Advocate General this 20th day of March 1945
HKS

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No. Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: ~~as interpreter?~~

Question to the accused. Do you object to M.53148. C.S.M. (W.O.II) H.R. Galloway. (C.M.S.C.) HQ. M.D. No. 13. as shorthand writer?

Answer: No. Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No. Sir. The accused was remanded for trial by a Standing Court Martial.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Answer: Not guilty sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer. Guilty.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to The second charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

5

1. "B2"
Lt. Col.
President.

CHARGE SHEET

The accused, No. K76952, Private Leonard Matthews, No. 13 District Depot, C.A., a C.S. soldier of the Canadian Army, placed on active service, is charged with:

First Charge
Sec. 12(1)(a)
Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

at Red Deer, Alberta, at 0600 hours on 21st August 1942, absented himself from A20 Canadian Army Service Corps, T.C.,C.A., until apprehended at Cranbrook, British Columbia, by civil police at 2130 hours on 24th February 1945, dressed in plain clothes, the cost of apprehension and return to his corps being $27.85.

Second
Charge
Sec. 24(2)
Army Act

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES

in that he

at Calgary, Alberta, on 6th March 1945, was deficient of the following articles, viz:-

	Vocabulary Rate	Less 25% CARO 3464
Clothing Division "A"		
Anklets, Web prs. 1	.74	.55
Blouses, Battle Dress, Serge 1	6.50	4.87
Boots, Ankle prs. 1	5.82	4.36
Caps, Field Service 1	.70	.52
Drawers, Cotton short prs. 1	.42	.31
Shirts, Under Cotton 1	.43	.32
Shirts, Woollen 1	1.20	.90
Socks, prs. 2	.92	.69
Trousers, Battle Dress, Serge prs. 2	13.10	9.82

	Vocabulary Rate	Less 25% CARO 3464
Clothing Division "C"		
Belts, Waist Leather Brown 1	.35	.26
Braces, prs. 1	.28	.21
Brushes, Hair 1	.39	.29
Brushes, Tooth 1	.09	.07
Combs 1	.04	.03
Holdalls 1	.22	.17
Clothing Division "1-A"		
Haversacks, W.E. patt '37 1	2.20	1.65
Straps, Shoulder Haversack, W.E. patt '37 Lt 1	.31	.23
Straps, Shoulder Haversack, W.E. patt '37 Rt 1	.31	.23
Sheets, Ground drab MK VIII 1	2.38	1.78
Clothing Division "2-A"		
Ointment, A/Gas #2 Boxes 1	.26	.19
TOTAL		$ 27.45

.....Lieut-Col.,
(J.W.Littleton), Officer Commanding,
No.13 District Depot, C.A.

CALGARY, ALBERTA,
7th March 1945.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been compiled with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No. Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

~~The Prosecutor proceeds to call witnesses.~~

~~*First Witness for prosecution.*~~

~~Being duly sworn, is examined by the Prosecutor.~~

Question

Capt. D. Bingham, No. 13 District Depot, C.A., the Prosecutor, tenders to the Court the following documents:

M.F.B. 375.

(M.F.B. 375 is read, marked "Exhibit F", signed by the President, and attached to the proceedings.)

M.F.M. 215.

(M.F.M. 215 is read, marked "Exhibit G", signed by the President, and attached to the proceedings.)

M.F.B. 1482.

(M.F.B. 1482 is read, marked "Exhibit H", signed by the President, and attached to the proceedings.)

M.F.B. 1481.

(M.F.B. 1481 is read, marked "Exhibit I", signed by the President, and attached to the proceedings.)

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence myself on oath.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No.

First Witness for the Defence

The accused, No. K.76952, Pte. Leonard Matthews, No. 13 District Depot, C.A., being duly sworn, is examined by the Defending Officer.

Q. Your number is K.76952, is that correct?

A. Yes, Sir.

Q. And your name is Pte. Leonard Matthews?

A. Yes, Sir.

Q. And you were training on the 21st of August, 1942, at Red Deer?

A. Yes, Sir.

Q. How much training had you had?

A. Eight months, Sir.

Q. Had you completed your basic and advanced?

A. Yes, Sir.

Q. You had completed both?

A. Yes, Sir.

Q. How old were you when you enlisted?

A. Seventeen, Sir.

Q. And how many months?

A. Seventeen and a half.

Q. Seventeen years and six months?

A. Yes, Sir.

Q. Where did you enlist?

A. I enlisted in Vancouver.

Q. And did you like the army?

A. Yes, Sir.

Q. Were you ever queried as to your age whilst serving in the army while you were under eighteen?

A. Yes, Sir.

Q. Why did you go absent?

A. Well, Sir, I liked the army when I first joined up but I got homesick and wanted to go home.

Q. You got very homesick, did you say?

A. Yes, Sir, and I figured on giving myself up but they nabbed me before I got a chance.

Q. Did you apply for a pass to go home when you got homesick in 1942?

A. No, Sir.

Q. You didn't ask for a pass?

A. No, Sir.

Q. Why didn't you?

A. I asked for a furlough.

Q. And?

A. They wouldn't give it to me because I was eight times A.W.L.

Q. For how long?

A. Two weeks.

Q. An average of two weeks?

A. Yes.

Q. Did you have to produce your birth certificate when you joined up originally?

A. No, Sir.

Q. Did you tell a fib as to your age?

A. Yes, Sir.

Q. You said you were older than you actually were?

A. Yes, Sir.

Q. You were away two years, seven months and 24 days is that right?

A. Yes, Sir.

Q. And did you ever think about coming back to the army?

A. Yes, I did, Sir.

Q. Why didn't you?

A. They nabbed me before I had a chance to make up my mind. I had two years, I know, Sir, to make up my mind and I liked the army but I was homesick and I didn't know whether I should come back or not.

Q. How old are you now, your correct age?

A. Twenty-one and a half.

Q. Where did you go during all the period you were away? Where were you?

A. I was in Cranbrook, B.C.

Q. Are you well-known there?

A. Yes, Sir.

Q. Do you know the B.C. Provincial Police there?

A. Yes, Sir, I know one or two of them.

Q. Well, why weren't you picked up before?

A. I don't know, Sir, I had my registration card at the time.

Q. What kind of a registration card -- your army one?

A. No, Sir, a civilian one. I got it before I enlisted.

Q. Did you not turn it in before you enlisted?

A. I was out of the army before you had to turn them in.

Q. The Routine Order saying that you had to turn them in was not in vogue at that time?

A. No, Sir.

Q. Well, now, Pte. Matthews -- ?

A. Yes, Sir.

Q. Look over towards me, will you. What are your ideas now after all this -- you are older considerably then you were. Have your ideas changed at all with regards to the army?

A. Yes, Sir.

Q. What have you got in mind now?

A. Well, Sir, I would like to go overseas just as soon as I finish my training all over again.

Q. It will be necessary to have your basic and advanced over again?

A. Yes, Sir.

Q. You are a G.S. soldier?

A. Yes, Sir.

Q. And you volunteered to serve your country when you were seventeen years and six months old?

A. Yes, Sir.

Q. And the only reason you have to offer for going from the army is that you were very homesick?

A. Yes, Sir.

Q. And now you had different ideas?

A. Yes, Sir, different altogether, Sir.

Cross-examined by the Prosecutor.

Q. What were you doing all the time you were away -- for instance, where is your home?

A. Vancouver, B.C., Sir.

Q. And prior to your joining the army, had you ever been in Cranbrook?

A. Yes, Sir, my people lived there but moved to Vancouver last year.

Q. When you enlisted, I thought you said you lived in Vancouver?

A. I was in Vancouver -- I went there to enlist.

Q. Where were your parents at that time?

A. They were in Cranbrook, Sir.

Q. And when you went absent where did you go?

A. I went to Cranbrook.

Q. And with whom did you stay?

A. By myself, Sir, I was batching, Sir.

Q. Under what conditions?

A. I was working on the C.P.R., Sir, for two and a half years. I figured it was close to two and a half years.

Q. Were you batching -- in a house or a shack?

A. In a shack.

Q. In Cranbrook?

A. Yes, Sir.

Q. And when you first went absent, for whom did you work first?

A. Mike Ukranetz (witness not sure of spelling of name)

Q. And what kind of a business does he follow?

A. He has got a contract, Sir.

Q. Doing what? Building ships or hauling gravel or what?

A. He runs an ice-house.

Q. He runs an ice-house?

A. Yes, Sir.

Q. And what did you do for him?

A. I was his helper. He didn't know, Sir, I was in the army at the time.

Q. And how long did you work for him, approximately?

A. About two years and a half, Sir, not steady though, Sir.

Q. You worked for him for about two years and a half, but not steady?

A. Yes, Sir.

Q. And did you support yourself on the money that you earned?

A. Yes, Sir.

Q. And then for whom did you work after that?

A. I worked in the Sash and Door logging camp.

Q. Is that the name of the company?

A. Yes, Sir.

Q. Where is that, in Cranbrook?

A. Yes, Sir.

Q. Incidentally, the last man you said, is his place in Cranbrook?

A. Yes, Sir.

Q. And what were you doing for them?

A. Swamping.

Q. On a truck?

A. No, Sir, in the bush.

Q. How much did you earnat that job?

A. $3.25 a day, Sir.

Q. And how long did you say you worked for the Sash and Door people?

A. A month and a half, Sir.

Q. And then for whom did you work?

A. I worked for Mike Ukranetz.

Q. You went back to your old job?

A. Yes, Sir.

Q. How long did you work for him this time?

A. About three and a half months.

Q. How much were you earning when you worked for him?

A. Fifty cents an hour.

Q. What happened then?

A. Then I went to Vancouver and I worked hauling manure at $5.00 a yard.

Q. You worked at what?

A. Hauling manure at $5.00 a yard -- a private fellow.

Q. For whom were you hauling manure?

A. I don't remember his name.

Q. It was a private individual was it?

A. Yes, Sir.

Q. And for whom did you work after that?

A. That was about all the time I worked.

Q. Did any of these people for whom you worked ask you for indentification?

A. No, Sir.

Q. None of them?

A. No, Sir.

Q. None of them questioned you as to why you weren't in the army?

A. No, Sir.

Q. I think you said you worked for the C.P.R. for two and a half years?

A. That was for Mike Ukranetz. He had a private contract.

Q. Mike Ukranetz doesn't own the C.P.R. Was he working for the C.P.R.?

A. Yes, Sir.

Q. He more or less had a contract or something like that?

A. Yes, Sir.

Q. The total period of your absence, some two years, seven months, and twenty-four days -- the total period of time you spent whilst away either in Cranbrook or Vancouver?

A. Cranbrook?

Q. Either in Cranbrook or Vancouver?

A. Yes, Sir.

Q. Were you in anyother city or town?

A. No, Sir.

Q. During the period that you were absent, did you see your parents?

A. Yes, Sir.

Q. And what did they tell you, if anything -- what did you tell them?

A. I lied to them, Sir.

Q. Now, the particulars of the first charge against you say that you at Red Deer, Alberta, at 0600 hours on 21st August, 1942, absented yourself from A20 Canadian Army Service Corps Training Centre, C.A., did you go absent at that time and on that date from A.20, Red Deer?

A. Yes, Sir.

Q. And did you remain away -- absent yourself until you were apprehended at Cranbrook, B.C.?

(witness hesitates)

Q. Did you remain away from the time you went absent until you were apprehended at Cranbrook, B.C.?

A. Yes, Sir.

Q. And you were apprehended by the civil police?

A. Yes, Sir.

Q. At 2130 hours on 24th February, 1945?

A. Yes, Sir.

Q. And at the time you were dressed in civilian clothes?

A. Yes, Sir.

Q. Did Cpl. Mac Brayne that apprehended you -- how long had he been in Crenbrook prior to your being arrested?

A. For about two months, Sir, or a little better than two months.

Q. Before you were arrested?

A. Yes, Sir.

Q. He had or had he not seen you around prior to your being arrested?

A. Yes, Sir, they seen me around and they had my registration card. They asked for it and I showed it.

Q. On previous occasions?

A. Yes, Sir.

Q. Do you know why he arrested you on this occasion and not on the previous occasion?

A. I don't know.

Q. What did he say to you? You knew you were already in possession of a registration card because he checked you before?

A. Yes, Sir.

Q. On this occasion when he arrested you, what was said?

A. He just looked at my hand and he seen a scar there and he said 'I think you are wanted by the army, young fellow', and I said 'Yes, Sir' and went along with him.

Q. You had completed your training at Red Deer prior to going absent?

A. Yes, Sir.

Q. How long prior to your going absent had you completed that training, approximately?

A. About a week, Sir.

Q. And what company were you in in Red Deer at that time?

A. Three Company, I believe, Sir.

Q. When you went absent, what company were you in?

A. I don't remember, Sir.

Q. If I suggest to you that it was the trained soldier company would you agree with me? If you don't know, say you don't know.

A. I don't know, Sir.

Q. You told the Court and my friend that you left the army because you got homesick?

A. Yes, Sir.

Q. And yet you didn't go home, did you?

A. No, Sir.

Q. How did you get on about your meals while you were there?

A. I managed, Sir, I got along pretty good with my meals.

Q. Did you cook your own?

A. Yes, Sir, I used to flunky before I enlisted.

Q. What did you tell your parents?

A. I told them, Sir, I got my discharge. They didn't ask me to produce anything. I don't know why, Sir, but they took my word for it.

Q. What schooling have you had?

A. Grade seven.

Q. How old were you when you left school?

A. I was about fifteen.

Q. And did you work after you left school?

A. Yes, Sir, I worked with my dad.

Q. What did your father do?

A. He used to log.

Q. Have you any brothers and sisters?

A. Yes, Sir.

Q. Where in the family do you stand -- are you the oldest, youngest, or in-between?

A. I am the second oldest in the boys.

Q. How many brothers?

A. I have three brothers.

Q. How old is the oldest?

A. Twenty-three.

Q. Is he in the army?

A. No, Sir, he didn't pass his medical.

Q. What about the next one down the line?

A. The next one is not old enough.

Q. And you have sisters older or younger?

A. Sisters older -- two married, Sir, and one in the army.

The Defending Officer declines to re-examine.

Questioned by the Court.

Q. What led you to join up at the age of seventeen and a half?

A. I used to watch the other soldiers going down the street and I figured I would like to be in uniform to protect my country.

Q. What is the month and year of your birth?

A. 1923.

Q. 1923?

A. Yes, Sir.

Q. And what month?

A. July 3rd.

Q. And what's the date of your enlistment?

A. I don't remember, Sir.

Q. What month?

A. November, I am pretty sure.

Q. Nov. of what year -- 1941?

A. Yes, Sir.

Q. That would make you nineteen on enlistment, wouldn't it?

A. Yes, Sir.

Q. What is your correct age on enlistment, seventeen or nineteen?

A. Seventeen, Sir.

Q. What year were you born?

A. 1923, Sir.

Q. 1923?

A. Yes, Sir.

Q. In July?

A. Yes, Sir.

Q. Did you wear your uniform at any time while you were absent?

A. Yes, Sir, I wore it for two weeks.

Q. The first two weeks?

A. Yes, Sir.

Q. And did you do any work while you were wearing it?

A. No, Sir.

Q. Where were you staying when you were wearing it?

A. I was by myself, Sir. I was home, Sir, when I lied to my parents and I figured they may find out the truth that I was a deserter, so I started to hatch.

C. Did you tell your parents how it was that you got your discharge?

A. Yes, Sir, I told them that my heart bothered me.

C. What is your physical condition now?

A. A-1, Sir.

The witness resumes his seat.

The Prosecutor makes a Closing Address.

The Defending Officer makes a Closing Address.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the second charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No sir

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No sir

Question to the accused. Do you wish to call any witness as to character?

Answer. No sir

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No sir

Question to the accused. Do you wish to address the Court?

Answer. Yes sir through my defending officer.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE ACCUSED ADDRESSES THE COURT THROUGH HIS DEFENDING OFFICER

Mr. President: Before sentencing the accused, the only plea that I can make is the extreme youth of the accused when this A.W.L. first started. There is not much I can do other than that. He has apparently had a change of mind or has decided he is going to soldier. Under the circumstances, I suggest that the accused be given every opportunity to become fully trained and get on his way overseas, where he belongs and where he wishes to go. Other than that, Sir, I have nothing further to add.

Exhibit "F" 3

RECORD of the Declaration of a Court of Inquiry assembled at Red Deer, Alberta,

on the 14th day of September, 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. K 76952, Pte. Leonard Matthews, No. 5 Company, A 20 Canadian Army Service Corps Training Centre, C.A., Red Deer, Alberta.

DECLARATION

The Court declare that No. K 76952, Pte. Leonard Matthews, No. 5 Company, (Regt'l No.) (Rank)

A 20 Canadian Army Service Corps Training Centre, C.A., (Full Name) (Unit)

illegally absented himself without leave from A 20 Canadian Army Service Corps Training Centre, C.A.,

at Red Deer, Alberta, (Place) at 0600 hours on the 21st day of August, 1942,

that he is still so absent, and that on the 14th September, 1942, he was deficient, and that he is still deficient of the following articles:—

No.	ARTICLES	VALUE	ARTICLES	VALUE
			Forward	
1	Anklets, Web	$ .58	1 Holdalls	.17
1	Battle Dress, Blouses, Serge	4.18	1 Razors, Safety	.39
2	Battle Dress, Trousers, Serge	8.40	1 Shirts, Under, Cotton	.30
1	Belts, Waist, Leather, Brown	.37	1 Shirts, Woollen	.85
1	Boots, Ankle, Prs.	3.90	2 Socks, Woollen, Prs.	.54
1	Braces, Prs.	.27	1 Haversacks, W.E. Patt. '37	2.14
1	Brushes, Hair	.24	2 Straps, Shoulder, Haversacks, W.E. Patt. '37	.90
1	Brushes, Shaving	.30	1 Ointment, A/G #2 (Boxes)	.15
1	Brushes, Tooth	.09	1 Sheets, Ground MK. VIII	1.81
1	Caps, Field Service	.58		
1	Combs, Hair	.04		
1	Drawers, Cotton, Shorts, Prs.	.25	TOTAL	$26.45

(A. Ballantyne) Lieut., President
A 20 C.A.S.C.T.C., C.A.
(Rank) (Unit)

(H.A. Turnill) 2nd/Lieut., Member
A 20 C.A.S.C.T.C., C.A.
(Rank) (Unit)

(R.O. Bibbey) 2nd/Lieut., Member
A 20 C.A.S.C.T.C., C.A.
(Rank) (Unit)

Signed at Red Deer, Alberta,

this 14th day of September, 1942.

Signature of Commanding Officer (J.J. Burton-Willison) Lieut.-Col.,
A 20 Canadian Army Service Corps Training Centre, C.A.
(Rank) (Unit)

Certified true copy (A.F. Phelan) Capt.,
Adjutant,
A 20 C.A.S.C.T.C., C.A.
(Signature of Officer having custody of original record)

M.F.B. 376
A.F.B. 116
150M—10-42 (8520)
H.Q. 1772-30-257

Exhibit 'G'

41

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, AS PUBLISHED IN GENERAL ORDER No. 127, 1942.

(Apprehension by or Surrender to Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by ~~(surrendered~~ DSM to)

Strike out words not applicable

M.B.Mac Brayne, Corporal, B.C. Police
(Name of Peace Officer ~~or Constable~~) DSM

at Durick Street Cranbrook, B.C. (Place) at 9:20 P.M. (Hour)

on the 24 th. day of February 1945

Strike out words not applicable

and at the time of arrest ~~(surrender)~~ DSM he was wearing ~~military (air force) uniform~~ DSM (dressed in civilian clothes).

Regimental particulars of officer or soldier referred to above.

No. K76952 Reg. & given DSM.
Rank Pte.
Name MATTHEWS, Leonard
Unit A.20 R.C.A.S.C.T.C. Red Deer

Description

Age Born 1923
Height 5'8"
Complexion Med.
Hair Dark Brown
Eyes Brown
Marks

Signature of peace officer or constable by whom arrest, or to whom surrender, was made, or of officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.

D. J. Morton.
(Peace Officer) DSM (Constable) DSM (Officer in Charge of Police Station) Const.

Strike out words not applicable

M.F.M. 215
75M--12-43 (3178)
H.Q. 1772-39-1935

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER ~~4099, 1941~~ 1877, 1942

(INCIDENTAL EXPENSES)

Complete description

I, No. M103898 L/Cpl. Eugene Nels Scherlie, No. 44 Coy., C. Pro C.,
(No.) (Rank) (Name) (Unit)

Strike out words not applicable

as (escort) ~~(commander of escort)~~ consisting of Myself

Members of escort

No. 44 Company - Canadian Provost Corps, C.A. (A).

detailed to proceed from LETHBRIDGE, Alberta to CRANBROOK, B.C.
(Place) (Place)

Name and description of soldier escorted

to return No. K76953 Pte. Leonard MATTHEWS, A20 CASC TC CA Red Deer, Alta.
(Place)

alleged to be a ~~deserter or~~ absentee without leave, to CALGARY, Alberta,
(Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
28th February 1945.	
Incidental expenses incurred by escort M103898 L/Cpl. Scherlie, E.N., No. 44 Coy., C. Pro. C. CA. for escorting absentee K76953 Pte. MATTHEWS, L., A20 C.A.S.C. T.C. C.A. Red Deer, Alta., from Cranbrook, B.C. to Calgary, Alta.	?
1st March 1945.	
1 Breakfast for escort M103898 L/Cpl. Scherlie, E.N.	.75
2nd March 1945.	
1 Dinner for said escort at Lethbridge, Alta., (No diner on train).....	.75
24th, 25th, 26th, 27th & 28th February 1945.	
Expenses incurred by B.C. Provincial Police in the apprehension of K76953 Pte. MATTHEWS, L. and while being held at the Cranbrook City Lockup, Cranbrook, B.C., pending Military Escort. Subject apprehended by the B.C. Police, on Durick Street, Cranbrook, B.C., February 24th 1945 at 0930 hours. This man circularized as a Deserter in Canadian Pacific Command Circular No. 43 under date of Jan. 26th 1945.	?
ORGANIZED TERRITORY.	
To: 12 meals @ 3 meals for $1.00 at the Cranbrook City Lockup.....	4.00
Total.....	$ 5.50

Dated at Calgary, Alberta this 2nd day of March A.D. 1945

E N Scherlie L/Cpl.
(Signature and rank of officer or soldier in charge of escort)

(M103898 Scherlie, E.N.)
No. 44 Coy., C. Pro. C. CA.
~~Lethbridge, Alta.~~

Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.D. 1402
75M—2-42 (3598)
H.Q. 1773-39-1598

M.F.B. 1481
NDW—10-43 (3708)
1772-36-1851

Exhibit I
[illegible] al C1.
President

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieutenant M.A. Haynes R.C.A.S.C. C.A. C.S. & T.O. I.C. 133
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transportation for escort

Complete — to proceed from Lethbridge Alberta (Place) to Cranbrook British Columbia (Place) and return to Lethbridge Alberta (Place) via Calgary Alberta for the purpose of escorting

Full description of soldier being escorted — K 76952 (Number) Pte. (Rank) L. Mathews (Name in full)
A 20 C.A.S.T.C. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a ~~deserter~~ or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~[illegible]~~ and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	M.D. 13 Transportation Warrant No. C 818558 dated 28 February 1945 covering one single second class fare from Cranbrook British Columbia to Lethbridge Alberta, for absentee No. K 76952 Pte. L. Mathews	$ 3.85
	also one meal @ .75¢	$ .75
	also one meal @ 1.00	$ 1.00
	Transportation Warrant No. C 818558 dated 28th February 1945 covering one second class fare from Lethbridge Alberta to Cranbrook British Columbia return for the escort Lance Corporal E.W. Scherlie	$ 7.70
	also one meal @ .75¢	$ .75
	also one meal @ 1.00	$ 1.00
	Transportation Warrant No. C 818559 dated 28th February 1945 covering one single second class fare from Lethbridge Alberta to Calgary Alberta for the absentee K 76952 Pte. L. Mathews	$ 2.43
	Trnasposrtation Warrant No. C 818559 dated 28 February 1945 covering one se cond class fare from Lethbridge Alberta to Calgary Alberta return for escort M 103898 Lance Corporal E.W. Scherlie	$ 4.87
	TOTAL	$ 22.35

Dated at Lethbridge Alberta this 28th day of February A.D. 1945

M.A. Haynes
(M.A. Haynes) Lieut.
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~[illegible]~~
Strike out description not applicable.

R.C.A.S.C. C.A.
C.S. & T.O. I.C. 133
Lethbridge, Alberta.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and not by an Officer "for" him.

Gen. W.O.
President

M.F.B. 355
(Pt. 5-43 (145)
H.Q. 1773-39-620
A.F.B. 390

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K76952	Private	Leonard Matthews	No.13 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Regimental ~~and Squadron, Battery,~~ Service and General Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For		times	AWL 4	times
For		times		times
For		times	8	times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

~~NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ ~~Air Force Act~~ ~~A.F.A. 73~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 4 days in civil custody, and 6 days in military custody, making a total of 10 days in custody, of which Nil days were spent in hospital. ~~Air Force~~ in close arrest .....days in open arrest .....days

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 years 8 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 25th February 1942.

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~ ~~military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~ ~~Air Force~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force

.....dated....., unit, and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Name..... of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th. day of March 1945 W. M. Sellar Capt.,
(W.M. Sellar) Adjutant,
No.13 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

No. K76952 Name MATTHEWS Leonard Pte.

Date of last entry in Company Conduct Sheet

Sqn., Battery, or Company: No. XI DISTRICT DEPOT (VANCOUVER) A.F.

No. and date of last drunk

Corps

Period not reckoning towards freedom from extra fine

Date of enlistment: 25-2-42

G.C. Badges

Sheet No.

Signature O.C. Company, etc.: "A Paul Page"

Service or Proficiency Pay

Character: Lt.

M.F.M. 6
A.F.B. 122
30M—4-39 (7153)
H.Q. 1772-43-

President.

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Vernon,B.C.	31/3/42	Pte.	Nil	AWOL from 2200 hrs. 31/3/42 to 0600 hrs. 1/4/42 AWOL 8 hrs. Sec. 15 Para 1 A.A.	Cpl. Locke	1(one) day C.B.	1/4/42	"Major Payne"	Forfeits 1 days pay under FR&I
Vernon,B.C.	4-4-42	Pte.	Nil	AWOL from 2200 hrs. 4-4-42 until apprehended in Oliver,B.C. at 1500 hrs. 8-4-42 (3 days 17 hrs.) A.A.Sec. 15(1)	Documentary Cpl. Locke	28 days detention stoppages $8.60 (return cost)	13-4-42	Lieut.-Col. Hamilton Grant	Forfeits 32 days pay under FR&I
Red Deer, Alberta	22-7-42	Pte.	Nil	A.W.L. from 2130 hrs. 22-7-42 until 0025 hrs. 23-7-42 (Absent 2 hrs. and 55 min. A.A. Sec. 15(1).	Documentary Cpl. Nadeau,R.	7 days C.B.	23-7-42	Major W.Hamilton	"W.H."

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Red Deer, Alberta	3-8-42	Pte.		Absenting himself without leave from 0600 hrs. 3-8-42 until apprehended by R.C.M.P. at Drumheller, Alberta, at 0335 hrs. 6-8-42. (Absent 2 days 21 hours, 35 mins.) A.A.Sec. 15(1)	Documentary Cpl. Ball, R.R.	10 days detention	11-8-42	Major E.Ball	Forfeits 3 days pay and allowances Art. 149 F&I placed under stoppages of pay amounting to $15.23 to make good costs of apprehension F&I 172(8) "E.A.S."

CERTIFIED TRUE COPY OF M.F.M. 6
of which it purports to be a copy.

W. M. Sellar ..... Capt.,
(W.M.Sellar) Adjutant,
No.13 District Depot, C.A.

PRECIS OF EVIDENCE

in respect to the trial by Standing Court-Martial of

The accused, No. K76952, Private Leonard Matthews, No. 13 District Depot, C.A., a G.S. soldier of the Canadian Army, placed on active service, is charged with:

Charges:-

1. Desertion,

2. Losing by Neglect.

To prove the first charge the following evidence is available:

Documentary: F M.F.B. 375
G M.F.M. 215
H M.F.B. 1482 ?
I M.F.B. 1481

To prove the second charge the following evidence is available:

Documentary: M.F.B. 375

Verbal: No. M37140 R.Q.M.S. J. McIlhagga, No. 13 District Depot, C.A., who will give evidence that on the 6th March 1945, he personally checked the kit of the accused against his M.F.B. 375 and M.F.C. 800 and found him to be deficient the following articles:

	Vocabulary Rate	Less 25% CARO 3464
Clothing Division "A"		
Anklets, Web prs. 1	.74	.55
Blouses, Battle Dress, Serge 1	6.50	4.87
Boots, Ankle prs. 1	5.82	4.36
Caps, Field Service 1	.70	.52
Drawers, Cotton short prs. 1	.42	.31
Shirts, Under Cotton 1	.43	.32
Shirts, Woollen 1	1.20	.90
Socks, prs. 2	.92	.69
Trousers, Battle Dress, Serge prs. 2	13.10	9.82

	Vocabulary Rate	Less 25% CARO 3464
Clothing Division "C"		
Belts, Waist Leather Brown 1	.35	.26
Braces, prs. 1	.28	.21
Brushes, Hair 1	.39	.29
Brushes, Tooth 1	.09	.07
Combs 1	.04	.03
Holdalls 1	.22	.17
Clothing Division "1-A"		
Haversacks, W.E. patt '37 1	2.20	1.65
Straps, Shoulder Haversack, W.E. patt '37 Lt 1	.31	.23
Straps, Shoulder Haversack W.E. patt '37 Rt 1	.31	.23
Sheets, Ground drab MK VIII 1	2.38	1.78
Clothing Division "2-A"		
Ointment, A/Gas #2 Boxes 1	.26	.19
TOTAL		$ 27.45

.....Lieut.-Col.,
(J.W.Littleton) Officer Commanding,
No.13 District Depot, C.A.

HQC.55-M-1606 (JAG/D-3)
Your File C.36-M-3650

21 Mar 45

District Officer Commanding,
Military District No. 13,
CALGARY, Alberta.

STANDING COURT-MARTIAL
No. K.76952, Pte. Leonard Matthews,
No. 13 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

HLS/AB

HKS
(R.J. Orde), Brigadier,
Judge Advocate-General.

THIS COPY FOR H.Q.C.55-M-1606
M.D.C.36-M-3650
C.36-M-3656

G.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. K.76952 Name MATTHEWS, Leonard

Rank Pte Unit No. 13 D.D. C.A.

Charge (1st) A.A. 12 (1) (a) - Desertion

(2nd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 21-8-42; (2) 6-3-45

Date of Arrest (1) 24-2-45 Charge Signed 7-3-45

Orders for D.C.M.

Place and Date of Trial The Armouries Calgary 8-3-45

Sentence Det 9 mos; stoppages $47.45

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36235

Date 20-3-45

MEMO Balance of sentence remitted by Conf. Auth.

M.D. 13 - No. 13 D.D.

Absent	Sentence
2½ yrs	Det. 9 mos

H.L. Stewart, Capt
for Judge Advocate-General

10M-1-45 (M-4629)

R154 1

IN REPLY PLEASE QUOTE
No. C.36-M-3650 (J.A.J)
C.36-M-3656 (J.A.J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY
Headquarters, M.D. 13,
Calgary, Alberta.

AIR MAIL

REGISTERED

CONFIDENTIAL

9th March, 1945.

C.55-M-1606

The Judge Advocate General,
Department of National Defence,
Ottawa, Canada.

Standing Courts-Martial
No. K.76952, Pte. Leonard Matthews
No. L.609381, Pte. Arthur George Merkel
No. 13 District Depot, C.A.

1. Enclosed are the proceedings of the marginally-noted Standing Courts-Martial.

36255

(W. K. Jull) Lieut.-Col.,
President,
Standing Court-Martial.

N.D. 22
3 Mil.—11-43 (2877)
H.Q. 1777-101-23

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

CONFIDENTIAL

H.Q.C. 55-11-1607

CROSS REFERENCE

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

SUBJECT

STANDING COURT-MARTIAL

MINARD, DOUGLAS CARTER M-612132 GNR.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(Purpose for which referred must be expressed on the left minute "With Minute") NEW FILE	C.R.	MAR 17 1945
MAR 23 1945				J.A.G.			
				JAG	With Papers C.R. APR 6 1945		
APR 3 1945				D.C.M.	To note & ret.	M.M.	9-4-45
APR 18 1945							
APR 13 1945					With Papers C.R. APR 18 1945		
APR 23 1945					With Papers C.R. APR 21 1945		
JUN 28 1945				I.C.R.	PER B.F. JUN 29 1945		
JUN 28 1945					PER B.F. JUL 7 1945		
JUL 1 1945					With Papers C.R. AUG 18		
AUG 20 1945					To note & ret.		20-8-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

CONFIDENTIAL
H.Q.C. 55-11-1607

/ - - - - /

W.44-M-4940 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

336415

Winnipeg, Manitoba,
15th August 1945.

REGISTRY Army
CODE, SEC.
AUG 18 1945
File 055-Pu-1607
Chgd. to
Referred to

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

REMISSION OF SENTENCE

~~H3823 O~~, Pte. MINARD, D.C.
H 6/2132

Herewith, for custody, is Form of Remission of Sentence relative to the marginally-named, duly completed in accordance with C.A.R.O. 3974.

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

va

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE
BY COURT-MARTIAL

A.

N.D.H.Q. File No. HQC55-M-1607 (JAG)

D.H.Q. File No. W.44-M-4940 (J)

PART I

No. M-612132 Rank Gunner Name Douglas Carter MINARD
Unit A3 Canadian Artillery Training Centre, CA., Att'd No. 73 Mil. Det. Bks.

PART II

Date of Trial 9th March 1945.
Charge(s) (1) Desertion (2) Losing by neglect
Sentence 9 months detention Stoppages - $15.07 and $15.11
Date of Sentence 9th March 1945.
Confirmation (a) Authority } N/A Standing Court-Martial
(b) Date }

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit (~~commute~~ ~~mitigate~~) the balance of the sentence of detention as of the 9th day of August, 1945.

Signed at Winnipeg, Manitoba, this 2 day of August, 1945.

R.O.G. Morton
(R.O.G. Morton) Brigadier, District Officer
(Remitting Authority) Commanding, M.D. No. 10.

PART IV

PROMULGATION

Remission (~~commutation~~ ~~mitigation~~) promulgated and extracts taken at Winnipeg, Manitoba, this 4 day of August, 1945.

W.J. Beaton Capt
Officer i/c Documents
No. 73 Military Det. Bks.

(Unit, attachment and appointment to be stated.)

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. M612132 Rank Gunner Name Douglas Carter MINARD
The sentence of 9 months detention
awarded by ~~Standing~~ Court-Martial on the 9th day of March, 1945,
has been remitted as of the 9th day of August, 1945,
on the day of August, 1945, by Brigadier R.O.G. Morton, District
Officer Commanding, M.D. No. 10.
Certified true Extract of Daily Order Part II, No. 187
dated the 7 day of August, 1945.

Adjutant, A3 Cdn. Arty. Trng. Centre, CA.

DEPARTMENT OF NATIONAL DEFENCE
- Army -

~~MHQ~~ (ICM)

MHQ 55-M-1607 Ottawa, Ont

~~31 Jul 45~~ 7 1945

CONFIDENTIAL
C.M.

~~District Officer Commanding,~~

~~Military District No 10~~

~~WINNIPEG, Manitoba.~~

M 612132 Gnr. MINARD, D.C.

Ref
W 44-M-4940

2. Enclosed herewith:-

(a) MFM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for J. P. Gordon Capt
(A E Walford)
Major-General
Adjutant-General

IN REPLY PLEASE QUOTE

W.44-M-4940 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

10

308582

Winnipeg, Manitoba. 19th April, 1945

CENTRAL REGISTRY Army
CONF. SEC.
APR 21 1945
File C55-M-1607
Chgd. to
Referred to

The Secretary,
Dept. of National Defence (Army),
OTTAWA, Ontario.

Suspension of Sentence
M-612132, Gnr. MINARD, D.C.

Reference H.Q.C.55-M-1607 (ICM) dated 13th April, 1945.

2. M.F.M.288, duly completed as requested is returned herewith. The necessary entries have been made in this soldier's documents and in Unit Part II Orders.

(R.O.G.Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

vea
enc.

N.D. 23
300084—10-44 (5769)
H.Q. 1772-101-23

I.C.M. - F.

Department of National Defence.
H. Q. C.55 - M-1607,(ICM)
OTTAWA, Ont., 13 APR 1945.

Your File - W.44-34-4940

District Officer Commanding,

Military District No. 10,

WINNIPEG, Man.

M612132 Gnr. MINARD, D.C.

1. With reference telegram A.G. dated 13 APR 45 herewith enclosed M.F.M. 288 in respect of the marginally-noted soldier who has been serving in No. 73 Winnipeg Military Detention Barracks, in your Command, a sentence of 9 months' detention awarded by a Court-Martial on the 9 day of MAR 1945. Standing,

2. You will note from Part VI of said form that the sentence has been suspended.

3. Will you please have the Commandant of said Detention Barracks enter in Column 4 of Part VI of said Form the word "Released", the date of said release, the number of marks earned towards remission and sign same, inserting his appointment underneath his signature (e.g. Commandant, Nanaimo Military Detention Barracks).

4. When completed as above said Form is to be forwarded direct to the Officer Commanding A3 C.A.T.C., CA with instructions to make the necessary entries in Part II Orders and in the documents of the marginally-noted soldier in respect of said suspension of sentence.

5. M.F.M. 288 when duly completed as above is to be returned to this Headquarters.

(H.F.G. Letson)
Major-General
Adjutant-General.

LHC:WS.

500-8-44 (M-4274)

DUPLICATE

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of M612132 Gnr. Douglas Carter MINARD
(Number, Rank, Name in full)

A3 C.A.T.C., C.A.
(Unit, Attachment (if any))

Sentenced to 9 months detention, stoppages $15.07 and $15.21

on 9 MAR 45 at Winnipeg, Man.

being served at No. 73 MDB
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 years 3 mos. 19 MAY 44

Medical grade or category 23 1111111

FIRST TRIAL—PART II

To A.G. D.N.D., OTTAWA
(Superior Military Authority)

For details of offence see Part VII.

I have directed that the above-named be ~~NEX~~ committed to undergo his sentence, which I recommend should ~~XXX~~ be ~~XXXXXXXXXXXXXXXXXXXX~~ (reviewed on 8 JUN45 date) for reasons given in paragraph X.

Place Winnipeg, Man.

H.P.Roche, Lt.Col. A&Q
(Confirmed Authority)

Date 2 APR 45 for R.O.G.Morton, Brigadier, D.O.C., M.D.10

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offence, see pars. VIII. For C.O.'s remarks, see pars. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 288
(Army Form A-2106)
12M—6-43 (441)
E.G. 1772-20-2013

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
APR 13 1945	Sentence suspended Review on 13 Jul 45	[illegible] Adjutant-General for Superior Military Authority	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
AWL	10 Jul 44	9 Mar 45
Losing by Neglect	[illegible] 45	9 Mar 45
(Schwartz) Capt Signature of Officer making entry Adjutant A3 C.A.T.C.		

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
..... Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
29 MAR 45	Recommend full sentence be served	?????? Lt.Col. Commandant, A3 C.A.T.C.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
2 APR 45	This soldier has enlisted for general services, If his conduct warrants it his sentence will be remitted 8 JUN 45 in order that he may complete his training.	H.F.Roche,Lt.Col. for R.O.G.Morton, Brigadier, D.O.C., M.D.10

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: HQC.[illegible]39-1,F.D.5, (ICM)

PLACE: OTTAWA, Ontario.

DATE: 13 APR 45.

District Officer Commanding,
Military District No. 10,
WINNIPEG, Man.

CONFIDENTIAL ICM 182 REFTEL 3457B RECOMMENDATIONS AS TO SUSPENSION OF SENTENCES APPROVED

ADJUTANT-GENERAL

Copy

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
CIPHER		Important	13 1030 Q

SIGNED: Major-General, Adjutant-General

COPY 2 - FOR ARMY SIGNAL OFFICE. RETURNED TO ORIGINATOR AS CONFIRMATION.

MER V VEL NR 25 ---- IMPORTANT ----

FROM COMMANDING TEN WINNIPEG MAN APR 121630R

TO SECTY D N D OTTAWA ONT

GR 696 BT

3457B RETEL RANKS 6253 DATED 9 APRIL 1945

PARA ONE SUSPENSION OF SENTENCE TO BECOME EFFECTIVE ONE DAY AFTER EMBARKATION RECOMMENDED AS TO FOLLOWING

H27610 PTE EAGLETON E A15 CITC GENERAL SERVICE HQ CM 139

H43374 GNR LEGACE R NR 10 DD GENERAL SERVICE HQ CM 1229

H616285 PTE SCIBAK M NR 10 DD NRMA HQ CM 971

L610650 PTE WOROBETZ J A15 CITC NRMA HQ CM 627

H616436 PTE GODICK M A15 CITC NRMA HQ CM 898

PARA TWO SUSPENSION OF SENTENCE IMMEDIATELY IN ORDER TO COMPLET TRAINING RECOMMENDED AS TO FOLLOWING

H23361 PTE BOROWETZ S A15 CITC HQ CM 1553

H613995 PTE DUNNEC W A15 CITC HQ CM 435

H22530 PTE DUMONT L NR 10 DD HQ CM 612

H22487 PTE DYCK H J A35 CPTC HQ CM 944

H195033 PTE KUCHER P A15 CITC HQ CM 405

H18134 PTE KOZMINUK H E A15 CITC HQ CM 422

L106755 PTE KENT D A15 CITC HQ CM 267

H601732 PTE IWANCHYSKO J NR10 DD HQ CM 274

H23808 PTE LOEB F A15 CITC HQ CM 1227

H23500 PTE FRON E A15 CITC HQ CM 449

H601503 PTE YAKEL T J NR10 DD HQ CM 51

H617224 PTE SMADELLA P A15 CITC HQ CM 1351

M104913 PTE MUNROE B A3 CATC HQ CM 1132

H23193 PTE UNRAU C A15 CITC HQ CM 25

H540541 PTE RAIVIO M NR10 DD HQ CM 682

H94544 PTE SEGUIN J F D NR10 DD HQ CM 1355

H23122 PTE SCHWAB F NR103 CIBTC HQ CM 1123

H601690 PTE KOTOWICH J NR10 DD HQ CM 394

H617769 PTE ONYSKE A NR10 HQ CM 209

ICM

for your attention Please

W.A.Stilwell,
Maj.
for D. Adm. 13/4/45.

APPROVED
G.A. Ferguson,
Brigadier
D.A.G.(B)

Apr 14 1945

K98146 PTE VILCHOVSKI J A3 CATC HQ CM 179

H23423 PTE MUNROE D I NR103 CIBTC HQ CM 1561

H18039 PTE TURICK S NR10 DD HQ CM 363

M612132 GNR MINARD D C A3 CATC HQ CM 1607

H530318 PTE GREENING F NR10 DD HQ CM 625

H31805 PTE KAZINA A NR10 DD HQ CM 358

H31804 PTE MADO S NR10 DD HQ CM 1156

L108468 PTE FENNER D C A35 CPTC HQ CM 426

H70399 PTE RANDLE H G NR10 DD HQ CM 698

BT APR 121706R VJD AR

H.Q.C.55-M-1607 (JAG/D-)

9 Apr 45

The District Officer Commanding,
Military District No. 10, Winnipeg, Man.

STANDING Court-Martial

M.612132 Gnr. Minard, D.C.
A-3 C.A.T.C., C.A.

Receipt is acknowledged of your W.44-M-4940(J) dated 2nd April 1945 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M.288.

E.L.M. Capt.
for (R.J. Orde) Brigadier
Judge Advocate General.

E.H. CLAYTON
Lieut.-Colonel
Secretary of Defence
APR 10 1945

2M-1-44 (M-3431)

I.C.M. - L 4038

REVIEW OF SENTENCE

DATE APR 10 1945

H.Q.C. File: 55- M-1607

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES AWOL from 10 July 44, still be unaccounted 27 Feb 45 7½ mos.

8. PREVIOUS CONDUCT ~~ENLISTED~~ ENROLLED 19 ~~May~~ 44 AGE 21
Medical 25 Feb 1944
25-6-44 AWOL 1 Feb. 45 7 mos. 3 days CO 25.6.44

9. STATEMENT OF ACCUSED On weekend leave. Went home. If I was to get back to Camp on time, I'd have had to leave the same night. Decided to take a few extra days. Then thought might as well be hung for a sheep as a lamb & take a few more. Kept putting off returning to face punishment. Finally made up mind & surrendered.
Want to go active. Applied on return. Told he had to wait till documents back from Record Office.

10. RECOMMENDATION

IN REPLY PLEASE QUOTE
No. W.44-M-4940 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

30488

Winnipeg, Manitoba, 2nd April, 1945.

JUDGE ADVOCATE GENERAL
APR 6 1945
File 655-M-1607
Chgd. to
Referred to Jag

Judge Advocate-General,
Department of National Defence (Army),
OTTAWA, Ontario.

STANDING COURT-MARTIAL
M-612132, Gnr. MINARD, D.C.

Reference H.Q.C.55-M-1607 (JAG/D-7) dated 22nd March, 1945.

2. The proceedings of the marginally-noted Court-Martial, having been reviewed , are returned herewith for custody. M.F.M.288, duly completed in accordance with C.A.R.O. 4567, para. 7 B & C., is also enclosed herewith.

3. No administrative action is deemed necessary in this case.

(E.A. Fletcher) Major,
Assistant Judge Advocate-General,
M.D. No.10.

vea
enc.

N.D. 23
3000M—10-44 (5769)
H.Q. 1773-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Headquarters, Shilo Camp, Manitoba

on the 8th day of March 19 45 at 1400 hours,

for the trial of: No. M.612132 Gunner Douglas Carter MINARD,
Number Rank Full Name

A3 Canadian Artillery Training Centre, C.A.,
Unit Attachment, if any

PRESIDENT: Major F. J. Killeen, District Headquarters, M.D. No. 10,

PROSECUTOR: Captain R. Carr, District Headquarters, M.D. No. 10,
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Captain G. A. Woods, A3 Canadian Artillery Training Centre, C.A.,
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, No. M.612132, Gunner Douglas Carter MINARD, A3 Canadian Artillery Training Centre, C.A., is not Guilty of Desertion but is Guilty of Absence Without Leave on the first charge, and is Guilty of the second charge with the exception that he is deficient articles to the value of $15.11, and not as alleged on the charge.

F.J.K.

SENTENCE: The Court sentence the accused, No. M.612132, Gunner Douglas Carter MINARD, A3 Canadian Artillery Training Centre, C.A., to undergo detention for Nine (9) months and to be put under stoppages of pay until he has made good the sum of $15.07 in respect of the cost of apprehension and return to his Unit, and until he has made good the sum of $15.11 in respect of the value of the Deficiencies. 15.07 30.18

F.J.K.

Signed at Shilo Camp, Man. this 9th day of March 1945.

F. J. Killeen Major
(F. J. Killeen) Major
President, Standing Court-Martial

Extracts entered as No. 36238 in the Register of Courts-Martial kept in the Office of the Judge Advocate-General this 20 day of March 1945

M.F.B. 1486
25M-6-44 (48526)
H.Q. 1770-39-1296

Forms of Oaths and Declarations

Oaths

Shorthand Writer

You swear by Almigthy God that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the Court a true transcript of the same.

Answer: I do.

Interpreter

You swear by Almighty God that you will to the best of your ability truly interpret and translate, as you shall be required to do, touching the matter before this court-martial.

Answer: I do.

Witness

You swear by Almighty God that the evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth.

Answer: I do.

Solemn Declarations

The form of declaration will be the same as the form of oaths except that for the words "You swear by Almighty God" will be substituted the words "You (name in full) do solemnly promise and declare"; and that the words "solemnly promise and declare" will be substituted for the word "swear" wherever it occurs.

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~*Question to the accused.* Do you object to as interpreter?~~

~~*Answer:*~~

Question to the accused. Do you object to No. H-35618 S.W.(A/W.O.I) A. C. Bryant, District Headquarters, M.D. No. 10, acting as shorthand writer?

Answer: No, Sir.

The shorthand writer ~~and interpreter~~ is (if any) ~~are~~ duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial~~?

Answer: No, Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Answer: Not Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer. Not Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B-2" G. J. Spencer
President, S.C.M.

CHARGE SHEET

The Accused, M.612132, Gunner Douglas Carter MINARD, A3 Canadian Artillery Training Centre, C.A., a N.R.M.A. soldier of the Canadian Army, placed on Active Service, is charged with:-

FIRST CHARGE
Sec.12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

- in that he -

at Shilo Camp, Manitoba, at 0600 hours, on the 10th day of July, 1944, absented himself from A3 Canadian Artillery Training Centre, C.A., until he surrendered himself to the Military Authorities at Calgary, Alberta, at 1000 hours on the 27th day of February, 1945, wearing Military Uniform.

Cost of apprehension and return to unit - $15.07.

SECOND CHARGE
Sec.24(2)
Army Act.

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT AND REGIMENTAL NECESSARIES

- in that he -

at Shilo Camp, Manitoba, on the 6th day of March, 1945, was deficient the following articles:-

Anklets web, prs.	1	.74
Battle dress blouses serge	1	6.50
Battle dress trousers serge prs	1	6.55
Boots ankle, prs.	1	5.82
Caps field service	1	.70
Drawers cotton short, prs.	2	.84
Gloves woollen khaki	1	.66
Overalls combination, prs.	1	2.52
Socks army, prs.	4	1.84
Badges cap Artillery	1	.07
Bags kit Mk. II	1	1.27
Braces, prs.	1	.28
Brasses button	1	.04
Brushes button	1	.11
Brushes hair	1	.39
Brushes cloth	1	.17
Brushes shaving	1	.42
Brushes boot polishing	1	.21
Brushes tooth	1	.09
Combs hair	1	.04
Dressing first aid	1	.22
Forks table	1	.08
Holdalls	1	.22
Housewives	1	.35
Knives table	1	.18
Razor safety sets	1	.42
Spoons table	1	.08
Towels hand	2	.62
Bags ration	1	.04
Covers breech rifle No. 2	1	.36
Pouches basic small WE Patt '37	2	2.06
Tins mess rectangular	1	.57
Bottles Oil Mk IV	1	.10

FWD..... $ 34.56

BROT FWD....		$ 34.56
Pullthroughs single Mk IV A	(1)	.10
Belts waist web 1½"	1	.30
Pins collar safety	1	.06
Shirts khaki cotton	2	3.08
Shirts undercotton	2	.86
Shoes leather black prs	1	4.84
Socks black prs	2	.56
Trousers khaki drill short prs	2	2.62
		$ 46.98
25% depreciation		11.75
TOTAL TO BE CHARGED....		$ 35.23

(F.V.M.Hinman) Lieut.-Col.
T/Commandant,
A3 C.A.T.C., C.A.

Shilo Camp, Manitoba,
8th March, 1945.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

being duly sworn, is examined by the Prosecutor.

Question

By the Prosecutor: Mr. President, the Prosecution's evidence in this case is all documentary, with the exception of one witness in connection with the second charge. I therefore beg to file with the Court the documents, pursuant to C.A.R.O. 5126, in the order as shown on the Precis, which are - M.F.B. 375, M.F.M. 216, and M.F.B. 1481, referring to the accused.

M.F.B. 375 is read, marked "F", signed by the President, and attached to the proceedings.

M.F.M. 216 is read, marked "G", signed by the President, and attached to the proceedings.

By the Defending Officer: In reference to the M.F.B. 1481, I object to that document, Sir.

By the Court: What is your objection, Captain Woods?

By the Defending Officer: My objection, Sir, to it is that the number shown is not the number of this man, and in one place they got 'Douglas Carter Minard', in another place 'Douglas Minard' on the other two documents, and on this document they have got him shown as 'D. Minard", and also the wrong number is shown, and we have no way of knowing at all whether that is him or not.

By the Court: However, I think the document refers to the accused. It is 'D. Minard', and the accused's name is D. Minard. Your objection will be noted, and I will admit the document for what it is worth.

M.F.B. 1481 is read, markd "H", signed by the President, and attached to the proceedings.

First Witness for the Prosecution } No. H.66427 Gunner Alvin John McFARLANE, A3 Canadian Artillery Training Centre, C.A., having been first duly sworn, is examined by the Prosecutor:

Q Will you give the Court your number, name, rank and Unit, please?

A H.66427 Gunner McFarlane, Alvin John, A3 C.A.T.C., Shilo Camp, Manitoba.

Q Do you know M.612132, Gunner Douglas Carter Minard?

A Yes, Sir.

Q Where is he now?

A Sitting there, Sir (indicating the accused).

Q Can you tell us anything about his Kit?

A Yes, Sir.

Q Would you tell the Court what you know about his kit?

A I checked his kit on the 6th March, 1945, against the deficiencies found at the Court of Inquiry.

Q Against the 375, is that it?

A Yes, Sir.

Q Will you tell me if that is what you checked it against, this Exhibit "F"?

A Yes, Sir.

Q And what did you find?

A I found him to still have deficiencies of kit.

Q Have you a list of them?

A Yes, Sir.

Q Would you mind producing the list and telling the Court what they are?

A The deficiencies are - Anklets, web, prs. 1 ---

By the Defending Officer:

Q Did you check that against some list you had made yourself or somebody else's list?

A No, Sir, not actually.

By the Court:

Q Did you make this list out yourself?

A Yes, Sir, and it was typed out in the office.

Q Did you check it with the list you made?

A ----

By the Defending Officer: I object, Sir, on the grounds that the witness made this list from some other list he didn't make himself.

By the Prosecutor:

Q Will you explain how you got this list? Just tell the Court how you got it?

A Well Sir, according to the list when he came back, if he has no 800 or not I check it against another certified true copy of his 800. I found Minard had been issued a Uniform and stuff like that when he was attached to the Depot. His 800, Sir, had nothing to do with his deficiencies. It was temporary, and therefore he was short all the stuff when he got back.

Q You checked that up then, the temporary 800 against the 375?

A Yes, Sir.

Q How did you arrive at the list that eventually became this? Did you write it out yourself?

A No, Sir, I just took it from this list here.

Q Then how did this one originate?

A It was typed out from that, Sir.

By the Court:

Q Did you check the kit in possession of the accused against the 375?

A Yes, Sir.

Q What did you find he was deficient as a result of that check?

A Well, I can't tell you right off-hand, Sir, but I know he came back in Battle Dress, Anklets Web, Boots and underwear, and stuff like that, Sir.

By the Prosecutor:

Q When you made this check did you have a pencil and a piece of paper so as to write down what you say he was deficient?

A No, Sir.

Q What did you have?

A Well Sir, if he had his Anklets Web, I put a tick beside it.

Q That is on the 375? You took the 375 and checked his kit and if you found he did not have certain articles you checked it off on that, did you?

A Yes, Sir.

Q And when you got to the end of the check what did you do with the list?

A I took it in and gave it to the Clothing Stores where he had been issued with his clothes.

Q And there they made out the list you have?

A Yes, Sir.

Q Is this the list you see now?

A Yes, Sir.

By the Court:

Q Where is the certified copy of the 375 which you checked the accused's kit against?

A It is in the Q.M. Stores, Sir.

By the Prosecutor: Could I have an adjournment to get that, Sir.

By the Court: The Court will be adjourned until tomorrow morning, the 9th March.

"At 1420 hours on the 8th day of March, 1945, the Court adjourned. At 1000hours on the 9th day of March, 1945, the Court is re-opened."

The examination is continued.

By the Prosecutor;

Q When we left off yesterday you were under oath. You were starting to tell the Court in regard to checking the accused's kit. Just tell the Court, first of all, what was your capacity at that time?

A Sir, I was employed in the Q.M. Casualty Stores.

Q Under whom?

A Under R.Q.M.S. Rocan.

Q What were your duties?

A In charge of Casualty Stores.

Q But what were your duties?

A Storeman, Sir, checking kits.

Q On this particular occasion did you check Gunner Minard's deficiencies of kit under instructions from someone?

A Yes, Sir.

Q From whom did you get these instructions?

A Q.M. Office, Sir.

Q Tell the Court what you did?

A I checked the deficiencies of kit against the Court of Inquiry of August 8th, 1944.

Q Is this the document you had checked it against?

A Yes, Sir.

Q Tell the Court what it is?

A This is a certified true copy of M.F.B. 375, Sir.

M.F.B. 375 is read, marked "I", signed by the President, and attached to the proceedings.

Q Then what did you find?

A Sir, I found the accused to be short --

Q On the 6th March, 1945?

A Yes, Sir.

Q Yes, what did you find him short?

A I found him to be short:-

Caps, Field Service	1	.70
Socks, Army, prs.	2	.92
Brasses, Button	1	.04
Brushes, Button	1	.11
Brushes, Hair	1	.39
Brushes, Cloth	1	.17
Brushes, Shaving	1	.42
Brushes, Boot Polishing	1	.21
Brushes, Booth	1	.09
Combs, Hair	1	.04
Dressings, first field	1	.22

Holdalls	1	.22
Housewives	1	.35
Razor, Safety sets	1	.42
Towels, Hand	1	.31
Bags, Ration	1	.04
Covers, breech, Rifle No. 2.	1	.36
Basic pouches, small WE Patt. '37	2	2.06
Tins, Mess, rectangular	1	.57
Bottles, Oil Mk IV	1	.10
Pullthroughs, single MK IV A	1	.10
Belts, waist web 1½"	1	.30
Pins, collar, safety	1	.06
Shirts, Khaki cotton	2	3.08
Shoes, Leather, black prs.	1	4.84
Socks, black, prs.	2	.56
Trousers, Khaki drill short, prs.	2	2.62
Drawers, cotton short, prs.	2	.84

Q How much does that amount to?

A $20.14, Sir, and a reduction of 25% makes it $15.11.

Q The total is how much?

A $15.11, Sir.

Q And what does that $15.11 signify then?

A The total charge, Sir.

The Defending Officer declines to cross-examine this Witness.

The Witness withdraws.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. By Defending Officer: He has a written statement, Sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, Sir.

The Defending Officer makes a closing address.

The Prosecutor makes a closing address.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

4/14

G. J. Killeen ..... Major
President. S. C. M.

Shilo Camp, Man.,
6 March, 1945

May it please the Court:

I went home to Vermillion, Alberta, on the week-end previous to the tenth of July. I arrived home on Saturday morning, and if I was to be back on time I would have had to leave the same night for camp. I decided to take a few extra days. Having taken these extra days I thought I might as well be hung for a sheep as a lamb and take a few more. The first thing I knew the days added up and knowing the punishment I would now receive I continued to put off my return. I finally made up my mind to take my punishment and surrendered at Calgary.

All during my absence I knew that eventually I would have to come back, and at no time did I have any intention of remaining away from the Army permanently.

When I gave myself up in Calgary I asked to join the Active Army. They told me that I would have to wait until I got back to Camp Shilo. To-day I applied to the Adjutant A.Z and he told me that I could not go Active until my documents were back from the Records Office.

This is a true statement.

D. G. Minard
(M.61212 Chr. Minard, D.C.)

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. No, Sir.

(Defending Officer speaks on behalf of the accused ---
See Exhibit "J" attached)

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

25

J F Gillen Major
President. S C M.

RECORD of the Declaration of a Court of Inquiry assembled at Shilo Camp, Man.

on the 8th day of August 1944, for the purpose of investigating

and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition,

Equipments, Instruments, Regimental Necessaries, or Clothing of No. M.612132

Gnr. Douglas Carter Minard, A3 C.A.T.C. (C.A.)

DECLARATION

The Court declare that No. M.612132 (Regt'l No.) Gunner (Rank)

Douglas Carter Minard (Full Name) A3 C. A. T. C. (C.A.) (Unit)

illegally absented himself without leave from A3 C.A.T.C. (C.A.)

at Shilo Camp (Place) at 0600 hours on the 10th day of July, 1944

that he is still so absent, and that on the 11th July 1944 he was deficient, and

that he is still deficient of the following articles:—

A-3 C.A.T.C.
Shilo Camp, Man.,
11 July 1944.

DEFICIENCIES OF KIT OF M-612132 Gnr. Minard,D.C.

Articles	Qty.	Vocab.Price	Total
Anklets web prs	1	.74	.74
Battle Dress Blouses Serge	1	6.50	6.50
Battle Dress Trousers Serge prs	1	6.55	6.55
Boots Ankle prs	1	5.82	5.82
Caps field service	1	.70	.70
Drawers cotton short prs	2	.42	.84
Gloves woollen khaki	1	.66	.66
Overalls combination prs	1	2.52	2.52
Socks army prs	4	.46	1.84
Badges cap Artillery	1	.07	.07
Bags kit Mk.II	1	1.27	1.27
Braces prs	1	.28	.28
Brasses button	1	.04	.04
Brushes button	1	.11	.11
Brushes shoe hair	1	.39	.39
Brushes hat cloth	1	.17	.17
Brushes shaving	1	.42	.42
Brushes boot polishing	1	.21	.21
Brushes tooth	1	.09	.09
Combs hair	1	.04	.04
Dressings first field	1	.22	.22
Forks table	1	.08	.08
Holdalls	1	.22	.22
Housewives	1	.35	.35
Knives table	1	.16	.16
Razors safety sets	1	.42	.42
Spoons table	1	.08	.08
Towels hand	2	.31	.62
Bags ration	1	.04	.04
Covers breech rifle No.2	1	.30	.30
Pouches basic small W.E.Pat.'37	2	1.03	2.06
Tins mess rectangular	1	.57	.57
Bottles Oil Mk.IV	1	.10	.10
Pullthroughs single Mk.IV A	1	.10	.10
Belts waist web 1½"	1	.30	.30
Buckles black	1	.21	.21
Pins collar safety	1	.06	.06
Shirts khaki cotton	3	1.54	4.62
Shirts undercotton	2	.43	.86
Shoes leather black prs	1	4.84	4.84
Socks black prs	2	.28	.56
Trousers khaki drill short prs	2	1.31	2.62
TOTAL VALUE			$ 48.73
DEPRECIATION 25%			12.18
TOTAL VALUE TO BE CHARGED 75%			$ 36.55

CERTIFIED CORRECT.

Major,
(J.K.McGrath) Quartermaster,
A-3 Canadian Artillery Training Centre,
Shilo Camp, Manitoba.

75

Z F Williams ..... Major
President, S C M

RECORD of the Declaration of a Court of Inquiry assembled at Shilo Camp, Man.

on the 8th day of August 1944, for the purpose of investigating

and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition,

Equipments, Instruments, Regimental Necessaries, or Clothing of No. M.612132

Gnr. Douglas Carter Minard, A3 C.A.T.C. (C.A.)

DECLARATION

The Court declare that No. M.612132 (Reg'l No.) Gunner (Rank)

Douglas Carter Minard (Full Name) A3 C. A. T. C. (C.A.) (Unit)

illegally absented himself without leave from A3 C.A.T.C. (C.A.)

at Shilo Camp (Place) at 0600 hours on the 10th day of July, 1944

that he is still so absent, and that on the 11th July 1944 he was deficient, and

that he is still deficient of the following articles:—

(C.A.)

D.D.McLean, Lieut. A3 CATC. President
(Name) (Rank) (Unit)

D.N.Bradley Lieut. A3 C.A.T.C.(C.A.)
(Name) (Rank) (Unit)

Signed at Shilo Camp, Man.

T.J.Briggs Lieut. A3 CATC(CA) Member
(Name) (Rank) (Unit)

this 10th day of August 1944

Signature of Commanding Officer A.L.S.Nash Colonel, A3 C.A.T.C. (C.A.)
(Name) (Rank) (Unit)

Certified true copy [signature] Major R.C.A.
(Rank) (Unit)

ADJUTANT (Signature of Officer having custody of original record)

A 3. CANADIAN ARTILLERY TRAINING CENTRE

M.F.B. 375
A.F.B. 115
189M—10-41 (6639)
H.Q. 1772-39-257

#700

"G" F. J. Killeen ..... Major
President, S. C. M.

27

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(~~APPREHENDED OR~~ SURRENDER TO SERVICE AUTHORITIES)

I, Lt./Col. (Number) J.W. Littleton (Rank) Officer Commanding, (Name) No. 13 District Depot (Unit) C.A.

hereby certify that M612132 (Number) Gnr. (Rank) Douglas Minard (Name in full)

of the "A3" C.A.T.C. C.A. (Unit and attachment, if any)

Strike out words not applicable } (~~was apprehended by~~ surrendered to) M60647 (Number) L/Cpl. (Rank)

M.G. Anderson (Name) No. 13 District Depot, C.A. (Unit or appointment)

at Calgary, Alberta (Place) at 1000 (Hour)

on the 27th day of February 19 45

Strike out words not applicable } as (~~a deserter~~ absentee without leave), and that at the time of his ~~arrest~~ surrender he was wearing military (~~civilian~~) uniform: ~~[illegible]~~

Dated at Calgary, Alberta this 28th. day of February 19 45

(Signature, Number, Rank, Unit or appointment)
(J.W. Littleton) Lt/Col. Officer Commanding
No. 13 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (6666)
H.Q. 1773-39-1936

AN N.R.M.A. SOLDIER OF THE CANADIAN ARMY PLACED ON ACTIVE SERVICE

"H" [illegible] Major
President, S.C.M.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieutenant S.A. Bisset, R.C.A.S.C., C.A., Acting R.T.O., M.D. 13.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~(authorized)~~ the hereinafter itemized transportation for escort

Complete — to proceed from CALGARY, Alberta (Place) to DOUGLAS, Manitoba (Place)

and return to ..... (Place) for the purpose of escorting

Full description of soldier being escorted — No. M.613132 (Number) Gunner (Rank) D. MINARD (Name in full)

A.3, Canadian Artillery Training Camp, C.A. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be ~~a deserter~~ or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(the transportation required)~~ and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
M.D. 13, Transportation Warrant No. C.822035, dated 27th February 1945, covering one single second-class fare from Calgary, Alberta to Douglas, Manitoba, for absentee, No. M.613132, Gunner D. Minard.....	$13.57
Also two meal tickets @ .75¢ each.....	1.50
TOTAL.....	$ 15.07

Dated at CALGARY, Alberta this 27th day of February, A.D. 1945.

(S.A. Bisset) Lieut.,
R.C.A.S.C., C.A.,
Acting R.T.O., M.D. 13.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~(authorizing transportation)~~
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

M.F.B. 1481
(25m—10-43 (1402)
H.Q. 1772-29-1481

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

"I" Inf. President: Major M. 31

RECORD of the Declaration of a Court of Inquiry assembled at Shilo Camp, Man.

on the 8th day of August 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. M.612132 Gnr. Douglas Carter Minard, A3 C.A.T.C. (C.A.)

DECLARATION

The Court declare that No. M.612132 (Regt'l No.) Gunner (Rank) Douglas Carter Minard (Full Name) A3 C. A. T. C. (C.A.) (Unit) illegally absented himself without leave from A3 C.A.T.C. (C.A.) at Shilo Camp (Place) at 0600 hours on the 10th day of July, 1944, that he is still so absent, and that on the 11th July 1944 he was deficient, and that he is still deficient of the following articles:—

A-3 C.A.T.C.
Shilo Camp, Man.,
11 July 1944.

DEFICIENCIES OF KIT OF M-612132 Gnr. Minard,D.C.

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Gloves woollen khaki	1	.66	.66
Overalls combination prs	1	2.52	2.52
Socks army prs	4	.46	1.84
Badges cap Artillery	1	.07	.07
Bags kit Mk.II	1	1.27	1.27
Braces prs	1	.28	.28
Brasses button	1	.04	.04
Brushes button	1	.11	.11
Brushes ~~cloth~~ hair	1	.39	.39
Brushes ~~hair~~ cloth	1	.17	.17
Brushes shaving	1	.42	.42
Brushes boot polishing	1	.21	.21
Brushes tooth	1	.09	.09
Combs hair	1	.04	.04
Dressings first field	1	.22	.22
Forks table	1	.08	.08
Holdalls	1	.22	.22
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Covers breech rifle No.2	1	.36	.36
Pouches basic small W.E.Patt.'37	2	1.03	2.06
Tins mess rectangular	1	.57	.57
Bottles Oil Mk.IV	1	.10	.10
Pullthroughs single Mk.IV A	1	.10	.10
Belts waist web 1½"	1	.30	.30
Neckties black	1	.21	.21
Pins collar safety	1	.06	.06
Shirts khaki cotton	3	1.54	4.62
Shirts undercotton	2	.43	.86
Shoes leather black prs	1	4.84	4.84
Socks black prs	2	.28	.56
Trousers khaki drill short prs	2	1.31	2.62

TOTAL VALUE $48.73
DEPRECIATION 25% 12.18

TOTAL VALUE TO BE CHARGED 75% $ 36.55

CERTIFIED CORRECT.

Major,
(J.E.McGrath) Quartermaster,
A3 Canadian Artillery Training Centre,
Shilo Camp, Manitoba.

"I" F.J. Killeen President, S.C.M. Mess

31

RECORD of the Declaration of a Court of Inquiry assembled at Shilo Camp, Man. on the 8th day of August 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. M.612132 Gnr. Douglas Carter Minard, A3 C.A.T.C. (C.A.)

DECLARATION

The Court declare that No. M.612132 (Regt'l No.) Gunner (Rank) Douglas Carter Minard (Full Name) A3 C. A. T. C. (C.A.) (Unit) illegally absented himself without leave from A3 C.A.T.C. (C.A.) at Shilo Camp (Place) at 0600 hours on the 10th day of July, 1944 that he is still so absent, and that on the 11th July 1944 he was deficient, and that he is still deficient of the following articles:—

D.D.McLean (Name) Lieut. (Rank) A3 CATC. (C.A.) (Unit) President

Signed at Shilo Camp, Man. D.H.Bradley (Name) Lieut. (Rank) A3 C.A.T.C.(C.A.) (Unit) Member

this 10th day of August 1944 T.J.Briggs (Name) Lieut. (Rank) A3 CATC(CA) (Unit) Member

Signature of Commanding Officer A.L.S.Nash (Name) Colonel (Rank) A3 C.A.T.C. (C.A.) (Unit)

Certified true copy [illegible] (Name) Capt. (Rank) R.C.A. (Unit)

ADJUTANT

(Signature of Officer having custody of original record)

A 3. CANADIAN ARTILLERY TRAINING CENTRE

M.F.B. 273
A.F.B. 115
100M—10-42 (6520)
H.Q. 1772-39-257

33

M.F.R. 355
(GM—3-41 (500))
(H.Q. 1173-59-620)
A.F.R. 266

Maps

President, S.C.M.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M.612132	Gunner	Douglas Carter MINARD.	A3 C.A.T.C., C.A.

1. The following is a fair and true summary of the entries in the ~~Regimental or Squadron Battery~~ Field ~~Conduct sheets~~ ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A. W. L.	1 times	1 times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ —

~~There are no entries in the conduct sheets of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted —

~~Previous convictions of the accused by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and dispensations with trial under A.A. 22 as set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ ~~enrolment~~ enrolment form is 21 years 3 months.

6. The date of his ~~attestation~~ ~~enrolment~~ specified in his ~~attestation~~ ~~enrolment~~ enrolment form is 19 May, 1944

~~7. The service which the accused is allowed to reckon towards discharge for the purpose of determining his previous character is .....~~

~~8. The accused is entitled to wear the ..... medal.~~

9. The accused is in possession of or entitled to no military decoration, or military reward.

~~10. If the accused is a warrant officer, the accused before he was such a warrant officer was entitled to the rank of ..... (specify the military rank).~~

~~11. If the accused is a warrant officer, the accused before he was such a warrant officer was entitled to the rank of ..... (specify the military rank).~~

~~12. If the accused is an Air Force ..... the accused before he was such an Air Force ..... was entitled to the rank of ..... (specify the military rank).~~

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11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Capt R.C.A.

Signed this Ninth day of March, 1945

ADJUTANT
A.3. CANADIAN ARTILLERY TRAINING CENTRE

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

President S.C.M. Major

No. M.61 3838 | Name MINARD Douglas Carter | Sqn., Battery, or Company #13 District Depot | Corps (NRMA) CA | Date of enlistment 19 May 44 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 300M—5-39 (1759) H.Q. 1772-43-16

Entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. ONE | Signature O.C. Company, etc. Eligible | Character

Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Shilo Camp Manitoba. 25Jun44	Gnr.		AWL from 0925 hrs.25Jun44 to 1110 hrs. 25 Jun44(Abs.1 hrs.45mins.) Sec. 15(1) AA	Sgt. Kerr JW	3 dys. CB	25 Jun44	(EJ Chaloner) Major.	

CERTIFIED TRUE COPY

.....S/Sgt.
i/c Records, A3 CATC
SHILO CAMP Man.

Maj RCA
ADJUTANT
A 3, CANADIAN ARTILLERY TRAINING CENTRE

(P.T.O.)

"J" G. J. Gillen Major
President, S C M.

DEFENDING OFFICER'S STATEMENT IN MITIGATION

Sir, this man is single. He is of Reinforcement category -- he has completed one month of Basic training. I would just like to draw the attention of the Court to the fact that this man has a clean sheet with the exception of that one entry, which I don't believe should ever be on any man's crime sheet as a first entry. The man gave himself up. He admits it was a long absence, but he did give himself up, and at the same time he wanted to join the Active Army -- he still does; and instead of a long sentence for this man I think a light sentence would be sufficient, to allow this man to complete his training. Let him join the Active Army and send him Overseas. I think this would be much better than a long sentence, where he would be of little use to himself and of little use to the Army.

4/15.

PRECIS OF EVIDENCE

in the case of

No. M.612132 Gunner Douglas Carter MINARD, A3 Canadian Artillery Training Centre, C. A., a NRMA soldier of the Canadian Army placed on Active Service:

CHARGES: 1 Desertion.
2 Losing by Neglect.

TO PROVE THE FIRST CHARGE, the following evidence is available:-

Documentary - M.F.B. 375,
M.F.M. 216,
M.F.B. 1481

TO PROVE THE SECOND CHARGE, the following evidence is available:-

Documentary - M.F.B. 375

Verbal H.66427 Gnr. McFarlane, Alvin John, A3 Canadian Artillery Training Centre, C.A., who will give evidence as to recoveries and deficiencies of kit inspection

NOTICE

TAKE NOTICE that I propose to present No. M.612132 Gunner Douglas Carter MINARD, A3 Canadian Artillery Training Centre, C. A. for trial by the Standing Court-Martial at 1400 hours of THURSDAY the 1st day of MARCH 1945, at the Court Room, Shilo Camp, Manitoba.

(F.V.M.Hinman) Lieut.-Col.
T/Commandant,
A3 C.A.T.C., C.A.

I, No. M.612132 Gunner Douglas Carter MINARD, A3 Canadian Artillery Training Centre, C.A., desire to have an Officer assigned to represent me at my trail by Court-Martial.

D. C. Minard

M.612132 Gnr. MINARD, Douglas Carter.

MEDICAL OFFICER'S REPORT

I certify that No M-612132 Gnr Bernard D. C.
of A3. C.A.T.C. is in a good state of health,
and fit to undergo Trial by Court martial.

D K Murphy Capt.
Medical Officer R.C.A.M.C.
MEDICAL OFFICER
A 3. CANADIAN ARTILLERY TRAINING CENTRE

Station Shilo Camp. Man

Date March 8th 1945

M. F. B. 246
30M—12-43 (3322)
H.Q. 1772-20-480

MEDICAL OFFICER'S REPORT

I certify that No M 612132 Gnr Minard, D.C.

of A3 C.A.T.C. is in a fit state of health,

and is able to undergo Trial by Court martial.

J. Downing Capt
Medical Officer R.C.A.M.C.
MEDICAL OFFICER
A3. CANADIAN ARTILLERY TRAINING CENTRE

Station Shilo Camp Man

Date 9th March 1945

M. F. B. 246
SGM—12-43 (2222)
H.Q. 1773-39-480

H.Q.C.55-M-1607 (JAG/D-7)
Your File - W.44-M-4940

March 22nd, 1945.

District Officer Commanding,
Military District No. 10,
Winnipeg, Man.

STANDING COURT-MARTIAL
No. M.612132 Gnr. MINARD, Douglas Carter,
A-3 C.A.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. It is observed that the date of the Charge Sheet is the same as that of the trial. It is assumed that the accused elected to proceed, after having been advised of his right to have a copy of the Charge Sheet at least 24 hours before his trial: C.A.R.O. 4565, para. 4.

3. The proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LJR/ET

THIS COPY FOR: H.Q.P.55-M-1607
M.D. W.44-M-4940

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. M.612132 Name MINARD. Douglas Carter

Rank Gnr Unit A 3 C.A.T.C. CA

Charge (1st) A.A. 12 (1) (a) - Desertion

(2nd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 10-7-44; (2) 6-3-45

Date of Arrest (1) 27-2-45 Charge Signed 8-3-45

Orders for D.C.M.

Place and Date of Trial H.Q. Camp Shilo Man 8-3-45

Sentence Det 9 mos; stoppages $30.18

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36238

Date 20-3-45

MEMO Balance of sentence remitted by Conf. Auth. 7-5-45 Guilty A.W.L.

M.D. 10 - A 3 CATC CA

Absent	Sentence
7½ mos	Det. 9 mos

D. Fraser 2/Lt.
for Judge Advocate General

10M-1-45 (M-4629)

DEPARTMENT OF NATIONAL DEFENCE W.44-M-4940 (J)
- ARMY -

Winnipeg, Manitoba.
12th March, 1945.

Judge Advocate-General,
Department of National Defence (Army),
OTTAWA, Ontario.

C.55-M-1607

STANDING COURT-MARTIAL

No. M.612132 Gnr.MINARD, Douglas Carter,
A-3 C.A.T.C., C.A.,

Herewith, for review, are the proceedings of the marginally-noted Standing Court-Martial.

F. J. Mullen Major,
President,
Standing Court-Martial.

ACB.
Enc.

36338

- - - -

H.Q.C. 55-M-1608

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MILLETT. NEIL KEMPTON F-77111 GNR.

CONFIDENTIAL
H.Q.C. 55-M-1608

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
MAR 21 1945	20/4/45	BA	HRS	J.A.G.	NEW FILE C.R.		MAR 17 1945
					With Papers C.R. MAR 28 1945		
				JAG			
APR 3 1945	2/4/45	BA		9CM.	To note, etc.	MM	2-4-45
APR 4 1945	6/4/45	PG		Office	[illegible]		4/4/45
APR 6 1945	11/4/45	PA	ELM	JAG	PER B.F. APR 20 1945		
APR 20 1945					PER B.F. APR 28 1945		
APR 27 1945					With Papers C.R. MAY - 2 1945		
MAY 2 1945	2/5/45	PA		9CM	With Papers C.R. JUL 3 - 1945		
				9CM.			
JUL 3 - 1945	5-7-45	PA	JA	IAG.	Note, ma	MG	JUL 3 - 1945

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. P.6-0-M-1380(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

326216

Petawawa Military Camp, 2 July, 1945.

CENTRAL REGISTRY Army
CONF. SEC.
JUL 3 1945
File C 55-M-1608
Chgd. to
Referred to A.C.M.

The Secretary,
Dept of National Defence,
OTTAWA - Canada.

REMISSION OF SENTENCE
P.77111, Gnr. MILLETT, N.K.
A-1, C.A.T.C., C.A.

Reference your file H.Q.C. 55-M-1608(ICM).

2. Enclosed herewith is form for remission for the marginally named soldier pursuant to the provisions of C.A.R.O. 3974.

James S. Craig, Major
for (W.C. Thackray) Brigadier,
Commander,
Petawawa Military Camp.

/JG
Encl.

N.D. 28
5 Mil—11-43 (2979)
H.Q. 1772-101-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL

File No. P.6-O-M-1580(JAG)

PART I

No. F-77111 Rank Gunner Name Neil Kempton MILLETT

Unit A-1, C.A.T.C., C.A. - Petawawa Military Camp.

PART II

Date of Trial - 14th day of March, 1945.

Charge ~~XXXX~~- Desertion (AWL 20 Apr 44 - 26 Feb 45)

Sentence - Six (6) months detention with stoppages of pay in the amount of $25.00

Date of Sentence - 14th day of March, 1945.

Confirmation - (a) Authority - //////////

(b) Date - //////////

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~XXXXXXXXXXX~~ ~~XXXXXXXXXXX~~ 77 days of the sentence of six (6) months detention.

Signed at Petawawa Military Camp, this 25th day of June 1945.

(W.C. Thackray) Brigadier,
Commander,
Petawawa Military Camp.

TO BE RELEASED ON 28th JUNE 1945.

PART IV

PROMULGATION

Remission (c~~XXXXXXXXXXXXXXXXXXXXXXXX~~) promulgated and extracts taken at A-1 C.A.T.C., Petawawa this 28th day of June 45.

R.P. Wright Lt
Officer i/c Documents

PART V

CERTIFIED TRUE EXTRACT OF DAILY PART II ORDERS

No. F-77111 Rank Gnr. Name Neil Kempton MILLETT

The sentence of Six (6) months' detention.

awarded by ~~XXXXXXXXXXX~~ Standing Court-Martial on the 14 Mar 45 has been remitted 77 days effective 28 June 45.

on the 25th day of June 45. by Commander

Unit Petawawa Military Camp.

Certified true Extract of Daily Orders Part II of A-1 CATC CA

No. 155 Place Petawawa Date 30 June 45.

Adjutant

File No. P.6-0-M-1380

Petawawa Military Camp.

319644

.....1 May. 45. 194.....

Department of National Defence,
OTTAWA, Ont.

MAY 2 1945
C55-M-1608

F-77111 Gnr. N.K. MILLETT

1. Ref. your H.Q.C 55.-M-1608....(ICM) dated. 27. Apr. 45..

2. Form I.C.M - B in the case of the m/n soldier, duly completed and returned herewith.

F.B. Creagy Maj.
(F.B. CREAGY) MAJOR,
for W.C. THACKRAY, BRIGADIER,
PETAWAWA MILITARY CAMP.

I.C.M. - B

REPORT ON CONDUCT

Department of National Defence,
H. Q. C. 55- M-1608, (ICM)
OTTAWA, 27 APR 1945

To:- Commandant No. 64 Petawawa, Military Detention Barracks.

1. Soldier under sentence	F77111 Gnr. N.K. MILLETT,
2. PLEASE STATE:-	
(i) Date of sentence	14 Mar 45
(ii) Sentence	6 Months
(iii) Date you received soldier	15 Mar 45.
(iv) (a) Can soldier read and write?	Yes.
(b) Religion	C.E.
(c) Married, Widower, Single	Single
(d) What Army trade has soldier?	None.
(v) (a) Conduct of soldier	Fair.
(b) Industry of soldier	Good
(c) Remission earned:-	
(i) Number of days actually earned	15 Days
(ii) Number of days obtainable to date	16 days.
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	
(a) Whether detention will seriously aggravate soldier's condition.	N/A.
(b) Whether further confinement is likely to prove fatal.	N/A.
(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence?	Yes
(b) Moral effect confinement has had?	Good.
(c) If returned to Army, is soldier likely to become a good soldier?	Yes.
(viii) Date term will expire if all remission earned from now on.	13 July 45.

LHC:WS.

(A. E. Walford)
Major-General
Adjutant-General.

Signature E. Bellecapt
(E.Belle) Capt Commandant.
Date of Report: 30 Apr 45.

5M-1-45(M-4515)

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1608,(ICM)
OTTAWA, 27 APR 1945.

Your File - P.6-0-M-1380

Commander,
Petawawa Military Camp,
PETAWAWA, Ontario.

F77111 Gnr. N.K. MILLETT.

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in No. 64 Petawawa, Military Detention Barrack, under your command, a sentence of 6 months' detention awarded by a Standing, Court-Martial on the 14 day of MAR 1945.

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

EHC:WS

5M-2-45(M-4516)

HQC.55-M-1608 (JAG/D)

31 Mar 45

The Commander,
Petawawa Military Camp,
PETAWAWA, Ontario.

Standing.....Court-Martial

F.77111, Gnr. MILLETT, N.

Receipt is acknowledged of your P.6-0-M-1380 (JAG) dated 26th March, 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M. 288.

E.A.M.
Capt

for (R.J. Orde), Brigadier,
Judge Advocate-General.

/AB

L. H. CLAYTON
Lieut.-Colonel
Deputy Judge Advocate General
APR 4 1945

Notes for Col Clayton

Notes for Col Dickson 6 4 45

2M-1-44 (M-3431)

I.C.M. - L 3774

REVIEW OF SENTENCE

DATE APR - 3 1945

H.Q.C. File: 55-19-1608

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES
AWL from 20 April 44, till arrested 26 Feb. 45 10 mos. 6 days.

ENLISTED ~~ENROLLED~~ 19 ~~July~~ 40 AGE 24

8. PREVIOUS CONDUCT
Enlisted 20-11-1941
23-9-42 A.W.L. 7 Th. 31 mos. Reduced to Pte. on 25-9-42
8-2-43 A.W.L. 1 day admonished on 10-2-43
8-4-43 A.W.L. 1 day 7 days CB on 9-4-43
5-2-44 conduct to Reg. 5 days CB on 5-2-44
7-2-44 conduct to Reg. 5 days CB on 7-2-44
11-2-44 [conduct to Reg. 7 days CB on 14-2-44
[conduct to Reg.
17-3-44 A.W.L. 7 days 3 Th. 14 days CB on 22-3-44

9. STATEMENT OF ACCUSED
Joined Prepost Corps. Taken off draft 3 or 4 times. Last time, lowered to L-4. Asked several times to have it raised. Finally raised to L-2, but not confirmed.
Upon embarkation leave. When told I was taken off draft, got fed up with Army & left on leave. Overstayed & then scared to come back.
June 44 Girl I was running around with discovered she was pregnant. No parents, afraid to be alone. Wanted me to wait till baby born. Came in 7/3/45. Then intended to give myself up.

10. RECOMMENDATION

CONFIDENTIAL

IN REPLY PLEASE QUOTE No. P. 6-0-M-1380 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

302652

Petawawa Military Camp,
26th March, 1945.

CENTRAL REGISTRY Army
CONF. SEC.
MAR 26 1945
File 55-M-1608
Chgd. to
Referred to J.A.G.

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ont.

STANDING COURT-MARTIAL
F.77111, Gnr. MILLETT, H.

Reference your H.Q.C. 55-M-1608 (JAG/D-3) dated 20 Mar 45.

2. Enclosed herewith proceedings of the marginally noted Standing Court-Martial, with M.F.M. 288 attached, returned to your Headquarters in accordance with the instructions contained in the above reference.

3. This soldier's commanding officer has been instructed to have explained to this soldier the requirements for permission to marry and to give him assistance in this matter if he desires to make application for permission to marry.

(W. C. Thackray) Brigadier,
Commander
Petawawa Military Camp.

ABS/BC

NAT. DEF. Jr. 440
2000M - 4-44-1537-
H.Q. 1172-26-767

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of F-77111 (Number) Gunner (Rank) Neil Kempton MILLETT (Name in full)

A-1 C.A.T.C., C.A. (Unit) (Attachment (if any))

Sentenced to Six (6) months' detention

on 14 March 45 at Petawawa Military Camp, Ont.

being served at #64 Military Detention Barracks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 20 years; 19 July 40

Medical grade or category YOB 20 P 1 U 1 L 2 H 1 E 1 M 1 S 1

FIRST TRIAL—PART II

To Adjutant-General, Department of National Defence, Ottawa. (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~ be ~~suspended~~) (~~put into execution~~) (reviewed on 14 June 1945) (date) for reasons given in paragraph X.

Place Petawawa Military Camp,

Date 26th March, 1945.

(Confirming Authority)

(W. C. Theckray) Brigadier,
Commander
Petawawa Military Camp.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 288
(Army Form A-2194)
1434—6-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be posted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
MAY 3 1945	No Suspension or Remission No further Review	Adjutant-General for Superior Military Authority	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
A.A. 12(1)(a) DESERTION - A.W.L. from 0600 hours 20 April 44 until apprehended by Military Authorities at Toronto, at 1630 hours 26 Feb 45, in uniform. Cost of return to Unit: $34.35 S.S. Bard Signature of Officer making entry (S.S.Bard) Lt. RCA.	20 Apr 44	14 Mar 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
..... Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
24 Mar 45	I recommend review of sentence after 90 days with a view to remission subject to good conduct while undergoing detention.	W.H. Tremain (W.H.Tremain) Col, RCA, Commandant, A-1 CATC, Petawawa Mil Camp, Ont

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
26 Mar 45	I recommend that this sentence be reviewed after three months with a view to remission subject to good conduct unless remission of sentence is granted at an earlier date upon the monthly review under C.A.R.O. 4745 carried out in this Command.	W.C. Thackray (W.C.Thackray) Brig. Commander Petawawa Mil Camp.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Petawawa Military Camp, Ont.

on the 14th day of March 1945 at 0900 hours,

for the trial of: F-77111 Gunner Neil Kempton Millett
Number Rank Full Name

A-1, Canadian Artillery Training Centre, C.A.
Unit Attachment, if any

PRESIDENT: Major G. Longman, Camp Headquarters, Petawawa Military Camp.

PROSECUTOR: Lieut. W.T.Stewart, RCA, Camp Headquarters, Petawawa Military Camp.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lt. W.P.Harrison, RCA, A-1, C.A.T.C.
Rank Full Name Unit Attachment, if any

FINDING:

The Court find that the accused, F-77111 Gunner Neil Kempton Millett, A-1, Canadian Artillery Training Centre, C.A. is not guilty of desertion but is guilty of absence without leave from 0600 hrs the 20th day of April 1944 until 1630 hrs the 26th day of February 1945.

SENTENCE:

The Court sentence the accused, F-77111 Gunner Neil Kempton Millett, A-1, Canadian Artillery Training Centre, C.A. to undergo detention for six (6) months and to be put under stoppages of pay until he has made good the sum of $25.00 in respect of the costs of his apprehension and return to his unit.

Signed at Petawawa, Ont. this 14th day of March 1945.

G. Longman, Major.
President,
Standing Court-Martial.

M.F.B. 1486
2536-6-44 (4626)
H.Q. 1772-39-2296

Extracts entered as No. 36537 in the record of Courts-Martial kept in the office of the Judge Advocate-General this 20th day of March 1945 HRS

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, Sir

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to N/A as interpreter?

Answer:

Question to the accused. Do you object to Miss Anne Hughes, Civil Servant, as shorthand writer?

Answer: No, Sir

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No, Sir

At 1100 hrs The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, Sir

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not Guilty, Sir

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer. N/A

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer. N/A

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer. N/A

~~(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

By Elizabeth Millett
Pres Sept.

CHARGE SHEET

The Accused, No. F-77111, Gunner Neil Kempton MILLETT, A-1 Canadian Artillery Training Centre, C.A., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE

Sec.12(1)(a)

Army Act

WHEN ON ACTIVE SERVICE,

DESERTING HIS MAJESTY'S SERVICE,

in that he,
at Petawawa Military Camp, Ontario, on the 20th day of April 1944, absented himself without leave from A-1, Canadian Artillery Training Centre, C.A., from 0600 hours on the said 20th day of April 1944, until apprehended by the Military Authorities at Toronto, Ontario at 1630 hours on the 26th day of February 1945, wearing military uniform, the cost of his apprehension and return to his Unit being $34.35.

Petawawa Military Camp, Ontario,
this 5th day of March 1945.

K. H. Tremain

(K.H.Tremain)Colonel RCA,
Commandant, A-1 CATC CA,
Petawawa Mil Camp, Ont.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, Sir

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

~~The Prosecutor proceeds to call witnesses.~~

~~First Witness for prosecution.~~ Lieut. N.T.Stewart, the prosecutor, presents the following documents in support of his case.

~~being duly sworn, is examined by the Prosecutor.~~

~~Question~~ This is an M.F.B.375 dated 15 May 44 relating to the accused.

(Document produced is read, marked Exhibit "F", signed by the President and attached to the proceedings).

This is an M.F.M.216 dated 27 Feb 45 relating to the accused.

(Document produced is read, marked Exhibit "G", signed by the President and attached to the proceedings).

This is a certified true extract of Part 11 Daily Order #52 dated 2 Mar 45 A-1 CATC relating to the accused.

(Document produced is read, marked Exhibit "H", signed by the President and attached to the proceedings).

This is an M.F.B.1481 dated 28 Feb 45 relating to the accused.

(Document produced is read, marked Exhibit "I", signed by the President and attached to the proceedings).

This is an M.F.B.1482 dated 2 Mar 45 relating to the accused.

(Document produced is read, marked Exhibit "J", signed by the President and attached to the proceedings)

EL ~~THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE~~

EL

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence myself as a witness, sir

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, Sir

Question to the accused. Is the witness to be called a witness as to character only?

Answer. N/A

First witness for the Defence

The accused, F-77111 Gunner Neil Kempton Millett, A-1, Canadian Artillery Training Centre, C.A., being duly sworn, is examined by the defending officer.

Q. Gnr. Millett, will you tell the court the story that you told me from the time you enlisted in the army to the time you were apprehended?

A. On the day I joined the army I joined the Provost Corps in Halifax. I was put on draft three or four times and was always taken off the draft. The last time I was on draft, which was in Halifax in Nov 42 in reinforcements for #11 Provost Corps, they took us down to the Standing Medical Board before Major James and he lowered my Pulhems to L-4. From there I went on draft to Camp Borden. That was H.W.E. I asked several times to have my category raised. In October 43 I asked for another re-board. The Standing Medical Board in Camp Borden raised my category to L-2 but they would not confirm my category. When they raised my category to L-2 I asked for a transfer. I was transferred in Oct 43 to A-1, Petawawa Military Camp. I was up before the Board here three times and they would not confirm my category. I was put on draft April 1944. I went with the rest of the boys for medical. They told me I was taken off the draft. I got my leave with the rest of the boys - supposed to be embarkation leave - but my category was not confirmed. I think my leave was from 16 to 20 April 1944. When they told me I was taken off the draft I got fed up with the army so I went on leave. I stayed over my time and then I was scared to come back. In June 44 the girl I was running around with discovered she was pregnant. She had no parents and she was scared to be alone. She wanted me to wait until after the baby was born. The baby was born March 7th, 1945.

Q. What were your intentions concerning the army after the child was born?

A. I intended to give myself up.

CROSS-EXAMINED BY THE PROSECUTOR

Q. Gnr. Millett, did you absent yourself without leave from A-1 CATC from 0600 hrs the 20th of April 1944 until you were apprehended at 1630 hrs the 26th of February 1945?

A. I did, sir.

Q. And you were apprehended in military uniform?

A. Yes, sir.

Q. What did you do during the period of your absence without leave?

A. I didn't do much of anything.

Q. Did you work?

A. A little bit.

Q. Where were you living?

A. In Toronto, sir.

Q. Were you living at home?

A. No, sir.

Q. Are your parents alive?

A. Yes, sir.

Q. Are they familiar of the circumstances that you are the father of a child?

A. No, sir.

Q. Do you know what your category is now?

A. L-2, not confirmed.

Q. Did you stay with this girl from June until February?

A. Yes, sir.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE

QUESTIONED BY THE COURT

Q. Gnr. Millett, did you assume any financial responsibility in connection with the birth of this child?

A. Some, sir.

Q. Are you married?

A. No, sir.

Q. You did not marry this girl?

A. No, sir.

Q. Is the baby still living?

A. Yes, sir.

Q. Gnr. Millett, do you wish to make any statement to the court in regard to your future intentions or responsibilities in so far as this girl and baby are concerned?

A. I intend to marry the girl.

Q. Why did you wait so long to marry her?

A. I didn't have permission to get married.

THE PROSECUTOR DECLINES TO MAKE A CLOSING ADDRESS
THE DEFENDING OFFICER MAKES A CLOSING ADDRESS

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir

Question to the accused. Do you wish to address the Court?

Answer. No, Sir

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Vol. 3 page 396

Exhibit F.
Elon Pomeroy Maj. Pres. SCR

RECORD of the Declaration of a Court of Inquiry assembled at Petawawa Military Camp, Ontario.

on the 15th day of May 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. F-77111 GNR. M I L L E T T N. "G" T/S. Bty., A-1, CATC CA.

DECLARATION

The Court declare that No. F-77111 GUNNER M I L L E T T N. "G" T/S. Bty., A-1, CATC CA illegally absented himself without leave from A-1, CATC CA Pet. Mil. Camp, Ont. at 0600 hours on the 20th day of April 1944, that he is still so absent, and that on the 15th day of May 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
SECTION CLO. DIV. "A".			BROUGHT FORWARD.		
ANKLETS WEB PRS.	1	.79	BRUSHES BOOT POLISHING.	1	.19
COATS WATERPROOF ARMY.	1	6.95	" BUTTON.	1	.11
DRESSING FIRST FIELD.	1	.22	" CLOTH.	1	.27
SECTION CLO. DIV. "B".			" HAIR.	1	.26
BATTLE DRESS SERGE BLOUSES	1	5.25	" SHAVING.	1	.42
BOOTS ANKLE PRS.	1	5.46	" TOOTH.	1	.09
DRAWERS COTTON SHORT PRS.	1	.36	COMBS HAIR.	1	.04
JACKETS K.D. O.G.	1	3.56	FORKS TABLE.	1	.08
SHIRTS COTTON KHAKI.	1	1.28	HOLDALLS.	1	.19
SHIRTS UNDERCOTTON.	1	.39	KNIVES TABLE.	1	.18
SHOES CANVAS PRS.	1	2.55	RAZORS SAFETY SETS.	1	.38
SHOES LEATHER BLACK PRS.	1	$4.41	SPOONS TABLE.	1	.07
SECTION CLO. DIV. "C".			SECTION CLO. DIV. "D".		
BELTS WAIST LEATHER BROWN.	1	.37	BADGES CAP R.C.A.	1	.07
BOOTS BLACKING TINS.	1	.05	TOTAL.....		$34.39
BOOT DRESSING TINS.	1	.05	25% Deduction R.O. 3464		8.59
BRACES PRS.	1	.32	GRAND TOTAL.....		$25.80
BRASSES BUTTON.	1	.02			
		$32.83			

"A V Smith" Lieut. R.C.A. A-1, C.A.T.C. C.A. — President

"S Elkin" Lieut. R.C.A. A-1, C.A.T.C. C.A. — Member

"T Stewart" 2/Lieut. R.C.A. A-1, C.A.T.C. C.A. — Member

Signed at Petawawa Military Camp, Ontario, this 15th day of May 19 44

" G W F Johnston, ED" Colonel R.C.A.
Commandant A-1, C.A.T.C. C.A.
Petawawa Military Camp, Ont.

Signature of Commanding Officer

Certified true copy of original entry in MB 68.

Signature of Officer having custody of original record

M.F.D. 173
A.F.B. 115
MSU—9-41 (1000)
H.Q. 1772-23-237

(K.F.Crosther) Lt. RCA
Offr I/C Records, A-1 CATC
Petawawa Mil Camp, Ont

Exhibit Q.
Gen. Mem. Mag. Res. SCR.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major, F.E. McMAHON, No.31 Coy, CDN PROVOST CORPS, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that F.77111 Pte MILLETT, N.
(Number) (Rank) (Name in full)

of the A-1 C.A. T.C. PETAWAWA, Ontario.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~XXXXXXXXXXX~~ B.163525 L/Cpl JARVIS, F.R.
(Number) (Rank)

B.18263 L/Cpl PELLETIER, J.E. No.31 Coy, C.PRO.C. C.A.
(Name) (Unit or appointment)

at 20 Alexander St., TORONTO, Ont. at 1630 hrs
(Place) (Hour)

on the 26 day of FEB 1945

Strike out words not applicable } as a ~~XXXXXX~~ absentee without leave), and that at the time of his arrest he was wearing military ~~XXXXXX~~ uniform (d~~XXXXXXXXXXXXXX~~).

1559 George Street,

Dated at TORONTO, Ontario, this 27 day of FEB 1945

(SOLDIER OF THE ACTIVE ARMY).

F E McMahon

(F.E. McMAHON), Major,
(Signature, Number, Rank, Unit or appointment)

Officer Commanding, No.31 Coy, C.PRO.C. C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

Exhibit H.
[illegible]
Pres S.C.M.

DAILY ORDER PART II

By

A/COLONEL K H TREMAIN

COMMANDANT

A-1 CANADIAN ARTILLERY TRAINING CENTRE

Order No 52
2 Mar 45
Petawawa, Ont

Last Order Issued No. 51 dated 1 Mar 45

HOLDING ESTABLISHMENT

"B" OTHER RANKS

13. STRENGTH INCREASE.

d. Having been SOS A-1 CATC P.M.C., Ont. by Ct Inq held 15 May 44 for AWL from 0600 hrs 20 Apr 44. T.O.S. at $1.50 per diem on apprehn from des by Mil Auth at Toronto, Ont at 1630 hrs 25 Feb 45.

F-77111 Gnr. MILLETT N. "G"

(signed) C.S.Honey, Lt.
for (S. Elkin) Capt., RCA
Adjutant A-1, CATC
Petawawa Mil Camp, Ont

CERTIFIED TRUE EXTRACT.

K.F. Crowther
(K.F.Crowther) Lt. RCA,
Offr i/c Records A-1, CATC
Petawawa Mil Camp, Ont

Exhibit 1. 25

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Major A.R. Read (Rank) S.S. & T.O. (Name) R.C.A.S.C. (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~XXXXXXXX~~ hereinafter itemized transportation for escort

Complete — to proceed from Petawawa Ontario (Place) to Toronto Ontario (Place)

and return to Petawawa Ontario. (Place) for the purpose of escorting

Full description of soldier being escorted — F-77111 (Number) Gnr. (Rank) Millett N. (Name in full)

A-1 C.A.T.C. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~XXXXXXXXXXXXXXXXXX~~ and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
ESCORTS.	
A-99921 RSM Hamilton T. A-1 C.A.T.C. B-17332 Gnr. Gagne G.A. A-1 C.A.T.C.	
P.M.C. Transport Warrant No. C-885652 dated 28-2-45, covering two (2) second class fares Petawawa Ontario to Toronto Ontario.(return).	$24.08
ABSENTEE.	
F-77111 Gnr. Millett N. A-1 C.A.T.C.	
P.M.C. Transport Warrant No. C-885653 dated 28-2-45, covering one (1) second class fare Toronto Ontario to Petawawa Ontario (single).	$ 6.02
TOTAL	$ $30.10

Dated at Petawawa Ontario this 28th. day of Februsry A.D. 1945.

(A.R. Read) Major S.S. & T.O.
Signature, rank, unit, attachment (if any) and appointment of officer
(issuing transport warrants) ~~XXXXXXXXXXXXXXXX~~
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

M.F.B. 1481
(Rev.—9-42 (1400))
H.Q. 5793-89-1481

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

Exhibit - J. Elmer Brown Ass Sec'y

25

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(INCIDENTAL EXPENSES)

Complete descriptions

I, A-99911 (No.) BSM (Rank) Hamilton, T. (Name) A-1, CATC (Unit),

Strike out words not applicable

as ~~the~~ (commander of escort) consisting of myself and

Members of escort

F-17332 Gnr. Gagne, G. A. A-1, C.A.T.C.

detailed to proceed from Petawawa Mil Camp, Ont (Place) to Toronto, Ont. (Place)

Name and description of soldier escorted

to return F-77111 Gnr. Millett, N. A-1, C.A.T.C.

alleged to be a deserter or absentee without leave, to Petawawa Mil Camp, Ont. (Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
28 Feb 45	
2 suppers..... 2 escorts @ 1.00	2.00
1 Mar 45	
2 suppers..... 2 escorts @ .75¢	1.50
1 supper..... 1 absentee @ .75¢	.75
Total	$ 4.25

Dated at Petawawa Mil Camp this 2nd day of Mar A.D. 19 45

Signature and rank (of commander of escort)

BSM

~~Strike out the words~~ not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.D. 1403
1234—3-42 (8000)
H.Q. 1772-39-1500

Y. [illegible] Prisoner

27

M.F.B. 358
30M—11-41 (3278)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F-77111	Gunner	MILLETT, Neil Kempton,	A-1 C.A.T.C.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ K.S.G. Conduct sheets ~~or Company Conduct sheets~~ K.S.G. of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act ~~Air Force Act~~ K.S.G. and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	AWL 1 times	AWL 4 times
For	times	Conduct to the Prej. etc 3 times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ K.S.G.

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~ K.S.G.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted by Civil Court or Court-Martial

~~or,~~

K.S.G. ~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Section 47 of the Army Act ~~Air Force Act~~ ~~and dispensations with trial under A.F.A. 73~~ ~~A.A. 73~~ are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or,~~

K.S.G. ~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and 17 days in military ~~Air Force~~ K.S.G. custody, making a total of 17 days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ K.S.G. attestation paper is 24 years 7 months

6. The date of his ~~commission~~ K.S.G. attestation specified in ~~his record of service~~ K.S.G. attestation paper is 19 Jul 1940

~~7. The service which the accused is allowed to reckon towards discharge is~~ K.S.G.

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~ K.S.G.

9. The accused ~~is in possession of or entitled to no air force decoration, or air force reward (or~~ K.S.G. military is in military possession of or entitled to). State any ~~air force~~ K.S.G. military decoration or reward. CVSM

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held~~ ~~Air Force~~ K.S.G. ~~the regimental rank of~~ K.S.G. .....

28

K.F.C.

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~

Permanent Force
unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

K.F.C.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract ~~from the regimental books in my custody.~~ K.F.C.

K.F. Crowther

Signed this 14th day of March 45. (K.F.Crowther)Lt,RCA,
Offr i/c Records,A-1.
CA,T.C.Det,Mil.Camp,Ont.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No 6 District Depot, C.A.S.F.

M.F.M. 6 (A.F.B.122) 25034—12-42 (7517) H.Q. 1773-39-1052

29

No. F-77111 Name MILLETT, N.K. | Sqn., Battery, or Company | Corps | Date of enlistment 19-7-40 | O.C. Tradesmen's Badges of Pay | Signature O.C. Company, etc. | Character

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No.

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
New Glasgow, N.W.				Granted furlough from 10-8-42 to 23-8-42 AWL 2400 hrs, 23-9-42 to 0730 hrs 24 Sep 42 (7 hrs 31 Min)	RO 692, T/W No.a59496 Cpl.O.Horne	Reduced to Pte	25 Sep 42	H.F.Dibblee Major	
New Glasgow, N.S.	23-9-42	L/Cpl.		AWL from 2200 hrs 8 Feb 43 to 2240 hrs 9 Feb 43.	CMS STOCKS Sgt.Savidant	Admonished	10-2-43	Major A.H. Fitzgerald	Forr Idy's P.&A Auto Forfeiture 2 days pay
Camp Borden, Ont.	8-2-43	Pte.		AWL from 0200 hrs Apr 43 to 1215 hrs 8 Apr 43	Cpl.Barrowclough Sgt.Yeldon, S.C.	7 days C.B.	9 Apr 43	Capt. A. Renton	forf 1 day pay
Camp Borden, Ont.	8-4-43	Pte.		Conduct to the prejudice of good order and military discipline in that he left his kit in an untidy condition.		5 days C.B.	5 Feb 44	Maj J.C. Rogan	
Petawawa, Ont.	5 Feb 44	Gnr.		Conduct to the prejudice of good order and military discipline in that he left his kit in an untidy condition.	BSM Law, J.	5 days C.B.	7 Feb 44	Maj J.C. Rogan	
Petawawa, Ont.	7 Feb 44	Gnr.							

(P.T.O.)

No. F.77111 Name MILLETT N.K. Sqn., Battery, or Company: 6 DD C.A.S.F. Corps

No. and date of last drunk: 1

Period not reckoning towards freedom from extra fine

Date of enlistment: 19 Jul 40

Sheet No. 2

G.C. Badges

Signature O.C. Company, etc.

Tradesmen's Rates of Pay

Character

M.F.M. 6 (A.F.B.122) 73GM—12-43 (7532) H.Q. 1772-39-1652

31

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Petawawa	13 Feb 1944	Gnr.		(1) Conduct to the prejudice of good order and military discipline in that he appeared improperly dressed on defaulter's Parade	Sgt. Power Bdr.	7 days C.B.	14 Feb 1944	Major J.G.ROGAN	
				(2) Conduct to the prejudice of good order and military discipline in that he failed to comply with an order given by a Superior Officer.	Flanders H.A.				
Petawawa	19 Mar 44	Gnr.		AWL from 2200 hrs. 19 Mar 44 until 0100 hrs. 27 Mar 44 (Absent 7 days, 3 hrs.)	Documentary	14 days CB Forf. 14 days ord pay	28 Mar 44	Lt.Col. FVM Hinman	Forf. 8 dats F.R.&.I.

(P.T.O.)

CERTIFIED TRUE COPY 5 MARCH 1945. (K.F.Crowther,)RCA, Offr. i/c Records
A-1 C.A.T.C., C.A.

MEDICAL OFFICER'S REPORT

I certify that No. F 77111 Gnr Millett N.

of G Bty is in a good state of health,

and fit to undergo Trial by Court martial.

A. Trewby Capt
Medical Officer

~~Actg Medical Officer, i/c,~~
A.T.C.,
Petawawa Military Camp, Ont.

Station Petawawa Camp

Date 14 March 45

G. Mathson Maj.
Pres. S.C.M.
14/3/45

M. F. B. 246
5004—12-43 (2232)
H.Q. 1172-39-460

H.Q.C.55-M-1608 (JAG/D-3)
Your File - P.6-0-M-1380

March 20th, 1945.

Commander,
Petawawa Military Camp,
Petawawa, Ontario.

STANDING COURT-MARTIAL

F-77111 Gnr. Neil K. Millett
A-1, C.A.T.C.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

HLS

(R.J.Orde) Brigadier,
Judge Advocate-General.

HLS/ET

THIS COPY FOR H.Q.C.55-M-1608
M.D. P.6-O-M-1380

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. F.77111 Name MILLETT. Neil Kempton

Rank Gnr Unit A 1 C.A.T.C. CA

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 20-4-44

Date of Arrest 26-2-45 Charge Signed 5-3-45

Orders for D.C.M.

Place and Date of Trial Petawawa Mil Camp Ont 14--3-45

Sentence Det 6 mos; stoppages $25.00

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36537

Date 20-3-45

MEMO Absent 77 days of detention Guilty A.W.L.
by Comp Auth 21-6-45

Petawawa - A 1 C.A.T.C CA

Absent	Sentence
10¼ mos.	Det. 6 mos

H.H. Stewart, Capt.
for Judge Advocate-General

10M-1-45(M-4629)

IN REPLY PLEASE QUOTE
No. P.6-0-M-1380(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Petawawa Military Camp, 15 March 1945.

C.55 - M - 1608

Judge Advocate-General,
Dept. of National Defence,
Ottawa, Canada.

STANDING COURT-MARTIAL
F-77111 Gnr. Neil K. Millett
A-1, C.A.T.C.

The proceedings of Standing Court-Martial of the a/m soldier are forwarded herewith together with medical certificate in accordance with C.A.R.O. 4566.

2. For your approval, please.

(G. Longman) Major,
President,
Standing Court-Martial.

36337

N.D. 23
3 Mil—11-43 (2979)
H.Q. 1772-101-23

H.Q.C. 95-1-1809

CONFIDENTIAL

M.F.R. 20/B
ISSUE 4-42 (10M)
D.O. 803-1 AA

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MARION, EMERY B-119615 PTE.

CONFIDENTIAL
H.Q.C. 95-1-1809

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
MAR 23 1945					NEW FILE C.R.		MAR 19 1945
				J.A.G.	With Papers C.R. MAR 29 1945		
APR 3 1945				D.C.M.	To note, etc.	MM	2-4-45
APR 4 1945					PER B.P. APR 28 1945		
APR 27 1945				D.C.M.	With Papers C.R. MAY 5		
MAY 7 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
NO. C.B. 40-M-4847 (AJAG)

311961

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, Camp Borden
Camp Borden, Ont., 2 MAY 1945

CENTRAL REGISTRY Army
COMF. SEC.
C55-M-1609
MAY 5 1945
File
Chgd. to
Referred to 2 C M

The Secretary
Dept. of National Defence
OTTAWA, Ontario

Report on Conduct
B-119615 Pte. Emery MARION

Reference H.Q.C.55-M-1609, (ICM) dated 27 APR 45, herewith is Report on Conduct form for the marginally-named soldier who escaped from Camp Borden Military Hospital Detention Ward on 26 MAR 45, and who has not yet been apprehended.

(A.C. Spencer)
Major-General
Commander - Camp Borden

Noted
J. H. Clayton
Lieut. Colonel
Director of Army Manpower
MAY 7 1945

5 MIL.—11-43 (3979)
H.Q. 1773-101-23

I.C.M. - B

REPORT ON CONDUCT

Department of National Defence,
H. Q. C. 55- M-1609, (ICM)
OTTAWA, 27 APR 1945.

CR 40-M-4847.

To:- Commandant No. 86 Camp Borden, Military Detention Barracks.

1. Soldier under sentence B119615 Pte. Emery MARION,

2. PLEASE STATE:-

(i) Date of sentence

(ii) Sentence

(iii) Date you received soldier

(iv) (a) Can soldier read and write?

(b) Religion

(c) Married, Widower, Single

(d) What Army trade has soldier?

(v) (a) Conduct of soldier

(b) Industry of soldier

(c) Remission earned:-

(i) Number of days actually earned

(ii) Number of days obtainable to date

(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-

(a) Whether detention will seriously aggravate soldier's condition.

(b) Whether further confinement is likely to prove fatal.

(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence?

(b) Moral effect confinement has had?

(c) If returned to Army, is soldier likely to become a good soldier?

(viii) Date term will expire if all remission earned from now on.

(A. E. Walford)
Major-General
Adjutant-General.

LHC:WS.

Signature _____
Commandant.

Date of Report:

5M-1-45(M-4515)

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1609,(ICM)
OTTAWA, 27 APR 1945.

Your File - C.B.40-M-4847

Commander,

CAMP BORDEN, Ontario.

B119615 Pte. Henry MARION,

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in No. 86 Camp Borden, Military Detention Barrack, under your command, a sentence of 1 year's detention awarded by a Standing, Court-Martial on the 14 day of MAR 1945.

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC:WS.

5M-2-45(M-4516)

H.Q.C.55-M-1609 (JAG/D)

March 31st, 1945.

The Commander,
Camp Borden Military Camp, Ontario.

~~STANDING~~.....Court-Martial

B. 119615 Pte. Emery Marion,
A-10 C.I.T.C., C.A.

Receipt is acknowledged of your C.B.40-M-4847 (AJAG) dated 27th March 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M. 288,

E L M
Capt

for (R. J. Orde), Brigadier
Judge Advocate General

Noted
SP

L. H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 3 1945

2M-1-44 (M-3431)

I.C.M. - L 3970

REVIEW OF SENTENCE

DATE APR - 3 1945

H.Q.C. File: 55-19-1609

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES Desertion from 3 July 44 after leave would till arrested 2 March 45 8 Mos.

8. PREVIOUS CONDUCT ENLISTED ~~ENROLLED~~ 25 Nov 43 AGE 20

nil. Pulhems " " 21

9. STATEMENT OF ACCUSED Told that if 5 minutes late would be charged as deserter so came back. Worked almost all the time.

10. RECOMMENDATION

File No. C.B. 40-M-4847 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Camp Borden,
Camp Borden, Ontario,
27 MAR 45.

MAR 29 1945
File 055-M-1609
Chgd. to
Referred to

The Secretary,
Dept. of National Defence,
OTTAWA, Ont.

STANDING COURT-MARTIAL
B-119615 Pte. Emery MARION
A-10 CITC, CA.

Reference H.Q.C.55-M-1609 (JAG/D-1), dated 22 MAR 45.

2. Returned herewith for custody the proceedings of the marginally-noted Standing Court-Martial, together with M.F.M. 288 in which no review of sentence is recommended.

3. It is not considered that any administrative action is required in this case.

(A.C. Spencer)
Major-General
Commander, Camp Borden.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of No. B119615 Private Emery MARION,
(Number, Rank, Name in full)

A-10 Canadian Infantry Training Centre, C.A.
(Unit, Attachment (if any))

Sentenced to One year detention and $10.20 stoppages of pay,

on 14th March, 1945, at Camp Borden, Ontario,

being served at No. 86 Military Detention Barracks, Camp Borden, Ont.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19 years 3 mos; 25 NOV 43

Medical grade or category PULHEMS 1111121

FIRST TRIAL—PART II

To Adjutant-General
(Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (not) be (~~suspended~~) (~~put into execution~~) (reviewed ~~on~~ .....) for reasons given in paragraph X.

Place Camp Borden, Ont.

Date 27 MAR 45.

Maj. Gen.
(A.C. Confirming Authority)
Commander - Camp Borden

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offences, see parts VIII. For C.O.'s remarks, see parts XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority

M.F.M. 288
(Army Form A-3194)
15M—6-43 (461)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
MAY 7 1945	No Suspension or Remission No further Review	J.L. Ralston Adjutant General for Superior Military Authority	

All recommendations, etc., considered upon review, should be pasted here.

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Sec.12(1)(a)A.A. DESERTION - A.W.L. after having been warned for Special Duty, from 3 JUL 44 until apprehended on 2 Mar 45, dressed in civilian clothes. Costs of apprehension - $10.20	3 JUL 44	14 MAR 45

Colonel
Signature of Officer making entry
(J.F. Scott) Comd A-10 C.I.T.C. C.A.
Camp Borden, Ontario.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
..... Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
26 MAR 45	Character of Accused: Ability & Usefulness as soldier: I recommend (no) review of sentence ~~on the~~ day ~~of~~ ~~19~~	.....Col. (J.F. Scott) ~~Comd A-10 CITC CA~~ Camp Borden, Ontario.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
27 MAR 45	I recommend no review as it is considered full sentence should be served.	Maj.Gen (A.G. Spencer) Commander - Camp Borden

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

(1)

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Camp Borden, Ontario,

on the 14th day of March, 1945 at 1035 hours,

for the trial of: No. B119615 Private Emery MARION
Number Rank Full Name

A-10 Canadian Infantry Training Centre, C.A.
Unit Attachment, if any

PRESIDENT: Major C.M. Morrison, General List, NDHQ,
Att. Headquarters, Camp Borden, CA.

PROSECUTOR: Capt. J.A. Mullin, Prosecutor Courts-Martial, Camp Borden, CA.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Lt. H. Rotenberg, A-10 CITC, CA.
Rank Full Name Unit Attachment, if any

FINDING: The Court finds that the accused is guilty of the charge.

SENTENCE: The Court sentences the accused to undergo detention for one year, and to be put under stoppages of pay until he has made good the sum of $10.20 in respect of the costs of apprehension and return to his corps.

Signed at Camp Borden, Ont. this 14th day of March 1945.

C.M. Morrison (Major)
(C.M. Morrison) President, Standing Court-Martial

M.F.R. Entered as No. 36234 in the
25M-6-44 (4838) of Court-Martial kept in the
H.Q. 1773-30-2106 Judge Advocate General
this 20 day of Mar 1945

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: ~~interpreter?~~

Question to the accused. Do you object to B.83584, S/Sgt.(SM(A/WO I))F.J.McGuigan, HQ, Camp Borden, CA, as shorthand writer?

Answer: No, sir.

The shorthand writer ~~was interpreter~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B2"

Morris Kaip PRESIDENT
~~DISTRICT~~ STANDING COURT-MARTIAL

CHARGE SHEET

The accused, No. B119615 Private Emery MARION, A-10 Canadian Infantry Training Centre, C.A., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:-

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

CHARGE
Section 12(1)(a)
Army Act.

in that he,

at Camp Borden, Ontario, on the 3rd day of July, 1944, after having been warned for Special Duty, with intent to avoid such Special Duty, absented himself from A-10 Canadian Infantry Training Centre, C.A., from 0600 hrs on the said 3rd day of July, 1944, until he was apprehended by the Military Authorities at St. Williams, Ontario, at 2145 hrs on the 2nd day of March, 1945, dressed in civilian clothes. The costs of apprehension and return to his Corps: $10.20

(J.F. Scott) Colonel,
Commandant A-10 Canadian Infantry Training Centre, C.A.

Camp Borden, Ontario.
9 MAR 45.

C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. B-58615, Sgt. A.A. I O N, A-10 C.I.T.C., C.A.,

being duly sworn, is examined by the Prosecutor.

Question

Q. To what unit do you belong?

A. A-10 CITC.

Q. What company?

A. No.3 Coy.

Q. Do you remember the 28th of June, 1944?

A. I do, sir.

Q. Will you tell the Court what happened on that date, please?

A. At approximately 0830 hours the accused, Pte. Martion, was in a group that were warned for draft.

Q. You refer to the accused, Pte. Martion. Is he in Court to-day?

A. Yes, sir.

Q. Would you point him out, please?

---- Witness indicates the accused.

Q. Carry on, please?

A. He was read the warning and asked if there were any questions. There were no questions asked. His signature was attached to a master roll and a separate slip of paper which I witnessed both;

Q. I show you Acknowledgment of Warning for Special Duty. By whom is that signed?

A- It is signed by Pte. Marion, E. and Ion, A.A., Sergeant.

PROSECUTOR :- I offer this as evidence, sir.

---- Acknowledgment of Warning for Special Duty, is read by the Court, marked Exhibit "F", signed by the President, and att. to the proceedings.

PROSECUTOR :-

Q- The signature of Pte. Marion, did you see that signature affixed?

A- I did, sir.

Q- Did you place your own signature on there as witness?

A- Immediately after, sir.

Q- How was the warning given -- was that warning read over to the accused before he signed it or not?

A- It was read over to the group as a whole and then they were paraded in front of the table where we were sitting and it was read to them again. Each man was asked if his correct regimental number, his name and rank, and asked if there were any questions, if he thoroughly understood it, and there were no questions asked, they all understood it, and they affixed their signatures to it.

Q- What happened to the draft which was warned, subsequently?

A- The draft left at approximately 1145 hours on the 9th of July from the C.P.R. station, Camp Borden. At that time, according to regimental evidence, the accused, Pte. Marion, was not on that parade.

C-5

CROSS-EXAMINED BY DEFENDING OFFICER :-

Q- Who actually read the warning?

A- An officer, sir.

Q- Did you yourself speak to the men?

A- I had nothing to do with speaking to the men, sir.

---- Prosecutor declines to re-examine.

---- The witness withdraws.

PROSECUTOR :- I offer as evidence MFB 375, dated 26 July, 1944; MFM 216 dated 2 March, 1945; MFB 1481, dated 5 March, 1945; and, MFB 1482, dated 10 March, 1945.

---- The above-mentioned documents are read by the Court, marked Exhibits "G", "H", "I" and "J", respectively, signed by the President, and att. to the proceedings.

PRESIDENT :- Have you any objection to the items in Exhibits "I" and "J"?

DEFENDING OFFICER :- No, sir.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I will give evidence under oath, sir. (See overleaf)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

The Accused, No.B119615 Private Emery MARION, A-10 Canadian Infantry Training Centre, C.A., being duly sworn, is examined by the Defending Officer :-

Q- How old are you?

A- 20, sir.

Q- When were you 20?

A- The 17th of August, 1944.

Q- You'll be 21 this coming 17th of August?

A- Yes, sir.

Q- Where were you born?

A- St. Rose du Lac, Manitoba.

Q- Did you go to school?

A- To Grade VI, sir.

Q- Is that public school?

A- Yes, sir.

Q- That is as far as you went?

A- That's right, sir.

Q- How old were you when you left school?

A- 15, I think, or 16.

Q- What did you do after that?

A- Well, I kept a livery barn there for a year, and then I came down to Ontario. I worked in Hamilton there for about a year and a half. Then I worked on a tobacco farm.

Q- Were you called up to the Army?

A- No, sir, I joined up.

Q- When?

A- I just don't remember, sir.

Q- You have had your basic and advanced training?

A- Yes, sir.

Q- Do you wish to go overseas, Marion?

A- Yes, sir.

Q- Do you recall a draft warning notice being given to you?

A- Yes, sir.

Q- What was said to you at the time?

A- Well, they told me if I was five minutes late I would be a deserter so that what why I was scared to come back.

Q- Who told you that?

A- I don't know, sir. It was one of the officers.

Q- He said if you were five minutes late you would be a deserter?

A- Yes, sir.

Q- Did you have your embarkation leave?

A- Yes, sir, four days.

Q- What happened during those four days?

A- Well, I started drinking, sir.

Q- What were you drinking?

A- Oh, all kinds of beer and liquor. I woke up about five o'clock Monday night and I was scared to come back.

Q- When were you supposed to come back?

A- On Sunday night.

Q- You woke up Monday evening, was it?

A- That's right.

Q- You did not come back?

A- No, sir, because I heard if I was fiveminutes late I would be a deserter. I was scared to come back.

Q- What did you do?

A- Well, I started working, sir, on a farm.

CROSS-EXAMINED BY THE PROSECUTOR :-

Q- You became absent then, Marion, at 0600 hours on the 3rd of July, 1944?

A- Yes, sir.

Q- And you remained absent until you were apprehended at 2145 hours on the 2nd day of March, 1945?

A- Right, sir.

Q- Do you remember being warned for special duty on the 28th of June, 1944?

A- The 28th?

Q- Do you remember being warned for special duty at the end of June, 1944?

A- No, sir.

Q- Being warned for draft?

A- Well, was that the day when I left there?

Q- I don't know what day you left.

A- It must have been that day. I know I was warned that I was on draft.

Q- Is this your signature to Exhibit "F"?

A- That's right, sir.

Q- Do you remember that warning being given to you?

A- Yes, sir.

Q- You went on leave after that warning had been given to you?

A- Yes, sir.

Q- Where did you go when you went on leave?

A- Lanton.

Q- In Ontario?

A- Yes, sir, just the other side of Delhi.

Q- What did you do there?

A- Well, when I was on leave I stayed at home. Then I had to get myself a job.

Q- You went to Langton when you went on your embarkation?

A- Yes, sir.

Q- Is that your home?

A- That was my home.

Q- Why did you stay there when you should have come back?

A- I was drunk, sir.

Q- When did you get drunk?

A- I didn't think of getting drunk, sir....

Q- No, when did you get drunk?

A- On Sunday.

Q- About what time?

A- About ten o'clock I started drinking.

Q- Ten o'clock in the evening?

A- No, before noon, sir.

Q- In the morning?

A- Yes, sir.

Q- Why did you start then, because you didn't want to come back?

A- No, sir.

Q- Why?

A- Well, I just thought I'd have a little drink before I left. It was my last leave.

Q- What time would you have to catch a train or leave your home to come back to Camp?

A- I usually come back about five o'clock at night, take the trolley to Simcoe and get my train in Brantford.

Q- Why weren't you able to leave at five o'clock? Did you get drunk that quickly?

A- Yes, sir.

Q- When did you become sober?

A- Five o'clock Monday morning, sir. I woke up then.

Q- Why didn't you 'phone your Centre or start back to Camp at once?

A- I was scared of being a deserter.

Q- You knew you would be classed as a deserter. Then didn't you think it would become worse if you stayed away longer?

A- I didn't know, sir.

Q- So you decided to stay away anyway?

A- Yes, sir.

Q- Have you been working all the time you have been absent?

A- Not all the time, sir. Well, most of the time I was working. I wasn't getting money all the time.

Q- Your home is at Langton, is it?

A- No, they have moved to Galt now.

Q- How long did you stay at home before you started

working or did you work at home?

A- Well, I left home on Monday.

Q- You left home at once, did you?

A- Yes, sir.

Q- Where did you go?

A- Down to St. Williams.

Q- Why did you go there? To avoid the provosts?

A- No, sir, I started working there.

Q- How long did you stay there -- all the time you were away?

A- No, sir, I stayed there about two months. Then I got a job someplace else.

Q- Where?

A- Down at Langton.

Q- How long did you stay there?

A- Near six months.

Q- What happened then? Did you go back to St. Williams?

A- Yes, sir, I started there only three days before.

Q- You had only been at St. Williams three days and then they picked you up?

A- Yes, sir.

Q- All this time you had been working in civilian clothes, had you?

A- Yes, sir.

---- Defending Officer declines to re-examine.

---- The accused resumes his seat.

---- The Prosecutor makes a closing address.

---- The Defending Officer makes a closing address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer. (The Defending Offr. addresses the Court).

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Schedule "E" Billets MARCH E "29"

A 10 C.I.T.C., C.A. CAMP BORDEN, ONTARIO

"F"

ACKNOWLEDGEMENT OF WARNING FOR SPECIAL DUTY

I, the undersigned, hereby acknowledge that I have been warned this 28th day of JUN 1944, at 0830 hours, that I will proceed on Special Duty any date after today, and I am aware that if I absent myself without leave, or if I overstay any pass or furlough for any time, I will be liable to be charged with Desertion under Section 12 of the Army Act.

Ellerton Kirk PRESIDENT
DISTRICT STANDING COURT-MARTIAL

.....Q. Bon.....sgt.
(Witness to Signature)

E. Marion
.....
(Signature of Soldier)

SOE
ICL ASSIGNMENT

"A" 31

RECORD of the Declaration of a Court of Inquiry assembled at Camp Borden, Ont.

on the 26th day of July 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B119615 Pte Marion, E. A10, CITC, CA.

DECLARATION

The Court declare that No. B119615 (Regt'l No.) Pte. (Rank) Marion, E. (Full Name) Gen. List. 8 Coy, A10, C.I.T.C., C.A. (Unit) illegally absented himself without leave from A10, CITC, C.A., Camp Borden, (Place) at 0600 hours at hours on the 3rd day of July 1944; that he is still so absent ~~XXXXXXXXXXXXXXXXXX~~ and that on the 26 July, 44. he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
Boots ankle army prs	5	82	Badges cap		09
Caps Field Service		70	Braces left A.E'37 Patt		49
Drawers cotton shorts prs 2		84	Braces right W.E.'37 Patt		46
Jackets Serge drab o/C	10	80	Haversacke W.E.'37 Patt	2	14
Shirts cotton khaki 3	4	62	Total vocab price less	36	97
Shirts undercotton		43	25% depreciation	9	24
Shoes leather black	4	84	Total unexpired value	27	73
Trousers serge drab N.P.	4	33	"G"		
Brushes shaving		42			
Combs		04			
Holdalls		22			
Razors safety sets		42			
Towels hand		31			

Morrison Hair PRESIDENT
DISTRICT STANDING COURT-MARTIAL

H.J.P. Stephenson, Capt (Name) (Rank) (Unit) President
RCASC att A10, C.I.T.C., C.A.
(Sole Member) (Name) (Rank) (Unit) Member

Signed at Camp Borden, Ont.

this 26th day of July 1944 (Name) (Rank) (Unit) Member

Signature of Commanding Officer ".R.L. Denison" Colonel, (.R.L. Denison) (Name) (Rank) COMD A10, CITC, CA. (Unit)

Certified true copy J.G. Couper (Name) Lt. & Asst Adjt. (Rank) (Unit)
(J.G. Couper)
A10, CITC, CA.
(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
150M—10-42 (8530)
H.Q. 1772-39-237

"B" 33

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, B-82976. Sgt. Robbie. G. NCO. i/c. NO 3 Det. 3I Coy. C. Pro. C. Simcoe, Ont.
(Number) (Rank) (Name) (Unit)

hereby certify that B-II96I5. Pte. MARION. E.
(Number) (Rank) (Name in full)

of the A-IO. C.I.T.C. Camp Borden, Ont.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~Surrendered to~~ SR B-77965. L/Cpl. Mutch. A. and B-68805.
(Number) (Rank)

L/Cpl. [illegible] I.E. No 3 Det. 3I Coy. C. Pro. C. Simcoe, Ont.
(Name) (Unit or appointment)

at R-R.I. St. Williams, Ont. at 2I45 hrs.
(Place) (Hour)

on the 2nd. day of MARCH. 19 45.

Strike out words not applicable } as a ~~XXXXXXXX~~ SR absentee without leave), and that at the time of his arrest he was ~~XXXXXX~~ SR ~~XXXXXXXXXXXXXXXXXX~~ SR ~~XX~~ SR (dressed in civilian clothes).

Dated at SIMCOE, ONT. this 2 nd. day of MARCH. 19 45.

"H"

Warren Mayor PRESIDENT
~~DISTRICT~~ STANDING COURT-MARTIAL

B-82976 G. Robbie Sgt.
(Signature, Number, Rank, Unit or appointment)
NCO. i/c. No 3 Det. 3I Coy. C. Pro. C. Simcoe, Ont.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3750)
H.Q. 1772-39-1936

M.F.B. 1481
12[redacted]0-45 (2208)
H[redacted]72-39-1851

"C"

35

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — Strike out word not applicable — Complete

I, Lt. A.P. Kay, Issuing Officer for CS & TO; Camp Borden, Ont.
(Rank) (Name) (Unit)

hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort
aPK

to proceed from Camp Borden, Ont. to Simcoe, Ont.
(Place) (Place)

and return to Camp Borden, Ont. for the purpose of escorting
(Place)

Full description of soldier being escorted

B-119615 Pte. Marion, E.
(Number) (Rank) (Name in full)

A-10 C.I.T.C.
(Unit) (Attachment, if any)

Strike out phrase not applicable

alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation issued~~) and the cost thereof for said soldier and escort being as follows:
aPK

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	TRANSPORTATION	
	Absentee	
	Cost of one single second class militia ticket from Simcoe, Ont., to Camp Borden, Ontario.	2.30
	Escort	
	Cost of one return second class militia ticket from Camp Borden to Simcoe, Ont., and return	4.60
	15% Tax	1.05
	MEALS 3 @ .75	
	Issued on Camp Borden T.W. No. C-667756, dated 5th March, 1945.	
	I	
	Morrison Kaye PRESIDENT ~~DISTRICT~~ STANDING COURT-MARTIAL	
	TOTAL	$ 7.95

Dated at Camp Borden, Ont. this 5th day of March A.D. 1945

No. 15 Dist. Coy. RCASC
Camp Borden, Ontario.

A.P. Kay Lieut.
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing transportation~~)
Strike out description not applicable.
aPK

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by the Officer who authorizes or issues the transportation and not by an Officer "for" him.*

"D" 37

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1099, 1941

(INCIDENTAL EXPENSES)

Complete description

I, B116987 J.L. Fleming, A-10 C.I.T.C., C.A.
(No.) (Rank) (Name) (Unit)

Strike out words not applicable

as (escort) ~~XXXXXXXXXXXX~~ consisting of Myself

Members of escort

detailed to proceed from Camp Borden, Ont. to Simcoe, Ont.
(Place) (Place)

Name and description of soldier escorted

to return B119615 Pte. Marion, E.
(Place)

alleged to be a deserter ~~XXXXXXXXXXXXXX~~ to A-10 CITC CA, Camp Borden
(Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
MEALS	$2.25
3 meals @ .75¢ each.	
5 MAR 45 supper for escort .75	
6 MAR 45 supper for escort .75	
6 MAR 45 supper for accused .75	
$2.25	
(Covered by Camp Borden T.W. #C667756, dated 5 MAR 45)	
"J"	
Chairman Capt PRESIDENT CHURCH STANDING COURT-MARTIAL	
Total	$ $2.25

Dated at Camp Borden Ont this 10th day of March A.D. 19 45

J.L. Fleming Pte.
B116987 (J.L. Fleming) ~~XXXXXXXXXXXX~~
(escort) Strike out description not applicable.
A-10 C.I.T.C. CA.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1483
3036—7-43 (1120)
E.G. 1772-99-1500

"Y" 39

M.F.B. 355
50M—9-42 (5892)
H.Q. 1772-30-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B119615	Private	Emery MARION,	Gen. List, A-10 C.I.T.C., C.A.

1. The following is a fair and true summary of the entries in the Field [redacted] Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, [redacted] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For		times		times
For		times		times
For		times		times

[redacted]

Previous convictions of the accused by a court-martial or a civil court, of summary awards under [redacted] Section 47 of the Army Act and dispensations with trial under [redacted] A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 312 days in [redacted] military custody, making a total of 312 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 20 yrs 6 mos

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 25 NOV 43

[redacted]

9. The accused is in possession of or entitled to no [redacted] military decoration, or [redacted] military reward (or is in possession of or entitled to). State any [redacted] military decoration or reward. Nil.

[redacted]

40

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated.....; and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~10th~~ 14th day of March, 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

~~DISTRICT~~ STANDING COURT-MARTIAL PRESIDENT

(J.G. Couper) Lt. & Asst. Adjt.,
A-10 C.I.T.C., C.A.
Camp Borden, Ontario.

No. Name

B119615 Pte. MARION, Emery

Sqn., Battery, or Company } No. and date of last drunk }

Corps C.INF.C.

Period not reckoning towards freedom from extra fine }

Date of enlistment } 25 NOV 43 (C.C. badges)

Sheet No. One

Signature O.C. Company, etc. } D. S. Cameron Major

Tradesman's Rates of Pay } Character

M.F.M. 6 (A.F.B.122) 750M—12-43 (7537) H.Q. 1772-39-1051

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIRST SHEET DESTROYED 25 MAY 44 DATE OF LAST ENTRY (NIL) NUMBER OF CASES OF DRUNKENNESS (NIL) D.S. Cameron, Major									

CERTIFIED TRUE COPY

Marion Pte. PRESIDENT

~~DISTRICT~~ STANDING COURT MARTIAL

J.G. Couper .....Lt. & Asst. Adjt.
(J.G. Couper)
A-10 C.I.T.C., C.A.
Camp Borden, Ontario.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. B119615 Pte. Marion E

of A.10C11C CA is in a good...State of health.

and is fit to undergo ~~Trial by~~ Trial by Court Martial

H. McCrea Lt.
Medical Officer RCAMC.
Att. A. 10, C.I.T.C.

Station...Camp Borden, Ont.

Date...March 14th 1945

H.Q.C.55-M-1609 (JAG/D-1)
Your C.B.40-M-4847

March 22nd,1945.

The Commander,
Camp Borden Military Camp, Ontario.

STANDING COURT-MARTIAL

B.119615 Pte. Emery MARION,
A-10 C.I.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde),Brigadier
Judge Advocate-General.

ALT/MM

THIS COPY FOR: H.Q.C.55-M-1609
M.D.C.B.40-M-4847

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B.119615 Name MARION, Emery

Rank Pte Unit A 10 C.I.T.C. CA

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 3-7-44

Date of Arrest 2-3-45 Charge Signed 9-3-45

Orders for D.C.M.

Place and Date of Trial Camp Borden Ont 14-3-45

Sentence Det 1 yr; stoppages $10.20

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36234

Date 20-3-45

MEMO

Borden - A 10 CITC CA

Absent	Sentence
8 mos.	Det 1 yr

A. Thurlow Capt
for Judge Advocate-General

10M-1-45(M-4529)

C.B. 40-M-4847 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

Headquarters, Camp Borden,
Camp Borden, Ontario.
15 Mar 45.

c.55-M-1609

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
B.119615, Pte. E. MARION,
A-10 CITC, CA.

Herewith proceedings of the m/n trial by Standing Court-Martial, for registration and custody, please.

C.M. Morrison
(C.M. Morrison)
~~xxxxxxxxxxxxxxx~~ Major,
President,
Standing Court-Martial.

36234

H.Q.C. 55-1-1610

CONFIDENTIAL

M.F.R. 201
ISM-4-G-1945
H.Q. 101-1-1

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

DISTRICT COURT-MARTIAL

MCMILLAN, CLARENCE HAROLD L-609179 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referral cannot be expressed on one line, add minute to file and enter here "See Minute")		
MAR 22 1945				Jacobs	NEW FILE	C.R.	MAR 19 1945
				J.A.S.	APR 3 1945		
APR 5 1945				S.C.M.	To note & pass to Admin	E.C.M.	5-4-45
APR 6 1945	10-4-45					J.A.S.	APR 6 - 1945
APR 1 1945							

CONFIDENTIAL
H.Q.C. 55-1-1610

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1610(JAG/D)

5th April 1945.

District Officer Commanding,
Military District No.12,
REGINA, Sask.

District Court-Martial
L.609179 - Pte. Clarence Harold McMILLAN
No. 12 District Depot, C.A.

Receipt is acknowledged of your R.C.1-Mc-917(AJAG) dated 31st March 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted District Court-Martial., together with M.F.M.288. The minute of remission and minute of promulgation thereof have been noted.

E.F.M.
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

WBB:ELM

Filed
L.H. CLAYTON
Lieut.-Colonel
Inspector of Courts-Martial
APR 6 1945

IN REPLY PLEASE QUOTE No. R.C.1-Mc-917(AJAG).

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Regina, Sask., 31 Mar., 1945.

CONFIDENTIAL

304085

CENTRAL REGISTRY Army
CONF. SEC.
APR 3 1945
File C. 55-M-1610
Chgd. to
Referred to D.a.g.

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

District Court- Martial
L.609179 - Pte. Clarence Harold McMILLAN
No. 12 District Depot, C.A.

Reference H.Q.C.55-M-1610(JAG/D-1) dated March 21, 1945, enclosing proceedings of District Court-Martial in this case.

2. As instructed, the sentence of stoppages of pay relating to the costs of apprehension and return of the accused to his Unit has been remitted to the extent of $3.40. This amount is made up of the two items in Exhibit "L" covering the railway fare of the escort from Prince Albert to Tisdale and return and the railway fare of the accused from Tisdale to Prince Albert.

3. The proceedings, with minute of remission and minute of promulgation thereof endorsed on page F, are returned herewith.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

NAT. DEF. B. 140
250M-4-44 (6221)
H.Q. 1772-28-767

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of L.609179 (Number) Pte. (Rank) Clarence Harold McMILLAN (Name in full)

No. 12 District Depot, CA, Regina, Sask. (Unit) (Attachment (if any))

Sentenced to 60 days detention & Stoppages $17.88

on 1st day of March 1945 at Regina, Sask.

being served at No. 80 Military Detention Barracks, Dundurn, Sask. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 23 years - 24 Jan 43

Medical grade or category 23-1-1-1-1-1-1-1

FIRST TRIAL—PART II

To Adjutant-General, Department of National Defence, Ottawa, Ont. (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (XX) committed to undergo his sentence, which I recommend should XXX be XXXXXXX (put into execution) (reviewed on 14 April, 1945 (date)) for reasons given in paragraph X.

Place Regina, Sask.,

Date 13 March, 1945.

G.H. Trudeau (Confirming Authority)

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 288
(Army Form A-2104)
155M—6-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE-AWL from 0001 hrs 6 Jan 45, until apprehended by Civil Power at Torch River, Sask. at 1800 hrs 7 Feb 45. Cost of apprehension and return to unit $17.66	6 Jan 45	1 Mar 45
WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER - refused to put on the uniform of the Canadian Army.	22 Feb 45	1 Mar 45

BAbooke Lieut-Col.,
Signature of Officer making entry
(B.A. Cooke)
Commanding Officer, No. 12 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
12th March, 1945	This soldier is applying for release from the army and if this is approved before sentence is completed remission is recommended.	BAbooke (B.A. Cooke), Lieut-Col., Commanding Officer, No. 12 D.D.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
13 March, 1945	Soldier's case under investigation and Commanding Officer's recommendation will be considered when investigation is completed.	(G.A.H. Trudeau), Brigadier, D.O.C., M.D. No. 12.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

1.

A

**Form of Proceedings for ~~General and~~ District Courts-Martial

Proceedings of a District Court-Martial held at The Armoury, Regina, Sask., on the 1st day of March, 1945, by order of Brigadier G.A.H. Trudeau, District Officer Commanding Military District No. 12, dated the 26th day of February, 1945.

President.
Major S.L. Waterman, E.D.,
President Courts-Martial,
Headquarters M.D. 12.

Members.
Lieut. E.W. Childerhose,
No. 12 District Depot, C.A.

Lieut. W.G. Jaggard,
No. 12 District Depot, C.A.

, ~~Judge Advocate~~.

Trial of* L.609179 - Pte. Clarence Harold McMILLAN
No. 12 District Depot, C.A.

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that _____ is not available to serve owing to _____, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Capt. P.W. McMeans, Prosecutor Courts-Martial, Headquarters M.D. 12.

~~Counsel‡ or defending officer†~~
No Counsel or Defending Officer.
(See documents marked "G" and "H" attached.)

At 1015 hours the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings. X

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q.2 *Question by the President to the accused.*

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A.2 *Answer by accused.*

No, sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

---

* Here insert No., Rank, full Name, Unit, Attachment (if any), and Appointment (if any).

† Here state Rank and Name, Unit (if any), and Attachment (if any).

‡ Qualification to be stated.

(Strike out and initial when not applicable.)

*I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge (charges) before the Court-Martial.

S. Waterman
Major,
President, D.C.M.

Mil. Form B. 271
50M-3-43 (9036)
H.Q. 1772-39-224

2.

B

The President and Members are duly sworn.

~~The President, members and judge-advocate are duly sworn.~~

Q.3 Do you object to L-25640 SM (A/W.O.I) W.H. Matthews, H.Q. M.D. No. 12 (CMSC Sub-Staff), acting as shorthand writer?

~~The following officers under instruction, having been duly detailed, are duly sworn.~~

A.3 No, sir.

L-25640 SM (A/W.O.I) W.H. Matthews, H.Q. M.D. No. 12 (CMSC Sub-Staff), is duly sworn as shorthand writer.

The Court adjourns. For Minute of Adjournment and Reassembly see document marked "I" attached.

Charge-Sheet

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon ~~the~~ [each] charge in the above-mentioned charge-sheet.

Q.4 Is that your number, rank, name and unit? *Question to the accused.*

A.4 Yes, sir. *Answer.*

Q.5 Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

A.5 Not guilty, sir. *Answer.*

Q.6 Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

A.6 Guilty, sir. *Answer.*

Q.7 Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

A.7 Guilty, sir. *Answer.*

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to the second and third charges, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

"B2" Silvaresmaior major
President D.C.M.

CHARGE SHEET

The accused, L.609179 Pte. Clarence Harold McMILLAN, No. 12 District Depot, CA., Regina, Saskatchewan, an NRMA soldier of the Canadian Army placed on Active Service is charged with:

FIRST CHARGE
Section 12 (1)(a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE.

in that he

at Victoria, B.C., at 0001 ~~hours on~~ the 6th January, 1945, absented himself from the Kent Regiment, until apprehended at Torch River, Saskatchewan, at 1800 hours on the 7th February, 1945 by the Civil Power, dressed in plain clothes, the cost of his apprehension and return to his Unit being, $17.88.

SECOND CHARGE
Section 9 (2)
Army Act

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

at Regina, Saskatchewan, at 0915 hours on the 22nd February, 1945, at the Q.M. Stores, No. 12 District Depot, CA., did not put on the uniform of the Canadian Army when ordered to do so by L.22001 RQMS SNEDDON, D.L., No. 12 District Depot, CA.

THIRD CHARGE
Section 24 (2)
Army Act

LOSING BY NEGLECT HIS CLOTHING EQUIPMENT AND REGIMENTAL NECESSARIES

in that he

at Regina, Saskatchewan, on 22nd February, 1945 at the Q.M. Stores, No. 12 District Depot, CA., was deficient of the following articles, viz:-

CLOTHING DIVISION "A"		100%	75%
Anklets Web prs.	1	.74	.56
Dressing First Field	1	.21	.16
Gloves woollen	1	.66	.50
Greatcoat Drab	1	15.54	11.66
Mitts leather pullover	1	.93	.70
Overalls Combination	1	2.52	1.89
CARRIED FORWARD		$20.60	$15.47

Page Two

		100%	75%
BROUGHT FORWARD		$20.60	$15.47
CLOTHING DIVISION "B"			
Blouses Battledress	2	13.00	9.76
Boot, Ankle	1	5.82	4.37
Caps Field Service	1	.70	.53
Drawers cotton short	2	.84	.64
Drawers woollen	2	2.80	2.10
Jackets K.D. W/O/C	1	3.42	2.57
Jersey pullover	1	1.65	1.24
Puttees	1	.97	.73
Shirts Khaki cotton	4	6.16	4.64
Shirts woollen	2	2.40	1.80
Shirts undercotton	2	.86	.64
Shoes canvass prs.	1	2.29	1.72
Shoes leather black	1	4.74	3.63
Socks army	4	1.84	1.40
Trousers battledress	2	13.10	9.84
Trousers K.D. long	1	1.80	1.35
Trousers K.D. short	2	2.62	1.96
CLOTHING DIVISION "C"			
Bags Kit	1	1.27	.95
Belts Waist Web 1½"	1	.25	.19
Blacking tins	1	.05	.04
Bootdressing	1	.05	.04
Bootlaces	1	.03	.02
Braces	1	.28	.21
Brushes boot polishing	1	.21	.16
Brushes button	1	.11	.08
Brushes cloth	1	.17	.13
Brushes hair	1	.39	.29
Brushes shaving	1	.42	.32
Brushes tooth	1	.09	.07
Brushes boot blacking	1	.14	.10
Caps comforter	1	.41	.31
Comb	1	.04	.03
Fork table	1	.08	.06
Holdall	1	.22	.17
Housewife	1	.35	.26
Knife table	1	.18	.14
Necktie	1	.19	.14
Pin collar safety	1	.06	.05
Razor	1	.42	.32
Socks black	2	.56	.42
Spoon table	1	.08	.06
Sticks button	1	.04	.03
Towels hand	2	.62	.46
Badges Cap	1	.09	.07
Brasses buckle	1	.06	.05
Buttons G.S.	8	.08	.06
CLOTHING DIVISION A-1			
Bags Ration	1	.04	.03
Belts Waist W.E. 37	1	.67	.50
Bottles Water	1	.62	.47
Braces W.E. 37 L	1	.35	.26
Carrier W/B	1	.37	.28
Frog bayonet Web Mk. 4	1	.12	.09
Haversack W.E. 37	1	2.29	1.72
Packs W.E. 37	1	2.26	1.70
CARRIED FORWARD		$99.37	$74.67

		100%	75%
BROUGHT FORWARD		$99.37	$74.67
Pouches Basic W.E. 37	2	2.06	1.54
Straps shoulder haversack L	1	.31	.23
Straps shoulder haversack R	1	.31	.23
Straps Web supporting	2	.28	.22
Tins Mess	1	.57	.43
SECTION A-2			
Capes A.G.	1	4.43	3.33
Detectors sleeve	2	.56	.42
Eyeshield (pdg. of 6)	1	1.04	.75
Respirator	1	6.00	4.50
Cintment A.G.	1	.26	.20
Section "J-1"			
Sheets ground	1	2.38	1.74
TOTAL		$117.57	$88.26

B A Cooke
(B.A. COOKE) Lt.-Col.,
Commanding Officer,
No. 12 District Depot, CA.

23rd February, 1945
Regina, Saskatchewan.

To be tried by District Court-Martial.

Signed at Regina, Sask.,
this 26th February, 1945.

(Fairfax Webber),
Lieut.-Col.,
D.A.D.C. No. 12,
(G.A.H.Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

C

Proceedings on Plea of Not Guilty

*Instruction. (See R.P. 39 (A)) Question.

Q.8 *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer A.8 No, sir.

The Prosecutor declines to make an opening address.

(Strike out any initial words not applicable.) ~~The prosecutor makes an opening address [hands in a written address, which is read, marked _____, signed by the President, and attached to the proceedings], [declines to make an opening address].~~

~~The prosecutor proceeds to call witnesses.~~

First witness for prosecution.

~~being duly sworn, is examined by the prosecutor.~~

THE PROSECUTOR: I produce M.F.B. 375; M.F.M. 215; M.F.B. 1481 in the total sum of $10.92; and M.F.B. 1482 in the total sum of $6.96.

The documents are read and marked Exhibits "J" to "M" respectively, signed by the President and attached to the proceedings.

The Prosecutor has no further witnesses.

(This page to be removed from proceedings if plea to all charges is Guilty.)

11

D

The prosecution is closed.

Defence

Q.9 *Question to the accused.* Do you apply to give evidence yourself as a witness?

Answer. A.9 Yes, sir.

Question Q.10 Do you intend to call any other witness in your defence?

Answer. A.10 No, sir.

Question. ~~Is he a witness as to character only? *Answer.*~~

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (~~and of the witnesses for the defence including witnesses as to character~~) is recorded on a separate page (*see overleaf*).

(The following question must be asked where the accused states that he does not intend to give evidence himself as a witness).

Question to the accused. ~~Have you anything to say in your defence?~~

Answer. ~~The accused in his defence says†~~

~~[Hands in a written address which is read, marked~~

~~signed by the President and attached to the proceedings.]~~

---

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

FIRST WITNESS FOR THE DEFENCE:

The accused, L.609179 Pte. Clarence Harold McMILLAN, No. 12 District Depot, C.A., being duly sworn, is examined by the Court.

Q.11 You may proceed now to give your evidence. Just state what you want to say.

A.11 Well, why I went A.W.L. was, our house at home isn't very good and I was trying to get another--to get some lumber out to get another one built. And I wrote in for a postponement to the Kent Regiment and I never heard no reply from before I left for the bush. I was up in the bush and I had my horses and sleighs up there and I had my lumber pretty near all cut down, and the R.C.M.P. come and picked me up. If they had left me stay about another week and a half or two weeks I would have had my lumber all out by that time.

Q.12 And then what, when you had your lumber out?

A.12 Well, I would have been able to return to the Army then.

Q.13 Yes; go on.

A.13 I applied for a postponement but they wouldn't give it to me. And last spring--a year ago last spring--I asked to join Active in the Provosts and they wouldn't give me that.

Q.14 You wished to go Active in the Provost Corps?

A.14 Yes, I asked them twice, and the last time they said they didn't want no zombies in the Provosts.

Q.15 To clarify it: Whom do you mean by "they" said that?

A.15 Well, the Colonel told us that. My dad he was in two wars and he never got any help from any place, and when he come out he took a loan for the farm from the Soldiers Settlement Board and I have been working all the time to get that paid up. And I had a brother in the last war and they never helped him out any. And I got a brother in this war and a sister in the Air Force; and there's just my mother and a small brother, 14 years old, at home to do the work at home. And I have a number of livestock; and when the police they come and got me I had to leave my horses and everything up in the bush, and there was nobody to go and get them for me. My mother she isn't very well and she is not able to do the work at home. I guess that's about all. And last May my dad he passed away.

Q.16 Last May?

A.16 Yes; and they only give me four days leave to go home from Courtenay, B.C.

Q.17 To where?

A.17 Ridgedale, Saskatchewan. And then when I come back a couple of days A.W.L. they wanted to charge me for them. And I put in for spring leave last spring and they wouldn't give me that. And they did not give me harvest leave until the 6th of October.

Q.18 The 6th of October?

A.18 Yes, sir. I guess that's about all.

CROSS-EXAMINED BY THE PROSECUTOR

Q.19 Pte. McMillan, there is a younger brother going to school at home, isn't there?

A.19 Well, he is not going to school now. He quit school but he is not able to work. He never stays home or anything. He comes home once in a while but he won't stay home. He always goes to the neighbours.

Q.20 How old is he?

A.20 Fourteen, sir.

Q.21 Your farm at home consists of a quarter section of land?

A.21 Yes, sir.

Q.22 Now, Pte. McMillan, you have told the Court that you made an application to your Unit, the Kent Regiment?

A.22 Yes, sir.

Q.23 And you were advised..... You received no advice before you went to the bush?

A.23 No, sir.

Q.24 Did you later find out that there was a communication sent to you, is that it?

A.24 Well, I was up in the bush. I wasn't home but some of the neighbours came up there and they said they sent a wire home that I was supposed to return back or something; but I wasn't home.

Q.25 But you had not finished with this work that you had to do to repair the house?

A.25 No, sir.

Q.26 You quit school at the age of fifteen, didn't you?

A.26 Yes, sir.

Q.27 And you were farming with your father ever since you quit school, up there?

A.27 Yes, sir.

QUESTIONED BY THE COURT

Q.28 How much land do you farm?

A.28 160 acres, sir.

Q.29 How much is cultivated?

A.29 About 145 acres, sir.

Q.30 And how much stock have you?

A.30 I got 6 head of cattle and 3 horses and 12 pigs.

Q.31 And there is no other man around the farm?

A.31 No, sir.

Q.32 Just this younger brother who is fourteen years old?

A.32 Yes, sir.

Q.33 How many brothers have you, other than the boy, fourteen?

A.33 I have one more; he is in the Army.

Q.34 One in the Army. Where is he now?

A.34 Well, I don't know where he is now. The last I heard of him he is with the Veterans' Guards out near Vancouver some place.

Q.35 What were you wanting to build with this lumber?
A.35 A house on the farm, sir, so I can make a home for my mother.

Q.36 There isn't a house there now?
A.36 Well, it is just an old log shack there.

Q.37 You wanted to make a more comfortable home for your mother?
A.37 Yes, sir.

Q.38 Did you get any of the lumber back to your farm?
A.38 No, sir.

Q.39 How old are you?
A.39 I am twenty-three now, sir.

Q.40 How old is your mother?
A.40 Well, I don't know just exactly for sure, but somewhere around fifty or fifty-two; something like that.

Q.41 Have you still got part of the Soldiers Settlement Board loan to pay off?
A.41 No; we got it all paid up last summer.

Q.42 You got it all paid up last summer?
A.42 Yes, sir.

Q.43 You said that in another week and a half from the time you were picked up you could have finished cutting your lumber?
A.43 Well, about a week and a half or two weeks.

Q.44 What were you going to do then?
A.44 I was going to return back to the Army.

Q.45 And when did you propose to get the lumber out and build the house?
A.45 When did I?

Q.46 Yes.
A.46 Well, I started on it before Christmas, sir; I started making preparations to go up there.

Q.47 Yes; but this lumber you were cutting when you were up there--when were you going to get that out?
A.47 I was going to haul it out right away.

Q.48 And then leave it on the farm?
A.48 Yes, sir; until it dried out.

Q.49 And later on have an opportunity to build?
A.49 About the middle of the summer it would be dry.

In the opinion of the Court it is not necessary to comply with R.P. 83(b).

The witness resumes his seat.

The Prosecutor declines to make a closing address.

The accused declines to make a closing address.

E-1

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused, L.609179 Pte. Clarence Harold McMILLAN, No. 12 District Depot, C.A., is not guilty of desertion but is guilty of absence without leave on the first charge.

*When the Court is already open this sentence will be struck out.

~~Proceedings on Conviction before Sentence~~

* The Court being re-opened, the accused is again brought before it.

Evidence of character, etc.

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

[Instruction.—If by reason of the nature of the service of the accused is a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer.*

~~The Court is closed for the consideration of the sentence.~~

(This page to be removed from proceedings when plea to all charges is Not Guilty.)

21.

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charges to which he has pleaded "Guilty" are read to him again.]

The accused, L.609179 Pte. Clarence Harold McMILLAN, No. 12 District Depot, C.A., is found guilty of the second and third charges.

50 *The summary ~~(or abstract)~~ of evidence is read, marked "N" signed by the President, and attached to the proceedings.

Q.50 *Question to the accused.* Do you wish to make any statement in mitigation of punishment?

Answer. A.50 The accused in mitigation of punishment says:— No, sir.

50a ~~[or hands in a written statement, which is read, marked , signed by~~
50w ~~the President, and attached to the proceedings.]~~

50

*If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

Instruction.

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Q.51 Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

A.51 No, sir.

Answer.

Evidence as to character.

E-2

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~Finding~~

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence*

~~The Court being re-opened, the accused is again brought before it.~~

Evidence of character, etc.

The Prosecutor produces M.F.B.355 and M.F.M.6, which are marked respectively "Y" and "Z" and annexed to the proceedings.

Question by the President.

The President reads these documents to the Court.

~~Have you any evidence to produce as to the character and particulars~~ of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the Defending Officer (accused) (Counsel for the accused).

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Q.52 Have you any statement to make concerning the documents which have just been read to you?

A.52 No, sir.

Question to the accused.

Do you wish to address the Court?

Q.53

A.53

Answer.

No, sir.

The Court is closed for the consideration of the sentence.

The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later, and the proceedings in open Court are accordingly terminated.

24

F

Sentence

The Court sentence the accused, L.609179 Pte. Clarence Harold McMILLAN, No. 12 District Depot, C.A., to undergo detention for sixty days and to be put under stoppages of pay until he has made good the sum of $17.88 in respect of the cost of apprehension and return to his Unit and until he has made good the value of the following articles, viz:-

Sentence.
Detention
60 days

Stoppages
$17.88
88.26
$106.14

Signed at Regina, Saskatchewan, this 1st day of March, 1945.

S.L. Waterman

(S.L. Waterman), Major,
President, Courts-Martial, M.D. 12,
President.

I confirm the finding of the Court on the first and second charge but do not confirm the finding of the Court on the third charge. I confirm the sentence of the Court except as to that part of the sentence awarding stoppages of pay of $88.26 relating to the value of the clothing, equipment and regimental necessaries mentioned in the particulars of the third charge.

Signed at Regina, Sask.,
this 6th day of March, 1945.

J.A.H. Trudeau

(J.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Promulgated and extracts taken at Regina, Saskatchewan, this 12th day of March, 1945

Extracts entered as No. 36160 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 20 day of Mar 1945

J.A. Peters Capt. & Adjt.
No. 12 District Depot, C.A.

Anklets Web prs.	1	$ .56
Dressing first field	1	.16
Gloves woollen	1	.50
Greatcoat drab	1	11.66
Mitts leather pullover	1	.70
Overalls combination	1	1.89
Blouses battledress	2	9.76
Boot ankle	1	4.37
Caps field service	1	.53
Drawers cotton short	2	.64
Drawers woollen	2	2.10
Jackets K.D. W/O/C	1	2.57
Jersey pullover	1	1.24
Puttees	1	.73
Shirts khaki cotton	4	4.64
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Shirts undercotton	2	.64
Shoes canvas prs	1	1.72
Shoes leather black	1	3.63
Socks army	4	1.40
Trousers battledress	2	9.84
Trousers K.D. long	1	1.35
Trousers K.D. short	2	1.96
Bags kit	1	.95
Belts waist web 1½"	1	.19
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Brushes boot polishing	1	.16
Brushes button	1	.08
Brushes cloth	1	.13
Brushes hair	1	.29
Brushes shaving	1	.32
Brushes tooth	1	.07
Brushes boot blacking	1	.10

Caps comforter	1	$ .31
Comb	1	.03
Fork table	1	.06
Holdall	1	.17
Housewife	1	.26
Knife table	1	.14
Necktie	1	.14
Pin collar safety	1	.05
Razor	1	.32
Socks black	2	.42
Spoon table	1	.06
Sticks button	1	.03
Towels hand	2	.46
Badges cap	1	.07
Brasses buckle	1	.05
Buttons G.S.	8	.06
Bags ration	1	.03
Belts waist WE 37	1	.50
Bottles water	1	.47
Braces WE 37 L	1	.26
Carrier W/B	1	.28
Frog bayonet Web	1	.09
Haversack WE 37	1	1.72
Packs WE 37	1	1.70
Pouches Basic WE37	2	1.54
Straps sdr hvsk L	1	.23
Straps sdr hvsk R	1	.23
Straps web sptg	2	.22
Tins mess	1	.43
Capes A.G.	1	3.33
Detectors sleeve	2	.42
Eyeshield (6)	1	.75
Respirator	1	4.50
Ointment A.G.	1	.20
Sheets ground	1	1.74
		$88.26

I remit $3.40 of the sentence of stoppages of pay, relating to the costs of apprehension and return of the accused to his Unit.

G.A.H. Trudeau

Regina, Sask.
26th Mar. 45.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No.12.

REMISSION.

Promulgated and Extracts taken at Dundurn Training Area this 28th day of March 1945.

E.G. Grenke ..Major
(E.G. Grenke)
O.C. No.12Gen.Emp.Coy.
Visiting Officer
No.80 Mil.Det.Barracks.

"X" S/Waterman Maj
President DCM.

25

ORDERS BY Brigadier G.A.H. Trudeau,
District Officer Commanding M.D. 12,
REGINA, Sask., 26th February, 1945.

The detail of officers as mentioned below will assemble at the Armoury, Regina, Sask., on the 1st day of March, 1945 at 1000 hours for the purpose of trying by District Court-Martial the accused person named in the margin (and such other person or persons as may be brought before them).

L.603789 - Pte. Ferdinand SILZER
No. 12 District Depot, C.A.

PRESIDENT

Major S.L. Waterman, E.D., President Courts-Martial, Headquarters M.D. 12.

MEMBERS

Lieut. E.W. Childerhose, No. 12 District Depot, C.A.
Lieut. W.G. Jaggard, No. 12 District Depot, C.A.

WAITING MEMBER

Lieut.(A/Capt.) S. Niven, No. 12 District Depot, C.A.

PROSECUTOR

Capt. P.W. McMeans, Prosecutor Courts-Martial, Headquarters M.D. 12.

DEFENDING OFFICER

To be detailed by the Officer Commanding No. 12 District Depot, C.A.

The accused will be warned and all witnesses required to attend.

The Officer Commanding No. 12 District Depot, C.A. will arrange for accommodation for the Court and detail clerks and orderlies for duty thereat.

The Proceedings will be forwarded to Headquarters M.D. No. 12 under CONFIDENTIAL cover, addressed to A.A. & Q.M.G., M.D. No. 12.

Signed at Regina, Sask., (R.C.1-S-746)
this 26th day of February, 1945. (R.C.1-Ms-917)

(Fairfax Webber),
~~Lieut.Col.,~~
~~A.A. & Q.M.G., M.D. No. 12,~~
for (G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

"G" Swakman
Major
President DCM

27.

IN REPLY PLEASE QUOTE
No. DDR. 6-0-1 (Legal)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

REGINA, Sask., 1st March, 1945.

Commanding Officer,
No. 12 District Depot, CA.,
Regina, Sask.

This is to advise you that I do not wish to have an officer defend me at my trial by District Court-Martial, and that I intend to conduct my own defence.

L. H. McMillan
L.609179 Pte. McMILLAN, C.H.
No. 12 District Depot, C.A.

N.D. 28
3 Mil.—11-43 (1979)
H.Q. 1772-101-23

"H"

Major,
President, District Court-Martial.

MINUTE REGARDING DEFENDING OFFICER

QUESTION BY THE PRESIDENT TO THE ACCUSED

Q.1 McMillan, there is a letter here purporting to be signed by you stating: "This is to advise you that I do not wish to have an officer defend me at my trial by District Court-Martial, and that I intend to conduct my own defence." Is that right; is that your wish?

A.1 Yes, sir.

See p.

"I"

Major,
President, District Court-Martial.

MINUTE OF ADJOURNMENT AND REASSEMBLY

At 1030 hours on the 1st day of March, 1945, the Court adjourned until 1100 hours on the 1st day of March, 1945.

On the 1st day of March, 1945, at 1100 hours, the Court reassemble pursuant to adjournment, present the same members as when adjourned.

Exhibit "J" Swarmer Maj. President DCoC

33

RECORD of the Declaration of a Court of Inquiry assembled at Victoria, B.C.

on the 31st day of January 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L-609179 Pte. McMILLAN, C.H.

DECLARATION

The Court declare that No. L-609179 (Regt'l No.) Private (Rank)

Clarence Harold McMILLAN (Full Name) THE KENT REGIMENT, C.A. (Unit)

illegally absented himself without leave from The Kent Regiment, C.A.

at Victoria, B.C. (Place) at 0001 hours on the 6th day of January 45

that he is still so absent, and that on the 31st day of January 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Carrier, Water Bottle	1		37	Respirator A/G	1	6	00
Frogs, Web Bayonet #4 MK II	1		12	Ointment A/G	1		26
Haversacks, W.E. patt. 37	1	2	29	Sheets, Ground Drab	1	2	38
Packs, W.E. patt. 37	1	2	26			117	75
Pouches, Basic patt.37	2	2	06				
Straps, Shoulders Haversack Right	1		31	The above deficiencies of kit priced in accordance with price list as approved by C.A.R.O. less 25c/c where applicalbe		88	34
Straps, Shoulders Haversack Left	1		31				
Straps, Web Supporting	2		28				
Tins, Mess Rectangular	1		57				
Caps, A/G	1	4	70				
Detector Gas Sleeves	2		56				
Eye Shields A/G Pkg. 6	1		68				

N.W. Shields (Name) Major (Rank) Kent Regiment (Unit) President

Signed at Victoria, B.C. (Name) (Rank) (Unit) Member

this 31st day of January 19 45 (Name) (Rank) (Unit) Member

Signature of Commanding Officer J. MacGregor (Name) Lt. Col. (Rank) Kent Regiment (Unit)

Certified true copy K.R. Allan (Rank) Capt. (Unit) Kent Regiment

(K.R. Allan) Capt., A/Adjutant, The Kent Regiment, C.A. (Signature of Officer having custody of original record)

EXHIBIT "A"

J.M. Policha

(J.M. Policha) A/Capt. Officer detailed to take the Summary of Evidence No. 12 District Depot, CA

M.F.B. 373
A.F.B. 113
1501M—10-42 (8530)
H.Q. 1772-29-137

ARTICLES		VALUE		ARTICLES		VALUE	
Anklets, Web	1		74	Shirts, K.C.	4	6	16
Dressing First Field	1		21	Shirts, Under Wollen	2	2	40
Gloves, Wollen	1		66	Shirts, Under Cotton	2		66
Greatcoat, Drab	1	15	54	Shoes, Canvas	1	2	23
Mitts, Leather Pullover	1		93	Shoes, Leather Black	1	4	84
Overalls Combination	1	2	52	Socks, Army	4	1	84
Blouses, Battle Dress Serge	1	13	00	Trousers, Battle Dress Serge	2	13	10
Boots, Ankle	1	5	82	Trousers, K.D. Long	1	1	80
Caps, Field Service	1		70	Trousers, K.D. Short	2	2	62
Drawers, Cotton Shorts	2		84	Bags, Kit	1	1	27
Drawers, Wollen	2	2	80	Belts, Waist Web 1½	1		25
Jackets, Khaki Drill w/oc	1	3	42	Blacking, Tins	1		05
Jersey, Pullover	1	1	65	Boot, Dressing Tins	1		05
Puttees	1		97	Boot, Laces	1		03

ARTICLES		VALUE		ARTICLES		VALUE	
Braces	1		26	Neckties	1		19
Brushes, Boot Polishing	1		21	Pin Collars, Safety	1		06
Brushes, Button	1		11	Razor, Safety Sets	1		42
Brushes, Cloth	1		17	Socks, Black Prs	2		56
Brushes, Hair	1		39	Spoons, Table	1		08
Brushes, Shaving	1		42	Sticks, Button	1		04
Brushes, Tooth	1		09	Towels, Hand	2		62
Brushes, Boot Blacking	1		14	Badges, Cap	1		06
Caps, Comforter	1		41	Buckles, Braces	1		06
Combs, Hair	1		04	Buttons, G.S.	8		08
Forks, Table	1		08	Bags, Ration	1		04
Holdalls	1		22	Belts, Waist W.E.37	1		67
Houss, Wives (Complete)	1		35	Bottles, Water	1		62
Knives, Table	1		18	Braces, W.E. Patt 37L	1		35

Exhibit "K" Major President D.C.M.

Certificate in accordance with Order-in-Council P.C.2797, dated April 10th,1942, as published in Routine Order 1877, and in General Order 127, 1942.

I certify that the person whose description is given below was arrested by Const. J.K. Bradshaw, at Torch River, Sask., at 6.00 P.M. on the 7th day of February, 1945, and at the time of arrest he was wearing civilian clothing.

Regimental particulars of soldier referred to above.

No. L 609179

Rank. Pte.

Name. McMILLAN, Clarence Harold

Unit. Kent Regt. Victoria.B.C.

Age. 22 years.

Descritpion.

Height. 5' 9½"

Complexion. Fair.

Hair. Lt. brown.

Eyes. Blue

Marks. scar rt. side of face.

Signature of constable by whom arrest was made.

J.K. Bradshaw, Reg.No.13625.
Nipawin, Detachment. R.C.M.P.

EXHIBIT "B"

(C.M. Policha) A/Capt.
Officer detailed to
take the Summary of Evidence
No. 12 District Depot, CA.

Exhibit "L" Guarantee Maj President DCM

37

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Capt. H. FOXALL, No.12 District Coy., R.C.A.S.C., CA.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from Prince Albert, Sask. (Place) to Regina, Sask. (Place) for the purpose of escorting

and return to Prince Albert, Sask. (Place) C.H. McMillian. (Name in full)

Full description of soldier being escorted — L.609179 (Number) Pte. (Rank)

Kent Regt. Ex Pacific Command. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation required~~) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
10 Feb 45 M.D.12 Transport Warrant No. C.778925 dated 8 Feb 45 covering- One return second class fare- Prince Albert, Sask., to Tisdale, Sask., for Escort K.2719 L/CPL. REGAN, A.	~~$3.42~~ HH
Amount recoverable from L.609179 PTE. C.H. McMillian, 50% of $ 3.42	$1.71
10 Feb 45 M.D.12 Transport Warrant No. C.778927 dated 8 Feb 45 covering-One single second class fare- Tisdale, Sask., to Prince Albert, Sask., (prisoner)	$ 1.69
10 Feb 45 MD.12 Transport Warrant No. C.778948 dated 10 Feb 45 covering- Two single second class fare- Prince Albert, Sask., to Regina, Sask.(Escorts)	~~$6.48~~ HH
One single first class fare- Regina, Sask., to Prince Albert, Sask.	~~$6.28~~ HH
One upper standard berth, Regina, Sask., to Prince Albert, Sask. For escort. L.108756 L/CPL. HUBBS, L.W.)	~~$1.95~~ HH
Amount recoverable from L.609179 Pte. C.H. McMillian, 1/5 of $16.63	$3.32
10 Feb 45 M.D.12 Transport Warrant No. C.778943 dated 10 Feb 45 covering- One single second class fare- Prince Albert, Sask., to Regina, Sask.(prisoner)	$4.20
TOTAL	$ 10.92

EXHIBIT "C"

(J.M. Policha) A/Capt.
Officer detailed to take the Summary of Evidence.
No. 12 District Depot, CA

Dated at Prince Albert, Sk. this 10th day of Feb A.D. 19 45.

H. Foxall
CAPT. H. FOXALL, No.12 District Coy., RCASC., CA.
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing transportation~~)

Prince Albert, Sask. (~~Strike out designation not applicable~~)

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1462.

M.F.B. 1461
(Rev. 20-61 (60))
M.F. 1470 (Rev. 60)

Exhibit "M" Summary President DCM

37

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(INCIDENTAL EXPENSES)

Complete description — Strike out words not applicable — Members of escort — Name and description of soldier escorted

I, K/2719 L/Cpl. Allen REGAN, Prince Albert Detachment, (No.) (Rank) No.43 Provost Company, C.Pro.C.
as (escort) ~~XXXXXXXXXXXXXX~~ consisting of K/2719 L/Cpl.Allen,
REGAN, Prince Albert, Detachment, No.43 Provost Company, C.Pro.C.
detailed to proceed from Prince Albert, Sask. (Place) to Tisdale, Sask. (Place)
to return L/609179 Pte. McMILLAN, C.H. Kent Regt. Victoria, B.C.
alleged to be a deserter or absentee without leave, to Prince Albert, Sask. (Place)
hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement		Amount
EXPENSES INCURRED BY THE R.C.M.P.		
8 Feb 45.		
To hire night guard, 10 hrs. @.25¢ per Hr. $2.50. 50% of $2.50.chargeable to L/609179 Pte.McMILLAN,C.H.	$1.25	
Meals:Absentee, 1(B) 1(L) 1(D) @ .46¢ each.	1.38	
Police Car Mileage from Nipawin,Sask.,to Tisdale,Sask., 40 miles @¢ .15¢ per mile $6.00 50% of $6.00 chareable to L/609179 Pte. McMILLAN,C.H.	3.00	
	5.63	5.63
EXPENSES INCURRED BY THE 43 PROVOST COY.C.PRO.C.		
8 Feb 45.		
1 Supper (Escort) .66¢ 50% of .66¢	.33	.33
1 Hotel Room (Escort) $2.00.50% of $2.00.	1.00	1.00
	1.33	
EXHIBIT "D"		
(J.M. Policha) A/Capt. Officer detailed to take the Summary of Evidence No. 12 District Depot, CA	Total	$ 6.96

Dated at Prince Albert, Sask this 9th day of February A.D. 19 45.

Cpl. Allen Regan
K/2719 L/Cpl.Allen REGAN ~~XXXXXXXXXXXX~~ (escort) C.P.C.
Prince Albert Detachment
~~No.43 Provost Company, C.Pro.C.~~ (Strike out description not applicable.)

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1483
75M—2-42 (8826)
H.Q. 1172-39-1250

"N" Swarem Major President DCM

41.

SUMMARY OF EVIDENCE
in the case of

L.609179 Pte. Clarence Harold McMILLAN, No. 12 District Depot, CA., an NRMA soldier of the Canadian Army placed on Active Service.

(1) WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

(2) WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

(3) LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT AND REGIMENTAL NECESSARIES.

The Commanding Officer directs that evidence be taken on oath.

W.12121 L/Cpl. P.G.E. TALKINGTON (CWAC) No. 12 District Depot, CA., is duly sworn as shorthand writer.

FIRST WITNESS: Lieut. W.A. CHAMP, Assistant Adjutant, No. 12 District Depot, CA., Regina, Sask. having been duly sworn states:

I am Lieut. W.A. Champ, Assistant Adjutant, No. 12 District Depot, CA and as such have custody of the original records of that Unit.

I produce herewith M.F.B. 375 Record of the Declaration of a Court of Inquiry assembled at Victoria, B.C. on the 31st January, 1945 to investigate the Absence Without of L.609179 Pte. McMillan, C.H. who is present and whom I recognize.

MARKED AS EXHIBIT "A" AND ATTACHED TO THE SUMMARY.

I produce also Certificate of apprehension of the accused executed by Reg. No. 13625 J.K. Bradshaw, Civil Police Nipawin Detachment.

MARKED AS EXHIBIT "B" AND ATTACHED TO THE SUMMARY.

I further produce M.F.B. 1481 Transportation Costs incurred in the apprehension of the accused executed by Capt. H. Foxall, No. 12 District Coy., RCASC, CA., Prince Albert, Sask.

MARKED AS EXHIBIT "C" AND ATTACHED TO THE SUMMARY.

I finally produce M.F.B. 1482 Incidental Expenses incurred in the apprehension of the accused executed by K.2719 L/Cpl. Allen REGAN, Prince Albert Detachment No. 43 Provost Company, C. Pro. C.

MARKED AS EXHIBIT "D" AND ATTACHED TO THE SUMMARY.

The accused declines to cross-examine the witness.

The witness withdraws.

W.A. Champ
Lieut. W.A. Champ, Asst. Adjt.
No. 12 District Depot, CA.

Page Two

SECOND WITNESS: L.22001 RQMS SNEDDON, D.L. No. 12 District Depot, CA., Regina, Saskatchewan, having been duly sworn states:

I am L.22001 RQMS SNEDDON, D.L. employed in the Q.M. Stores, No. 12 District Depot, CA., Regina, Saskatchewan.

On Feb. 22, 1945 at approximately 0915 hours Pte. McMillan was paraded to me at the Q.M. Stores, No. 12 District Depot, CA, Regina, Sask. for the purpose of a Kit Inspection. I made the Kit Inspection from M.F.B. 375 Court of Inquiry held at Victoria, B.C. I made the Kit Inspection and found deficient the following articles

		100%	75%
CLOTHING DIVISION "A"			
Anklets Web prs.	1	.74	.56
Dressing First Field	1	.21	.16
Gloves woollen	1	.66	.50
Greatcoat Drab	1	15.54	11.66
Mitts leather pullover	1	.93	.70
Overalls Combination	1	2.52	1.89
CLOTHING DIVISION "B"			
Blouses Battledress	2	13.00	9.76
Boot, Ankle	1	5.82	4.37
Caps Field Service	1	.70	.53
Drawers cotton short	2	.84	.64
Drawers woollen	2	2.80	2.10
Jackets K.D. W/O/C	1	3.42	2.57
Jersey pullover	1	1.65	1.24
Puttees	1	.97	.73
Shirts Khaki cotton	4	6.16	4.64
Shirts woollen	2	2.40	1.80
Shirts undercotton	2	.86	.64
Shoes canvass prs.	1	2.29	1.72
Shoes leather black	1	4.84	3.63
Socks army	4	1.84	1.40
Trousers battledress	2	13.10	9.84
Trousers K.D. long	1	1.80	1.35
Trousers K.D. short	2	2.62	1.96
CLOTHING DIVISION "C"			
Bags Kit	1	1.27	.95
Belts Waist Web 1½"	1	.25	.19
Blacking tins	1	.05	.04
Bootdressing	1	.05	.04
Bootlaces	1	.03	.02
Braces	1	.28	.21
Brushes boot polishing	1	.21	.16
Brushes button	1	.11	.08
Brushes cloth	1	.17	.13
Brushes hair	1	.39	.29
Brushes shaving	1	.42	.32
Brushes tooth	1	.09	.07
Brushes boot blacking	1	.14	.10
Caps comforter	1	.41	.31
Comb	1	.04	.03
Fork table	1	.08	.06
Holdall	1	.22	.17
Housewife	1	.35	.26
Knife table	1	.18	.14
Necktie	1	.19	.14
Pin collar safety	1	.06	.05
Razor	1	.42	.32
Socks black	2	.56	.42
Spoon table	1	.08	.06
Sticks button	1	.04	.03
Towels hand	2	.62	.46
Badges Cap	1	.09	.07
Brasses buckle	1	.06	.05
Buttons G.S.	8	.08	.06
CARRIED FORWARD		$92.65	$69.62

Page Three

		100%	75%
BROUGHT FORWARD		$92.65	$69.62
CLOTHING DIVISION A-1			
Bags Ration	1	.04	.03
Belts Waist W.E. 37	1	.67	.50
Bottles Water	1	.62	.47
Braces W.E. 37 L	1	.35	.26
Carrier W/B	1	.37	.28
Frog bayonet Web Mk. 4	1	.12	.09
Haversack W.E. 37	1	2.29	1.72
Packs W.E. 37	1	2.26	1.70
Pouches Basic W.E. 37	2	2.06	1.54
Straps shoulder haversack L	1	.31	.23
Straps shoulder haversack R	1	.31	.23
Straps web supporting	2	.28	.22
Tins Mess	1	.57	.43
SECTION A-2			
Capes A.G.	1	4.43	3.33
Detectors Sleeve	2	.56	.42
Eyeshields (pkg. of 6)	1	1.04	.75
Respirator	1	6.00	4.50
Ointment A.G.	1	.26	.20
SECTION "J-1"			
Sheets ground	1	2.38	1.74
TOTAL		$117.57	$88.26

I questioned Pte. McMillan about his kit. Pte. McMillan replied that his kit was at home. I asked him if he could get it forwarded. He stated that his mother was the only one at home and had no way of shipping this kit to him. Pte. McMillan was dressed in civilian clothes. I asked Pte. McMillan if he would put the Canadian Army Uniform on. Pte. McMillan said "No". Showing Pte. McMillan the uniform of the Canadian Army, I asked him if he knew what it was. He said Army Uniform. I said What Army. Pte. McMillan replied "Canadian Army". I was dressed in the uniform of the Canadian Army. Showing Pte. McMillan the badge of rank W.O. II on the sleeve of my battle dress blouse I asked him if he knew what it was. He said "Yes, Sgt.-Major". I asked Pte. McMillan if he knew what an order was. He said "Yes". Offering Pte. McMillan the uniform of the Canadian Army I said "this is a direct order put this uniform on now". Pte. McMillan replied "No Sir". Again offering Pte. McMillan the uniform of the Canadian Army I said "this is the second direct order, put this uniform on now". Pte. McMillan replied "No, Sir". Again offering Pte. McMillan the uniform of the Canadian Army I said "this is the third direct order, put this uniform on now". Pte. McMillan replied "No, Sir". Approximately three minutes elapsed between each order. There was privacy and Pte. McMillan could have put the uniform on if he had wished to do so. Pte. McMillan did not take or put the uniform on. I then told the escort to return him to the Guardroom.

The accused declines to cross-examine the witness.

The witness withdraws.

D L Sneddon RQMS
L.22001 RQMS Sneddon, D.L.
No. 12 District Depot, CA.

QUESTION TO THE ACCUSED: Do you wish to make any statement or to give evidence upon oath? You are Not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY THE ACCUSED: I have nothing to say.

I certify that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

This Summary of Evidence, consisting of four pages, taken down by me in the presence of the accused at No. 12 District Depot CA., Regina, Saskatchewan, this 23rd day of February, 1945.

(J.M. Policha) A/Capt.
Officer detailed to take
the Summary of Evidence,
No. 12 District Depot CA.

"Y" Guardroom map
President. DCM

47.

M.F.B. 355
H.Q. 1772-39-620
10M-8-40 (M19)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or~~ unit)
L.609179	Pte.	Clarence Harold McMILLAN	No. 12 Dist. Depot, CA

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months			Since enlistment		
For A.W.L.	1	times	A.W.L.	1	times
For		times			times
For		times			times
For		times			times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the ~~conduct sheets of the~~ accused.

~~NOTE.—If the charge is for drunkenness, the cases for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of ..... beginning on the day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 2 days in civil custody, and 21 days in military custody, making a total of 23 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment form ~~attested paper~~ is 23 years old

6. The date of his ~~commission~~ enrolment specified in his ~~record of service~~ enrolment form ~~attested paper~~ is 24th January, 1943

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~ military

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

50/

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1st day of March, 1945 J.A. Peters Capt & Adjt

(J.A. PETERS) Officer having custody of original records, #12 DD CA.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. 1609179 Name McMILLAN Clarence Harold

Sqn., Battery, or Company } H Coy

Corps The Kent Regt. C.A.

Enrolled 24 JAN. 43

Prof Pay 20¢

No. and date of last drunk }

Period not reckoning towards freedom from extra fine }

Date of enlistment }

Sheet No. two

G.C. Badges }

Signature O.C. Company, etc. } W. H. Fleming Capt

Tradesmen's Rates of Pay }

Character Good

M.F.M. 6 (A.F.B.122) 7604—12-42 (7332) H.Q. 1772-2-1452

Place	Date of offence	Rank	Charge of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original sheet destroyed 31 Jul 43 after 6 mos. service. Last entry - nil.									
Jordon River	2 May 44	Pte.		A.W.L. from 2400 Hrs. 2 May 44 until 1600 Hrs. 4 May 44. TOTAL ABSENCE: 1 day 16 Hrs. A.A. 15 (1)	W.H.F. A-50283 Sgt. Bleich C.F.	7 days C.B.	4 May 44	Lieut. H.H. Glover	Forfeits 2 days pay under FR&I (Can) 149 (1) (a)

CERTIFIED TRUE COPY

(J.A. PETERS) Capt. & Adjt.,
Officer having custody of
Original Records.
No. 12 District Depot, C.A.

"Z" Warren Maj.
President. DCM

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. L.609179 - Pte. McMILLAN, C.H.

of #12 Dist. Depot, C.A. is in a good state of health,

and fit to undergo Trial by Court martial.

G. M. Macnaccon
Medical Officer

R.C.A.M.C. att: No. 12 District Depot, C.A.

Station Regina, Sask.

Date 1st day of March, 1945.

M. F. B. 246

5M—10-43 (6503)
H.Q. 1772-39-485

H.Q.C.55-M-1610(JAG/D-1)

March 21, 1945.

District Officer Commanding,
Military District No. 12,
Regina, Sask.

District Court-Martial
L.609179 - Pte. Clarence Harold McMillan
No. 12 District Depot, C.A.

Receipt is acknowledged of your R.C.1-Mc-917(AJAG), dated the 13th of March 1945, under cover of which you forwarded for registration and custody the proceedings of the M/n District Court-Martial.

2. It is noted that the finding of the Court on the third charge and that portion of the sentence awarding stoppages of $88.26 in respect of deficiencies were not confirmed.

3. It is also noted that M.F.B. 1481 contains particulars of the cost of two warrants for transportation for escort from Prince Albert to Tisdale and return and for prisoner from Tisdale to Prince Albert, but the certificate does not state that these warrants were issued or authorized by the officer who signed the certificate. Accordingly I am of opinion that this certificate is not evidence of the costs of these two warrants and that an appropriate remission should be made.

4. The proceedings are returned herewith in order that you may carry out the above recommendation after which may they be returned to this office for safekeeping.

(R.J.Orde), Brigadier,
Judge Advocate-General.

ALT/MM

THIS COPY FOR: H.Q.C.55-M-1610
M.D.~~R.C.1-Mc-917~~

NRMA

MEMORANDUM - DISTRICT COURT-MARTIAL

No. L.609179 Name McMILLAN, Clarence Harold

Rank Pte Unit No. 12 D.D. C.A.

Charge (1st) A.A. 12 (1) (a) - Desertion

(2nd) A.A. 9 (2) - Disobeying a lawful command ...

(3rd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 6-1-45; (2 & 3) 22-2-45

Date of Arrest (1) 7-2-45 Charge Signed 23-2-45

Orders for D.C.M. D.O.C. M.D. 12

Place and Date of Trial Armoury Regina Sask 1-3-45

Sentence Det 60 days; stoppages $106.14

Date of Confirmation 6-3-45

Date of Promulgation 12-3-45

Entered in Records of J.A.G. as No. 36260

Date 20-3-45

Finding ~~and sentence~~ of Court on 3rd Charge not confirmed ~~[illegible]~~ That part not confirmed awarding stoppages of pay $88.26 re. value of clothing etc. by Con[illegible]

MEMO [illegible] h. 6-3-45 Guilty of A.W.L. on 1st Charge

[illegible] of stoppages remitted
[illegible]

[illegible] 12 - No. 12 D.D.

Absent Sentence

1 mo Det. 60 days

A.T. Parlow Capt
for Judge Advocate-General

10M-1-45(M-4629)

IN REPLY PLEASE QUOTE
No. R.C.1-Mc-917(AJAG).

CANADA

Department of National Defence

Regina, Sask., 13 March 1945.

c.55-M-1610

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

District Court-Martial
L.609179 - Pte. Clarence Harold McMILLAN
No. 12 District Depot, C.A.

Forwarded herewith proceedings of the marginally noted District Court-Martial for registration and safekeeping. M.F.M. 288 has been completed in this case and is attached to the proceedings.

2. The accused did not wish the services of an officer to defend him and signed a statement to that effect.

3. It will be noted that confirmation was withheld with regard to the finding on the third charge and also with regard to the sentence in so far as it purported to award stoppages of pay to cover the value of deficiencies of clothing, equipment and regimental necessaries. The reason for this was that it is brought out in the summary of evidence that the accused claimed that his kit was at home, which indicates that he did not fully understand the nature of his plea of guilty to the third charge. Consequently it is considered that the court should have refused the plea of guilty and should have proceeded to try him on the charge as if he had pleaded not guilty.

4. The Officer Commanding No. 12 District Depot, C.A. has been directed to lay charges against the accused under Section 24(2) of the Army Act with respect to deficiencies of kit and he has been authorized to deal with such charge summarily.

5. The recommendation of the Commanding Officer contained in Part IX of M.F.M. 288 to the effect that the soldier's sentence be remitted if his application for release from the Army is approved will be considered when this case has been fully investigated.

3/6260

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

M. F. B. 230

THIS COPY FOR: H.Q.S.55-M-1610
M.D. ~~A.C.L.-20-917~~

NRMA

MEMORANDUM - DISTRICT COURT-MARTIAL

No. L.609179 Name McMILLAN, Clarence Harold

Rank Pte Unit No. 12 D.D. C.A.

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[illegible]

M.D. 12 - No. 12 D.D.

Absent Sentence

1 mo Det. 60 days

A. Charles Gt
for Judge Advocate-General

10M-1-45(M-4529)

CANADA

IN REPLY PLEASE QUOTE
No. R.C.1-Mc-917(AJAG).

Department of National Defence

Regina, Sask., 13 March 1945.

c.55-M-1610

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

District Court-Martial
L.609179 - Pte. Clarence Harold McMILLAN
No. 12 District Depot, C.A.

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36260

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

M. F. M. 230

CONFIDENTIAL

H.Q.C. 55-M-1611

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT MARTIAL

MEILLEUR. ROLLAND E.616137 PTE.

CENTRAL REGISTRY	DATE	P.A. OR D.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for which referred cannot be answered on one line, add minute to file and enter here "With Minute")		
				J. A. G.	NEW FILE C.R.		MAR 21 1945
MAR 23 1945					With Papers C.R. APR 5 1945		
				JAG			
APR 7 1945				DCM	To route file		
APR 9 1945							

CONFIDENTIAL
H.Q.C. 55-M-1611

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC.55-M-1611 (JAG/D)

7 Apr 45

District Officer Commanding,
Military District No. 5,
QUEBEC, Que.

Standing Court-Martial
M.616137, Pte. Rolland MEILLEUR,
General List, CA, (Att. No.5 D.D.,CA).

Receipt is acknowledged of your Q.39-M-2636 (JA) dated 2nd April, 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E & M
Capt.

for (R.J. Orde), Brigadier,
Judge Advocate-General.

/AB

L. H. CLAYTON
Lieut.-Colonel
Inspector of Courts-Martial
APR 9 1945

IN REPLY PLEASE QUOTE No. Q. 39-M-2636 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

QUEBEC, P.Q., 2nd April, 1945.

304366

304567

CENTRAL REGISTRY ARMY
APR 4 1945
File 8-55-M 1611
Chgd. to
Referred to JAG

THE SECRETARY,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
E-516137, Pte. Rolland MEILLEUR,
General List,CA, (Att. No.5 D.D.,CA).

1. Reference your HQC. 55-M-1611 (JAG/D-9) dated 23rd March, 1945.

2. The proceedings of the marginally noted Standing Court-Martial are returned herewith for custody.

3. M.F.M. 288 is not attached hereto as the O.C. No.5 District Depot, C.A., does not wish to recommend a revision of the sentence.

(Edmond BLAIS) - Brigadier,
District Officer Commanding,
Military District No 5.

JAC/C.

NAT DEF 2 440

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Dépôt Régional No. 5, A.C., Lauzon, P.Q.,

le - seizième - jour de - - - - mars - - - - 19 45, à - - 10.05 - - heures,

pour le procès de E/616137, Soldat Rolland MEILLEUR, - - - - - - - - - - - - - - - -
Matricule Grade Nom et prénoms

Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C., - - - - - - - - - - - -
Unité Détachement, le cas échéant

PRÉSIDENT: Major Armand SYLVESTRE, Président Permanent C.M.P., Q.G., Région Militaire No. 5.

PROCUREUR: Capt. P. TASCHEREAU, Procureur Permanent, Q.G., Région Militaire No. 5.
Grade Nom et prénoms Unité Détachement, le cas échéant

~~AVOCAT~~ OU OFFICIER DÉFENSEUR: Major Guy PAQUET, Regt. de Montmagny, A.C., attaché au Dépôt Régional No. 5, A.C.
Grade Nom et prénoms Unité Détachement, le cas échéant

VERDICT:

" LA COUR DECLARE LE PREVENU, Mat. E/616137, Soldat Rolland MEILLEUR, Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C., innocent de l'accusation de désertion, mais coupable d'absence sans permission sous le chef d'accusation, sauf que les frais de son appréhension et de son retour à l'unité sont de: $1.52 au lieu de $15.27." - - - - - - - -

- - - - - - - - - - - - - - - -

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: NON MONSIEUR.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

[redacted]

Question à l'accusé. Vous opposez-vous à Mlle Rita Bégin comme sténographe ?

Réponse: Non, monsieur.

La sténographe [redacted] est dûment assermentée.

"POUR MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE, voir le document marqué "F" ci-joint."

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur le [redacted] chef mentionné dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ([redacted] chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: NON COUPABLE.

[redacted]

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: [redacted]

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: [redacted]

(L'accusé s'étant avoué coupable sur le ..... chef

[redacted]

B-2.

ACTE D'ACCUSATION

L'AccuseE-616137 Soldat Rolland MEILLEUR, Liste Generale, A.C. attache au Depot Regional No. 5 A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

ACCUSATION
Art. 12 (1)(a)
Army Act

D'AVOIR EN ACTIVITE DE SERVICE, DESERTE LE SERVICE DE SA MAJESTE

en ce que,

a Lauzon, P.Q. a 0800 heures, le 16 mai 1944, il s'est absente sans permission du Depot Régional No. 5 A.C., jusqu'a ce qu'il soit apprehende par les autorites militaires a Thetford-Mines, P.Q. a 0210 heures le 28 fevrier 1945, en tenue civile, le cout de son apprehension et de son retour a l'Unite etant de $18.27.

Lauzon, P.Q.
13 mars 1945.

(PIERRE TASCHEREAU) Capit.
Procureur Permanent District Militaire No. 5 A.C.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: NON MONSIEUR.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

[redacted]

[redacted]

" LE PROCUREUR REMET AU PRESIDENT LES QUATRE DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE "

1.- Un extrait certifié des Ordres Quotidiens, Partie II, Ordre No. 127, en date du 29 mai 1944.

(Ce document est lu par la Cour, marqué exhibit "G", signé par le Président et versé au dossier.)

2.- Une formule M.F.M. 216 (certificat d'appréhension), signée par le major J.G. LEBLANC et en date du 28 février 1945.

(Ce document est lu par la Cour, marqué exhibit "H", signé par le Président et versé au dossier.)

3.- Une formule M.F.B. 1481A (coût de transport), en date du 1er mars 1945.

(Ce document est lu par la Cour, marqué exhibit "I", signé par le Président et versé au dossier.)

4.- Une formule M.F.B. 1482 (dépenses incidentes), en date du 1er mars 1945.

(Ce document est lu par la Cour, marqué exhibit "J", signé par le Président et versé au dossier.)

" LE PROCUREUR N'A PAS DE TEMOINS A APPELER ".

" LA POURSUITE EST CLOSE ".

- o - O - o -

D

[redacted]

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Oui, monsieur, sous serment. (Voir pages "D-3" et suivantes.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non, monsieur.

[redacted]

TEMOIN POUR LA DEFENSE:- L'ACCUSE, Mat. E/616137, Soldat Holland MEILLEUR, Liste Générale, A.C., attaché au Dépot Régional No. 5, A.C., étant dûment assermenté, est interrogé par l'Officier Défenseur:-

Q- Soldat Meilleur, voulez-vous expliquer à la cour les raisons qui vous ont amené à vous absenter au mois de mai 1944?

R- C'est pour cause de santé que je me suis en allé. C'est parce que çà faisait un an que je n'avais pas de dents, j'avais de la misère à manger, j'avais mal à l'estomac, j'avais mal aux gencives; j'ai décidé d'aller manger chez-nous.

Q- Meilleur, vous parlez de vos dents. A quelle date vous a-t-on enlevé vos dents?

R- En 1943.

Q- Quel mois?

R- Dans le mois de juin ou juillet ou mai; je m'en rappelle pas.

Q- Depuis ce temps-là vous n'avez pu de dents?

R- Oui, monsieur.

Q- Meilleur, alliez-vous voir le dentiste de temps en temps pour vous faire examiner?

R- J'y ai été plusieurs fois.

Q- Dans l'armée çà?

R- Oui, monsieur.

Q- Qu'est-ce que le dentiste vous disait?

R- Il retardait çà à plus tard.

Q- Où étiez-vous lorsqu'on vous a arraché vos dents?

R- A Gaspé.

Q- Dans l'armée?

R- Dans l'armée.

Q- A Gaspé, dans quelle unité étiez-vous?

R- 52ième Batterie.

Q- De Gaspé, est-ce que l'unité est allée ailleurs?

R- A Valcartier, monsieur.

Q- Qu'est-ce qui s'est passé à Valcartier, Meilleur?

R- Ils m'ont donné une passe pour Terre-Neuve; j'ai été chez-nous quatre jours, cinq jours, je suis retourné à Valcartier; ils m'ont renvoyé sur le dépot.

Q- Au Dépôt, Meilleur, est-ce que vous vous êtes plaint de vos dents, de vos gencives?
R- Oui, monsieur.

Q- A quel mois avez-vous été transféré au dépôt?
R- Dans le mois de novembre.

Q- Novembre 1943?
R- 1943.

Q- Et vous avez été au dépôt ici combien de temps?
R- Jusque dans le mois de mai.

Q- Et on vous a jamais posé de dents?
R- J'ai été plusieurs fois, ils m'ont mis quelque chose pour les gencives, ils remettaient ça à plus tard.

Q- Est-ce le bas et le haut qui vous manquent?
R- Le bas et le haut.

Q- Qu'est-ce que vous pouviez manger dans l'armée?
R- Quelque chose qui était pas dur à manger; de la viande, j'étais pas capable d'en manger; du pain, du lait.

Q- Meilleur, avant d'être dans l'armée, qu'est-ce que vous faisiez?
R- Je travaillais dans les mines.

Q- Avez-vous travaillé longtemps dans les mines?
R- J'ai travaillé douze ans.

Q- Meilleur, pendant votre absence, quelles étaient vos intentions?
R- J'ai toujours eu l'idée de revenir au camp quand je serais mieux.

Q- Meilleur, l'acte d'accusation dit que vous avez été appréhendé à Thetford Mines?
R- Oui, monsieur.

Q- A deux heures et dix du matin. Vous étiez couché quand ils vous ont appréhendé?
R- Oui, monsieur.

Q- Maintenant, qu'est-ce qu'ils ont fait de vous lorsque vous avez été appréhendé?
R- Ils ont dit: "dépêche-toi, on s'en va à l'hôtel".

Q- Avez-vous été longtemps à l'hôtel?
R- De deux heures aller à dix heures de l'avant-midi, et là on a pris le train, on s'est en venu à Québec.

Q- Vous êtes revenu à Québec le soir même?
R- Dans l'avant-midi.

" INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR ".

Q- Dans l'acte d'accusation, on dit que vous avez été absent du 16 mai 1944 jusqu'au 28 février 1945. Est-ce que c'est exact?
R- Pour dire le 16 ou le 17, je ne peux pas dire quelle journée.

Q- C'est à peu près ça?
R- J'ai pas remarqué, ça doit être à peu près ça.

Q- Quand vous vous êtes absenté de Lauzon, est-ce que vous êtes allé à Thetford?
R- Oui, monsieur.

Q- Pendant votre absence, est-ce que vous avez consulté un dentiste civil?
R- Non, monsieur.

Q- Le matin de votre appréhension, quand on vous a arrêté, est-ce que vous avez pris un déjeuner?
R- J'ai pris seulement un jus de pamplemousse.

Q- Qui c'est qui a payé?
R- Je ne le sais pas.

Q- C'est pas vous?
R- Non, monsieur.

Q- Quand les escortes sont allés vous chercher chez-vous, est-ce qu'ils sont venus en taxi?
R- Ils sont venus avec le char de la Police Montée.

Q- Comment sont-ils retournés?
R- Avec le char de la Police Montée.

" L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU ".

" INTERROGE PAR LA COUR ".

Q- De l'endroit où on vous a arrêté aller jusqu'à l'hôtel, quelle distance y a-t-il?

R- Un mille.

Q- Est-ce que ça coûte $2.25, en taxi, pour faire un mille à Thetford Mines?

R- 50¢.

"LE TEMOIN REPREND SON SIEGE ".

" LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE ".

" L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE ".

- o - O - o -

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'intermédiaire de mon Officier Défenseur.

" Je demande tout simplement à la cour de prendre en considération le temps que l'accusé a fait dans la salle de garde et aussi de prendre en considération la bonne conduite qu'il a eue dans le passé, dans l'armée, et de bien vouloir être clémente en faveur du soldat Meilleur. "

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

R. Gemmi
President Okay,

" MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE ".

" A 10.10 heures le seizième jour de mars 1945, la Cour s'est ajournée.

- o - O - o -

Le seizième jour de mars 1945, à 10.25 heures, la Cour se rassemble. "

" LE PROCES SE POURSUIT ".

E X T R A C T

DAILY ORDERS PART II

by

L.P.CLICHE,
Lieut-Colonel
Officer Commanding,
No.5 District Depot.

D.O. 127 d/ 29 May 44
Lauzon, P.Q.

17. ABSENT WITHOUT LEAVE

b) Absent without leave hours, dates shown:

E-616137 Pte. MEILLEUR, R. (Ref.W)
0800 hrs 16 May 44.

(R. COLLETTE) Capt & Adj't
No. 5 District Depot, C.A.

(SIGNED)
G. LAPOINTE, Lieut.,
A/ Officer i/c RECORDS,
No.5 District Depot.

CERTIFIED TRUE EXTRACT

E X T R A C T

" H "

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major J.G. LeBlanc, (Number) (Rank) O.C. 3e Coy C Pro C (CA) (Name) (Unit)

hereby certify that E-616137 (Number) Pte. (Rank) MEILLEUR R. (Name in full)

of the D.D. 5 (CA) (Unit and attachment, if any) Lauzon, Que.

Strike out words not applicable } was apprehended by ~~[illegible]~~ D-106194 (Number) L/Cpl. (Rank)
E-100173 (Number) Cpl. (Rank)

Labelle F.
Michaud L. (Name) 3e Coy C Pro C (CA) (Unit or appointment)

at Thetford Mines, Que. (Place) at 0210 (Hour)

on the 28 day of February 19 45

Strike out words not applicable } as ~~[illegible]~~ absentee without leave), and that at the time of his arrest he was ~~[illegible]~~ ~~[illegible]~~ (dressed in civilian clothes).

Dated at Quebec, Que. this 28 day of February 19 45

(J.G. LEBLANC)-Major,
(Signature, Number, Rank, Unit or appointment)
O.C. 3e Coy C Pro C (CA)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (2730)
H.Q. 1772-39-1936

"I"

ABSENTS IRRÉGULIERS ET DÉSERTEURS

CERTIFICAT EN CONFORMITÉ DE L'ARRÊTÉ EN CONSEIL C. P. 58/4015 DU 5 JUIN 1941, TEL QUE PUBLIÉ DANS L'ORDRE DE SERVICE COURANT DE L'ARMÉE CANADIENNE 1877 DE 1942

(TRANSPORT SEULEMENT)

Signalement complet — Je, soussigné, Lieutenant (Grade) A. Drapeau (Nom), Off. i/c Transport, D.S. & T.O., MD 5 (Unité)

Rayer les mots inutiles — certifie, par les présentes, avoir (délivré) ~~(autorisé)~~ les moyens de transport ci-dessous énumérés pour permettre à une escorte de se rendre de Thetford mines, P.Q. (Endroit) Quebec, P.Q. (Endroit) et retourner à No Return (Endroit) afin d'escorter

Signalement complet du militaire escorté — E-616137 (Matricule) 1.Pte. (Grade) Meilleur R. (Nom et prénoms) No. 5 D.D. (Unité) (Détachement, s'il y a lieu)

Rayer l'expression inutile — qui est censé être déserteur ou absent sans permission, et que les faits, la date et les détails (des mandats de transport émis) ~~(du transport délivré)~~ ainsi que les frais en découlant pour ledit militaire et l'escorte sont les suivants:

DÉTAILS	FRAIS
Transport Warrant No. ..... issued on ..... covering transportation of ..... escorts from ..... to ..... and return.	
Transport Warrant No. C-726922 ..... issued on 1-Mar-45 ..... covering transportation for the absentee from Thetford Mines, P.Q. to Quebec	1.32 .20
TOTAL	$ 1.52

Donné à Quebec, P.Q. ce 1st jour de March A.D. 1945

Lieut., Off. i/c of Transport, D.S. & T.O., M.D. No. 5.

Signature, grade, unité, détachement (s'il y a lieu) et emploi de l'officier (émettant les mandats de transport) ~~(ou du transport délivré)~~

Rayer l'expression inutile

Le certificat doit être établi par l'officier qui a délivré ou autorisé les mandats de transport ou le transport d'un militaire censé être déserteur ou absent sans permission, pour qu'il soit reconduit à son corps, unité ou garnison, et de l'escorte pour ledit militaire. *Transport seulement.*

Les dates des mandats ou du transport délivrés doivent être indiquées.
Le coût des repas et des faux frais doit être inscrit sur le modèle M.F.B. 1482.

M.F.B. 1481A
1035-4-43 (9773)
Q.G. 1772-39-1331

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER ~~1099, 1941~~ 1877, 1942

(INCIDENTAL EXPENSES)

J. Michaud
Lieutenant-Colonel

Complete description

I, E-100173 (No.) Cpl. (Rank) Michaud L. (Name) 3e Coy C Pro C (CA) (Unit),

Strike out words not applicable

as ~~escort~~ (commander of escort) consisting of D-106194 L/Cpl. Labelle F.

Members of escort

3e Coy C Pro C (CA)

detailed to proceed from Quebec, Que. (Place) to Thetford Mines, Que. (Place)

Name and description of soldier escorted

to return E-616137 Pte. Meilleur R. D.D. 5, Lauzon, Que.

alleged to be ~~a deserter or~~ absentee without leave, to Quebec, Que. (Place),

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement		Amount
28 February 45		
Taxi for the apprehension of the above mentioned		$2.25
One breakfast for the above mentioned		0.50
Room & board for Cpl. L. Michaud	2 days	7.00
Room & board for L/Cpl. F. Labelle	2 days	7.00
Total		$ 16.75

Dated at Quebec, Que. this 1 day of March A.D. 1945

L. Michaud
(E-100173 Michaud L.)-Cpl.
Signature and rank
(of commander of escort)
~~ESCX~~
(Strike out description not applicable.)

Fg

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1469
75M—3-42 (3692)
H.Q. 1772-99-1580

" Y "

M.F.B. 555
30M—11-41 (3373)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E616137	Pte.	MEILLEUR. R.	NRMA Clearing Depot.

1. The following is a fair and true summary of the entries in the field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For		times	A.A.Sec.15(1) AWL	2. times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for ..... ~~days in civil custody, and~~ 16 days in military custody, making a total of 16 days in custody, ~~of which ..... days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 24aug15 (29years 6months)

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service is~~ attestation paper 11apr42.

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial for trial extracted from the regimental books in my custody.

Signed this 16th day of March 1945.

G. La Roche Capt.
Officer ic Records.
S.D.D.Lauzon. P.Q.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. 616137 Name MEILLEUR R. Sqn., Battery, or Company } A Coy C.A.B.T.C.54. Date of enlistment } 11-4-42 G.C. Badges } Trades Rates of Pay }

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. 1. Signature O.C. Company, etc. } G.Paquet.Lt. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Rimouski.	31-8-42	PTE		AWL A.A.Sec.15(a) 25min.	CMS MorinJ.A.	Admonished	1-5-42	Lt.M.Ratte.	
Lauzon.	30dec43.	"		AWL A.A.Sec.15(a) 0800hrs 30dec43 to 1400hrs 3-1-44.Tot.abs.4days 6hrs.	Documentary	7days C.B.	4-1-44.	O.C.	5d.pay.

CERTIFIED TRUE COPY
G. La Roche Capt.
Officer ic Records.
5.D.D.Lauzon. P.Q.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. 6616137 Pte Mullen L.

of DD5 is in a good state of health,

and fit to undergo Trial by Court martial.

H. T. [illegible] Major RCAMC

Medical Officer

Station Guardroom Lauzon

Date 16 Mars 1945

Medical Inspection Room
D.D. M.D. No. 5
MAR 16 1945
LAUZON, P.Q.

M. F. B. 246

5-M—5-43 (B54)
H.Q. 1772-59-490

RESUME DE LA PREUVE

Proces de E-616137 Sdt. Rolland MEILLEUR, Liste Generale, A.C.
A ttache au Depot Regional No. 5 A.C.

ACCUSATION: 1. DESERTION

Pour confirmer l'accusation la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des Part II d/ 29 may 1944
2. M.F.M. 216
3. M.F.B. 1481A
4. M.F.B. 1482

Lauzon, P.Q.
13 mars 1945

(JEAN LA FONTAINE) Colonel, M.C.
Commanding No." District Depot, CA

H.Q.C.55-M-1611 (JAG/D-9)
Your File - Q.39-M-2636

March 23, 1945.

District Officer Commanding,
Military District No.5,
Quebec, Que.

STANDING COURT-MARTIAL

E-616137, Pte. Rolland MEILLEUR,
General List, C.A.,
(Att. to No.5 D.D., C.A.)

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LYV/ET

THIS COPY FOR H.Q.C.55-M-1611
M.D.4.32-M-2636

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. E.616137 Name MEILLEUR, Rolland

Rank Pte Unit Gen List C.A. att No. 5 D.D. CA

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 16-5-44

Date of Arrest 28-2-45 Charge Signed 13-3-45

Orders for D.C.M.

Place and Date of Trial No. 5 D.D. C.A. Lauzon Que 15-3-45

Sentence Det 90 days; stoppages $1.52

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36302

Date 22-3-45

MEMO Guilty A.W.L.

M.D. 5 - No. 5 D.D.

Absent Sentence

9½ mos Det. 90 days

for Judge Advocate General

10M-1-45(M-4629)

IN REPLY PLEASE QUOTE

No. Q:39-M-2636

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Quebec, P.Q., March 17th. 1945.

THE JUDGE ADVOCATE GENERAL,
Dept. of National Defence,
Ottawa, Ont.

C. 55 - M-1611

STANDING COURT-MARTIAL
E/616137, Pte. Rolland MEILLEUR,
General List, C.A.,
(Att. to No.5 D.D., C.A.)

Enclosed herewith please find the proceedings of the m/n Standing Court-Martial, which are forwarded to you pursuant to C.A.R.O. 4565 (11)(a).

(ARMAND SYLVESTRE) - Major,
Permanent President S.C.M.

36302

N.D. 23
3 M3.—11-43 (2979)
H.Q. 1771-101-23

H.Q.C. 55-M-1612 CONFIDENTIAL

N.F.E. 2078
ISM—4-45 (9938)
H.Q. 201-7-59

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT MARTIAL

MELLE. W.C. B.156171 PTE.

CONFIDENTIAL
H.Q.C.55-M-1612

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
MAR 23 1945	[illegible]	[illegible]	[illegible]	[illegible]	NEW FILE C.R.		MAR 21 1945
				J.A.G.	Note Forward APR 16 1945		
APR 18 1945	19/4/45	[illegible]	[illegible]	D.S.	To note	E.L.M.	17/4/45
				J.A.G.	For Requisition C.R. APR 23 1945		
APR 27 1945 APR 28 1945	27/4/45	P.A.	RAR	Ref.	To note	[illegible]	24.4.45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
NO. H. M-3986 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

307168

M. D. No. 6 Headquarters,
Halifax, N. S., 14 Apr 45.
194

CONFIDENTIAL

CENTRAL REGISTRY Army
CORR. SEC.
APR 16 1945
File 255-Melle
Chgd. to
Referred to

Secretary,
Department of National Defence,
Ottawa, Ontario.

B.156171 Pte. W.C. MELLE
A-14 C.I.T.C., C.A.

Reference H.Q.C.55-M-1612 (JAG/D-29)

dated 23 Mar 45.

2. This soldier's sentence has been remitted as of the 10th April, 1945.

3. A copy of the Form of Remission is attached hereto for your information.

N F MacDonald
Major
for (D.A. White) Brigadier,
D. O. C., M. D. No. 6

NFM/jmcg

N.D. 23
3 Mil.—11-43 (2979)
H.Q. 1772-101-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No.....
District File No. M-2986 (JAG)

PART I

No. B-156171 Rank. Private NAME William Clement MELLE
Unit. A-14 C. I. T. C., C.A.

PART II

Date of Trial 15th day of March, 1945.
Charge(s) Sec. 15(1) A.A., Absenting Himself Without Leave.
Sentence Detention: sixty (60) days. Stoppages: $24.25.
Confirmation-(a) Authority: President Standing Court-Martial, M.D.No.6.
(b) Date : 15 March, 1945.

PART III
REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit (~~sentence~~) ~~the balance~~ ~~xxxxxxxx~~ thirty-four days of his sentence effective 10th April, 1945.

Signed at Halifax, N. S., this 5th day of April, 1945.

(D. A. WHITE) BRIGADIER,
D. O. C., M. D. No. 6.

PART IV
PROMULGATION

Remission (~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ promulgated and extracts taken at Aldershot, N.S., this 13th day of April, 1945. , ~~xxxx~~.

Sgd. (G. MACLEOD) Capt A. Adjt.
Officer i/c Documents.
A-14 Cdn Inf Trg Centre

Unit, attachment and appointment to be stated.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. B-156171 Rank. Private Name MELLE, William Clement
The sentence of Sixty Days Detention
awarded by Standing ~~xxxxxxxx~~ Court-Martial on the 15 th March, 1945. ~~xxxxx~~
has been Remitted
on the 10th APRIL, 1945. ~~xxxx~~, by D.O.C., M. D. No. 6.

UNIT A-14 C.I.T.C.

Certified true Extract of Daily Orders Part II of
No. 89 Place Aldershot, N.S. Date 14 April, 1945.

Sgd. (Graham MACLEOD) Capt.
Adjutant A-14 C.I.T.C.

HQC.55-M-1612 (JAG/D)

17 Apr 45

District Officer Commanding,
Military District No. 6,
HALIFAX, N.S.

Standing Court-Martial

B.156171, Pte. W.C. MELLE,
A-14 C.I.T.C., C.A.

Receipt is acknowledged of your F. M.3086 (JAG) dated 12th April, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E L M
Capt

/AB

for (R.J. Orde), Brigadier,
Judge Advocate-General.

L.H. CLAYTON
Lieut.-Colonel,
Registrar of Courts-Martial
APR 19 1945

CANADA

IN REPLY PLEASE QUOTE No. H. H.3906 (JAG)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

306827

Headquarters, M.D. No. 6,
Halifax, N.S., 12 Apr 45.

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
APR 15 1945
File 55-M-1612
Cited to
Referred to

STANDING COURT-MARTIAL
B.158171, Pte. W.C. MILLS,
A-14 C.I.T.C., C.A.

1.
Mar 45. Reference H.Q.C. 55-M-1612 (JAG/D-9) d/23

2. The proceedings of this Standing Court-Martial are herewith returned for safe custody, having been duly reviewed. His Commanding Officer has strongly recommended remission, and remission of sentence has been duly signed and forwarded to the unit.

3. A copy of the said remission, when it is returned completed, will be forwarded to you.

(D.A. White), Brigadier,
D. O. C., M. D. No. 6.

PROCEEDINGS OF A STANDING COURT-MARTIAL

No.B-156171 Private William Clement MELLE

A-14 C.I.T.C., C.A.

Aldershot, N.S., 15th day of March, 1945

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Aldershot, N. S.

on the 15th day of March 19 45 at 1130 hours,

for the trial of: B-156171 (Number) Private (Rank) William Clement MELLE (Full Name)

A-14 C.I.T.C., C.A. (Unit) (Attachment, if any)

PRESIDENT: Major R.F.Barnes, E.D., Headquarters M. D. No. 6, Permanent President Standing Courts-Martial M.D.No.6.

PROSECUTOR: Capt. A. L. Bourque, M.C., Headquarters M. D. No. 6, Permanent Prosecutor District Courts-Martial M.D.No.6.

(Rank) (Full Name) (Unit) (Attachment, if any)

~~COUNSEL~~ FOR DEFENDING OFFICER: Capt.L.R.Riddell, A-14 C.I.T.C., C.A.

(Rank) (Full Name) (Unit) (Attachment, if any)

FINDING: The Court find the accused No.B-156171 Private William Clement MELLE, A-14 C.I.T.C., C.A. guilty of the charge.

SENTENCE: The Court sentence the accused No.B-156171 Private William Clement MELLE, A-14 C.I.T.C., C.A. to undergo detention for sixty (60) days and to be placed under stoppages of pay until he has made good the sum of $24.25 in respect of the costs of apprehension and return to his unit.

Signed at Aldershot, N. S. this 15th day of March 194 5

(R.F. BARNES Major)
President,
Standing Court-Martial

M.F.B. 1486 Extracts entered as No. 36383 in the
25M-6-44 (4826) record of Courts-Martial kept in the
H.Q. 1772-39-2236 Office of the Judge Advocate General
this 22 day of March 19 45

Forms of Oaths and Declarations

Oaths

Shorthand Writer

You swear by Almigthy God that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the Court a true transcript of the same.

Answer: I do.

Interpreter

You swear by Almighty God that you will to the best of your ability truly interpret and translate, as you shall be required to do, touching the matter before this court-martial.

Answer: I do.

Witness

You swear by Almighty God that the evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth.

Answer: I do.

Solemn Declarations

The form of declaration will be the same as the form of oaths except that for the words "You swear by Almighty God" will be substituted the words "You (name in full) do solemnly promise and declare"; and that the words "solemnly promise and declare" will be substituted for the word "swear" wherever it occurs.

B

Question to accused. Do you object to be tried by me as President of the Court?

Answer: No sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~ as interpreter?

Answer: V.83514 Sgt.(A/SM(W.O.1)J.R.Ross, No. 6 Detachment, C.M.S.C.

Question to the accused. Do you object to as shorthand writer?

Answer: No sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read?

Answer: Guilty.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B-2"

R. V. Barnes
(R. V. BARNES) Major
President S.C.M.

CHARGE SHEET

The accused, B-156171 Private William Clement MELLE, A-14 C.I.T.C.(CA), a C.S. Soldier of the Canadian Army placed on Active Service is charged with:

CHARGE
Sec 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

At Aldershot, N.S. on the 12th day of OCTOBER, 1944 absented himself from A-14 C.I.T.C. (CA) from 2359 hours on the said 12th day of OCTOBER, 1944 until apprehended by the Military Police at Toronto, Ont. at 1700 hours on the 24th day of FEBRUARY, 1945 dressed in military uniform, cost of apprehension and return to his Unit being $24.25.

H.C. MacKendrick
(H.C. MacKENDRICK) Colonel
Commanding, A-14 C.I.T.C.

ALDERSHOT, N.S.
8th, MARCH, 1945

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. Yes sir.
(See overleaf).

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

(R.P.BARNES)Major
President S.C.M.

STATEMENT BY THE ACCUSED:

Well sir my mother died in April and dad took sick and wasn't able to work after that, he didn't work for quite a while and I wanted to stay home because he wanted me to stay for a while and then I was coming back. I have a brother overseas and I would like to get over and see him. I would like to get overseas as soon as possible.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. Well sir when I came back from home after mother's death, they asked me to wash dishes that day and I wasn't in the mood to wash them sir.

Question to the accused. Do you wish to address the Court?

Answer. No sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Marked "Y" and signed by me.

R. Bassett MAJOR
~~PRESIDENT.~~ C. M.

M.F.R. 356
TIH—5-43 (145)
H.Q. 1772-39-020
A.F.R. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B156171	Private	William Clement MELLE	A-14 C.I.T.C.

1. The following is a fair and true summary of the entries in the ~~Regimental and Squadron/Battery~~ ~~Service and~~ General Field Conduct sheets ~~or Company Conduct Sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed of summary awards under Section 47 of the with.

	Within last 12 months		Since enlistment or appointment	
For A.W.L.	(1) times		A.W.L.	(1) times
For Conduct to the prejudice.	times		Conduct to the prejudice.	times
For etc.	(1) times		etc.	(1) times
For	times			times

Number of instances of gallantry or distinguished conduct NIL

~~There are no entries in the conduct sheets of the accused.~~ NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.F.A. 73 are set out in the Schedule annexed to this statement.~~ ~~Air Force Act~~ ~~A.F.A. 73~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for~~ ~~or~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 20 days in military custody, making a total of 20 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 yrs 8 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 6 OCT 43 (Enrolled NRMA) 19 JUN 44 (Atst GS)

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon~~ ~~for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~or is in possession of or entitled to~~. State any ~~air force~~ military decoration or reward. NIL

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ ~~Air Force~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....Permanent Force .....unit dated....., and in his regiment (or corps) the rank of ..... dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of .....years.

In the rank of .....years.

In the rank of .....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name .....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 15th day of March 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

(GRAHAM MACLEOD) Capt., Adjt
A-14 C.I.T.C. (CA)

No. B156171 Name MOLLE, William Clement

Sqn., Battery, or Company }

No. and date of last drunk }

Corps RCA

Period not reckoned towards freedom from sentence

Marked "Z" and signed by me.

Date of enlistment } 6 OCT 43

G.C. Badges }

Tradesmen's Rates of Pay }

Sheet No. one

Signature O.C. Company, etc. (Sgd) J.H.Dickson Lt

for OC 6 F AAA TC (A23)

Character

M.F.M. 6 (A.F.R. 122) 500M—11-41 (2409) H.Q. 1772-39-1552

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	PRESIDENT, MAJOR C.M. Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Elkins Brks	9 May 44	Gnr		AWL from 2359 hrs 9 MAY 44 until 0040 hrs 22 MAY 44.(12 days 41 min)	Documentary	14 days CB	22 MAY 44	W.R.Smith	Forf 13 days pay under FR&I.
Elkins Brks	25 MAY 44	Gnr		Conduct to the prejudice, etc (did refuse to wash dishes when ordered by a superior officer)	L/Bdr.Essing.M. Sgt.Moreside Bdr Swaby-Smith L/Bdr.Greene	14 days Pay 168 hrs Detn	Lt-Col. W.R. Smith 26 MAY 44 (W.R.Smith) Lt-Col. O.C. Trg, A-23 TC	W.R. Smith	

CERTIFIED TRUE COPY

(G. MacLeod) Capt., Adjt

A-14 C.I.T.C.

(P.T.O.)

RECORD of the Declaration of a Court of Inquiry assembled at Aldershot, N.S. on the 6th day of November 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B156171 Pte. Melle W.C.

DECLARATION

The Court declare that No. B156171 (Regt'l No.) Private (Rank) MELLE (Full Name) William Clement A.14 C.I.T.C. (Unit) illegally absented himself without leave from A.14 C.I.T.C. at Aldershot, N.S. (Place) at 2359 hours on the 12th day of October 1944 that he is still so absent, and that on the 6 Nov 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Blouses, battle dress	1	6	50	Razor, safety with blade	1		42
Boots, ankle, prs	1	5	82	Pullthroughs, single	1		10
Gloves, knitted, drab prs	1		66	Belts, waist, leather brown or Web 1½"	1		35
Jacket, sweater	1	1	37	Cap winter melton	1	1	05
Socks, prs	3	1	38	Coat, waterproof	1	6	91
Trousers, battle dress	1	6	55	Pin, safety, collar	1		06
Brass cleaning	1		04	Shirts, khaki, cotton	3	4	62
Brush, clothes	1		17	Shoes, leather, black	1	4	84
Brush, shaving	1		42	Socks, black, prs	2		56
Brush, tooth	1		09				
Cap, comforter	1		41				
Combs, hair	1		04				
Holdall	1		22	Total		42	58

J.C. Vibert Lieut. A14 CITC (Name) (Rank) (Unit) President

Signed at Aldershot, N.S. (Name) (Rank) (Unit) Member

this 6th day of Nov 19 44 (Name) (Rank) (Unit) Member

Signature of Commanding Officer Colonel H.C. MacKendrick A14 CITC (Name) (Rank) (Unit)

Certified true copy (Name) (Rank) (Unit) (Signature of Officer having custody of original record)

M.F.B. 473
A.F.B. 113
(4016—10-41) (6520)
H.Q. 1772-59-237

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major, F.E. McMAHON, No.31 Coy CDN PROVOST CORPS, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that B.156171 Pte MELLE, W.C.
(Number) (Rank) (Name in full)

of the A-14 C.I.T.C. ALDERSHOT, Nova Scotia
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrendered to~~) B.97712 Sgt. ATKINSON, J.
(Number) (Rank)

B.97704 L/Cpl BROWN, M.B. No;31 Coy C.PRO.C. C.A.
(Name) (Unit or appointment)

at 19 Beaver Ave., TORONTO, Ont. at 1700 hrs
(Place) (Hour)

on the 24 day of FEB 19 45

Strike out words not applicable } as a ~~deserter~~ absentee without leave), and that at the time of his arrest he was wearing military (~~civilian~~) uniform (~~civilian clothes~~).

339 George Street,

Dated at TORONTO, Ontario this 25 day of FEB 19 45

(SOLDIER OF THE ACTIVE ARMY).

F.E. McMahon

(F.E. McMAHON), Major,
(Signature, Number, Rank, Unit or appointment)

Officer Commanding, No.31 Coy, C.PRO.C. C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1956

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Captain F.H. Britton, RCASC, Issuing Officer for D&TO, M.D.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from Toronto, Ontario. (Place) to Halifax, N.S. (Place)
and return to Toronto, Ontario. (Place) for the purpose of escorting

Full description of soldier being escorted — B.156171 (Number) Pte. (Rank) Melle, W.C. (Name in full)
A.14 T.C., Aldershot, N.S. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~transportation required~~) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
TRANSPORTATION	
ESCORT: Troop Movement.	
ACCOUNTED:	
One single second class fare, Toronto to Halifax, N.S.	$16.75
TAX: 15%	2.50
Covered by M.D.#2 Transport Warrant No. C.921389 dated 26th February, 1945.	
TOTAL $19.25	$ $19.25

Dated at Toronto, Ontario. this 26th day of February A.D. 1945.

CAPTAIN, RCASC,
Issuing Officer for D&TO, M.D.#2

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing transportation~~)

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

M.F.B. 1484
125m—10-42 (9469)
H.Q. 1773-49-185

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(INCIDENTAL EXPENSES)

Complete description

I, ... (No) Major (Rank) W.J. BAIRD (Name) #2 Dist. Depot (Unit)

Strike out words not applicable

as ~~(escort) (commander of escort)~~ consisting of .....

Members of escort

officer i/c Troop Train

detailed to proceed from Toronto Ont (Place) to Halifax N.S. (Place)

Name and description of soldier escorted

to return B156171 Pte MELLR W G A14 C.I.T.C.

alleged to be a deserter or absentee without leave, to ..... (Place),

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
MEALS	
2 Meals @ 1.00	2.00
4 Meals @ .75	3.00
Total	$ 5.00

Dated at Troop Train En Route this 28 day of Feb A.D. 1944

W J Baird Major

Off. i/c Troop Train

Signature and rank (of commander of escort) (escort)

Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of all incidental expenses properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.D. 1402
75M—2-43 (8826)
H.Q. 1773-39-1939

Para 9(a)

DAILY ORDERS PART II
by
Colonel H.C. MacKENDRICK, O.B.E., E.D.

Commanding

Order No. 251
14 Oct 44
ALDERSHOT, N.S.

A-14 CANADIAN INFANTRY TRAINING CENTRE

(Last Order issued No. 250 d/13 Oct 44)

SECTION I
(H.W.E)

CERTIFIED TRUE COPY
(G. Macleod) Capt. Adjt
A-14 CITC 8 MAR 45

"A"
OFFICERS
NIL

"B"
OTHER RANKS

1. LEAVES & FURLOUGH
(a) Granted 4 days Short Leave and to draw ration allce (Art 196 (4) FR&I) 14 Oct 44 to 17 Oct 44
F66782 Pte.(A/Cpl) BARKHOUSE R.O. TS Coy
F51363 Pte.(A/Cpl) COOKE C.J. "

C.W.A.C.

2. LEAVE & FURLOUGH
(a) Granted Leave under R.O. 4688 from 6 Oct 44 to 9 Oct 44 Entitled to draw ration allce of Fifty Cents Cents per diem under FR&I 196 (4)
W6197 Pte.(L/Cpl) McALONEY E.V. H.Q. ITC
(Copied from No. 17 Admin Unit CWAC Pt.II #144 d/9 Oct 44)

SECTION II
(Holding Establishment)

"C"
OFFICERS

3. ATTACHMENT
(a) Cease att F.A.P. except pay from No. 6 Dist Depot 14 Oct 44
Capt. J.B. NOILES

4. APPOINTMENT PROMOTIONS & REVERSIONS
(a) Having qual and completed the required service in the rank of 2/Lt. are hereby pending promulgation of such appointment in CARO granted the rank of Lieutenant (Infantry - (R)-Active Force) 14 Oct 44
(Auth: CARO 4909 (2)(b) (iii))
2/Lieut. L.A. FRASER "B" Coy
2/Lieut. L.W. SMITH "B" Coy.

5. LEAVE & FURLOUGH

(a) Granted 14 days Privilege Leave and 4 days Short Leave and 2 days Travelling Time and to draw ration allce (20 days) Art 196 (4) FR&I) 13 Oct 44 to 1 Nov 44

2/Lieut. MORRIS H.P. "F" Coy

"D"

OTHER RANKS

6. STRENGTH INCREASE

(a) Having been S.O.S. A14 C.I.T.C. by Ct. of Inq 1 May 44 for A.W.L. from 030600 P Apr 44 T.O.S. ("A" Coy) (at Regimental Rates of Pay) on apprehn at Kennetcook, Hants Co., N.S. from des at 120700 P Oct 44

F87632 Pte. O'TOOLE C.L.

(b) T.O.S. (S. of I.) from No. 61 C.I.B.T.C. 1 Oct 44 (Auth: No. 61 C.I.B.T.C. Pt.II #183 d/30 Sep 44) (Record Purposes Only)

D144287 Pte. BAILEY J.F.C.

7. ATTACHMENT

(a) Att (S. of C. Adm. Wing) F.A.P. from No. 70 CABTC (TT 620 6-8 Wks) 7 Oct 44 (Auth: No. 70 CABTC Pt.II #238 d/6 Oct 44)

G6132 Sgt. BROWN F.I.

(b) Att (S. of C. Adm Wing) F.A.P. from No. 1 Port. Coy RCASC) (TT 620 6-8 Wks) 9 Oct 44 (Auth: No. 1 Port Coy Pt.II #88d/9 Oct 44)

B100638 Cpl.(A/Sgt) DAVIDSON A.

(c) Att (S. of C. Adm.Wing) F.A.P. from No 1 Trg. Coy Fld. Amb. RCAMC 10 Oct 44 (TT 620 6-8 Wks) (Auth: No. 1 Trg. Coy. Fld. Amb RCAMC Pt.II # 74 d/9 Oct 44)

P15425 Sgt. CRAIG L.W.

(d) Cease att F.A.P. from No. 60 CIBTC 14 Oct 44

F66148 Pte.(A/Cpl) KEMPTON V.A.
F51538 Pte.(A/Cpl) McPHEE S.R.
F33472 Pte.(A/Cpl) LAWLEY A.M.
F33149 Pte.(A/Cpl) TAYLOR C.L.

(e) Cease att F.A.P. from No. 61 C.I.B.T.C. 30 Sep 44 (Auth: No. 61 CIBTC Pt.II #183 d/30 Sep 44)

D144287 Pte. BAILEY J.F.C.

(Record Purposes Only)

AMENDMENT

(f) Para 13 (e) of D.O. No. 243 d/5 Oct 44 insofar as it ref to u/m is hereby cancelled

H70301	Sgt.	SHAVE	G.A.	"F" Coy
F52737	Pte.	ROBERTSON	R.A.	S. of I.
F52422	Pte.	WELT	W.E.V.	"
F46045	Pte.	WALTERS	C.S.	"
G64537	Pte.	ERB	J.K.	"
F52693	Pte.	McKELVIE	R.G.	"
F44030	Pte.	SAUNDERS	G.P.	"

8. INCREASE IN PAY

AMENDMENT

(a) Para 12 (e) of D.O. No 249 d/12 Oct 44 insofar as it ref to u/m is am'd to read: "2 Oct 44"
F37120 Pte. MacAULAY W.M.

9. ABSENT WITHOUT LEAVE

(a) Absent without leave from 122359 P Oct 44
B156171 Pte. MELLE W.C. T.S. Coy
B44628 Pte. ATKINSON L.C. "
(1st Publication)

(b) Absent without leave from 102359 P Oct 44
Ret from Absence 131600 P Oct 44
A21779 Pte EVES J.E. TS Coy.

AMENDMENT

(c) Para 10 (c) of D.O. No. 246 d/9 Oct 44 insofar as it ref to u/m is cancelled.
F37069 Pte. MacDONALD W.R. TS Coy
(Published in error)

10 HOSPITAL

(a) Admitted Debert Mil. Hosp (Sick) 7 Oct 44
K48838 Pte. PRESTON E. "E" Coy

(b) Discharged Debert Mil. Hosp. 11 Oct 44
K48838 Pte. PRESTON E. "E" Coy

(c) Discharged Ald. Mil. Hosp 13 Oct 44
C123774 Pte. SPINELLI W. "B" Coy
B88876 Sgt. GRAHAM J. "A" Coy
D145404 Pte. JOHNSTON J.H. "A" Coy
C124469 Pte. GAGNON L.V. "B" Coy.

(d) Admitted Ald. Mil. Hosp (Sick) 11 Oct 44
F10657 Pte. WEBBER R.C. "B" Coy
F85044 Pte. CROWELL J.E. "E" Coy

(e) Admitted Ald. Mil. Hosp. (Injured) 11 Oct 44
K48838 Pte. PRESTON E. "E" Coy

(f) Discharged Ald. Mil. Hosp. 12 Oct 44
B84736 Pte. MASON E.D. "A" Coy.

11. PUNISHMENT

(a) Convicted by the Civil Power at Truro, N.S. of the offence "Theft of Mail" and sentenced to serve six months in the Truro County Gaol
Placed in Civil Custody 6 Oct 44
Forf 182 days pay under FR&I 149 (1)(b)
Forf 1 days pay under FR&I 149 (1)(c)(i)
Total forf of 183 days pay 7 Oct 44
(Auth DAPM MD 6 H.110-255-18 (Pro) d/10 Oct 44)
F95267 Pte. FAULKNER R.D. "A" Coy.

(b) Awarded 1 days C.B. for an offence under Sec 15 (1) A.A. Absent without leave from 110600 P Oct 44 to 111120 P Oct 44
(Absent 5 hrs 20 mins)
(2) A.A. Sec 10 (4) Breaking out of barracks. 14 Oct 44
F44013 Pte. FORREST A.J. TS Coy.

12 MARRIAGE BIRTH & DEATHS

(a) A Son, Cameron Walter, born at Windsor, Hants. Co., N.S. Canada 17 Aug 44
F5178 Pte. PULSIFER R.G. "E" Coy

13. COURSES

(a) Having attended 6 Pdr A/T Gun Number Course from 25 Sep 44 to 13 Oct 44 are qual as shown 13 Oct 44

F58409	Pte.	EDWARD	J.	"E" Coy	QII
C124216	Pte.	FERGUSON	W.R.	"	QI
D145511	Pte.	KIDDER	E.A.	"	QII
F58361	Pte.	KILLEN	G.E.	"	QI
G5584	Pte.	LUMSDEN	F.A.	"	QII
F37039	Pte.	McKINNON	J.	"	QII
F37047	Pte.	PITTS	D.W.	"	QI

14. STRENGTH DECREASE

(a) S.O.S. to No. 62 C.A.B.T.C. 14 Oct 44
(H.110-250-1 H.110-259-1 H.110-259-35 d/13 Feb 44)

L106921	Pte.	RASHLEY	R.E.	S. of I.
B116438	Pte.	SAYER	J.	"
F36688	Pte.	SIMPSON	J.L.	"
F82670	Pte.	STEARNS	J.H.	"

(b) S.O.S. to No. 60 C.I.B.T.C. 14 Oct 44

F57104	Pte.(L/Cpl)	MOORES	F.A.	"D" Coy
F57991	Pte.(L/Cpl)	YOUNG	E.M.	"E" Coy

(H.110-250-1 d/13 Feb 44)

(c) S.O.S. to No. 7 Dist Depot 14 Oct 44
(H.J.1008 (Rep) 6CD/J-149 d/10 Oct 44)
G61061 Pte. JOHNSON B.L. "E" Coy.

(d) S.O.S. to O.T.C. (EC) Brockville 5 Oct 44
(Auth: H.Q.54-27-35-233 (Pers) d/16 Apr 43)

H70301	Sgt.	SHAVE	G.A.	"F" Coy
F52737	Pte.	ROBERTSON	R.A.	S. of I.
F52422	Pte.	WELT	W.E.V.	"
F46045	Pte.	WALTERS	C.S.	"
G64537	Pte.	ERB	J.K.	"
F52693	Pte.	McKELVIE	R.G.	"
F44030	Pte.	SAUNDERS	G.P.	"

(C.A.U.C. Appraisals)

C.W.A.C.

15. APPOINTMENTS PROMOTIONS & REVERSIONS

(a) Appt. L/Cpl. 1 Oct 44
(Copied from No. 17 Adm. Unit CWAC Pt II # 146 d/11 Oct 44)
W6853 Pte. GILLIS A.L.

(Graham McLeod) Capt. & Adjt.
A-14 C.I.T.C.
Aldershot, N.S.

Para 10(d)

DAILY ORDERS PART II
by
Colonel H.C. MacKENDRICK, O.B.E., E.D.

Commanding

Order No. 257
20 Oct 44
ALDERSHOT, N.S.

A-14 CANADIAN INFANTRY TRAINING CENTRE
(Last Order issued No. 256 d/19 Oct 44)

S E C T I O N I
(Holding Establishment)

"A"
OFFICERS

CERTIFIED TRUE COPY
(G. MACLEOD) Capt. Adjt
A-14 CITC 8 MAR 45

1. ATTACHMENT
(a) Att F.A.P. except pay to A-22 CAMCTC 19 Oct 44
(Auth: H.57-1-6 (G2) d /27 Sep 44)
(Hygiene Sanitation 5 days)
Lieut. (A/Capt) A. DENNEY "A" Coy.

"B"
OTHER RANKS

2. STRENGTH INCREASE
(a) T.O.S. (Adm. Wing) H.W.E. from Holding Establishment ("A" Coy) 19 Oct 44
(Org 1273 A.G. N.D.H.Q./41)

F607800	Pte.	ISNOR	W.A.
B159092	Pte.	BOLLEAU	D.J
F36064	Pte.	ALLISON	M.F.
C612793	Pte.	DIXON	R.
F36500	Pte.	KENNEDY	L.J.
F36503	Pte.	RHYNO	G.H.
M7735	Pte.	HARRIS	R.L.
F2065	Pte.	McDONALD	D.F.

3. ATTACHMENT
(a) Att F.A.P. except pay to S-5 CD&MS 20 Oct 44
(Driver I.C. Course 8- Wks)
G2946 Pte. WINTON D.A. Adm. Wing

4. LEAVES & FURLOUGH
(a) Granted 4 days Embarkation Leave and to draw ration allce (Art 196 (4) FR&I)
TW No. A782837 20 Oct 44 to 23 Oct 44
F65231 Sgt. O'NEILL H.D. S. of I.

(b) Granted 4 days Short Leave and to draw ration allce (Art 196 (4) FR&I) 21 Oct 44 to 24 Oct 44
F5363 Pte.(A/CSM)(A/WO II) CUNNINGHAM R.S. SofI.

5. ABSENT WITHOUT LEAVE
(a) Absent without leave from 172359 2 Oct 44
(1st Publication)
F62661 Pte. STEELE W.F. Adm. Wing

6. HONORS & AWARDS
(a) Awarded the Canadian Volunteer Service Medal Ribbon
F3632 Cpl(A/Sgt) CROOKS J.M. 5 Aug 44

7. STRENGTH DECREASE
(a) S.O.S. to No. 6 Dist. Coy. RCASC on transfer to the R.C.A.S.C. 20 Oct 44
(CARO 4774 Para 2 (A))
G23607 Pte. BOUCHER E.J. Adm. Wing

SECTION II
(Holding Establishment)
"C"
OFFICERS

NIL

"D"
OTHER RANKS

8. STRENGTH INCREASE
AMENDMENT.
(a) Para 8 (h) of D.O. No. 250 d/13 Oct 44 insofar as it ref to u/m is am'd to read: "Cpl"
F21357 Pte. LEMELIN Joseph Jean Paul

9. ATTACHMENT
(a) Cease att F.A.P. to S-5 C.D. & M. S. 14 Oct 44
(Auth: S-5 CD&MS Pt.II #230 d/13 Oct 44
F36770 Pte. BRAMWELL H. T.S. Coy.
F36794 Pte. TAYLOR I.E. "
F58211 Pte. ZINCK H.L.

(b) Att F.A.P. except pay to A-11 C.S.T.T.C. 19 Oct 44
(Fire Fighters Course 3 Wks)
(H.72-3-35 (G2) d/25 Sep 44)
F59204 Pte. MacGILLIVARY A.G. (No. 6 Dist Coy RCASC)
F33210 Pte. ENGLAND J.W. "

(c) Cease att R. & C. from No. 6 ES & W Coy R.C.E. from 2 Oct 44 to 19 Oct 44
F76994 Spr. MORRIS E.G.

(d) Att F.A.P. except pay to S-5 CD&MS 20 Oct 44
(Driver I/C Course 8 Wks)

C124082	Pte.	ARISS	L.H.G.	"E" Coy
D145314	Pte.	BLENCOWE	G.M.	"
C124387	Pte.	BONEHAM	W.F.	"E" Coy.
C124347	Pte.	CALVERT	C.A.	"B" Coy
F37122	Pte.	DILLMAN	G.G.	"B" Coy
B126342	Pte.	DOYLE	D.A.	"E" Coy.
A115673	Pte.	FIRMIN	A.V.	"E" Coy
A28787	Pte.	HAMACHER	G.B.	"E" Coy
F37198	Pte.	HARVEY	F.H.	"B" Coy.
C124356	Pte.	JAMIESON	J.F.	"B" Coy
C124376	Pte.	KIRKPATRICK	J.A.	"B" Coy.
H204150	Pte.	LACOMY	S.	"E" Coy.
F8874	Pte.	LeBLANC	W.	"E" Coy.
F37167	Pte.	McALLISTER	H.B.	"B" Coy.
F58507	Pte.	McCLAIR	E.C.	"B" Coy.
F58498	Pte.	McDONALD	S.J.	"B" Coy.
F37153	Pte.	McGRATH	C.H.	"B" Coy.
C124384	Pte.	MATHESON	W.E.	"B" Coy.
C124364	Pte.	MUNDY	A.R.	"B" Coy.
F31731	Pte.	NORMAN	J.F.H.	"B" Coy.
F37149	Pte.	PETERS	G.R.	"B" Coy.
C124585	Pte.	SCRIVENS	A.H.	"B" Coy.

9. ATTACHMENT (Cont'd)

(d) C124373 Pte. SHEEN M.R. "B" Coy
C123774 Pte. SPINELLI W. "
F58533 Pte. STEEVES A.W. "
F58505 Pte. STODDARD L.H. "
L108218 Pte. YARMIE J. "

(e) Cease att F.A.P. from A-19 CASCTC on proceeding to No. 6 Dist. Coy. R.C.A.S.C. 20 Oct 44
(CARO 4773 Para 2 (A) (ASC6-3-1 d/16 Oct 44)
F82146 Pte. DUNN F.L.

10 ABSENT WITHOUT LEAVE

(a) Absent without leave from 170600 P Oct 44
F7134 Pte. MUISE J.P. "D" Coy (1st Publication)

(b) Absent without leave from 172359 P Oct 44
F36695 Pte. MacMULLIN L.J. TS Coy (1st Publication)

(c) Absent without leave from 170800 P Oct 44
B72059 Cpl. HENRY A. "F" Coy.
M37963 Pte. CHAREST J.A. "
F10614 Pte. FRASER E.R. "
K6709 Pte. MARTINELLO J. "
A115784 Pte. McCORMICK A.F. "
M37981 Pte. PRUSKO G. "
A115709 Pte. RIDI A.J. "
B156241 Pte. PLEWES M.A. "
D135369 Pte. TREMBLAY R. "
A115765 Pte. McDONALD W.A. "

(d) Absent without leave from 122359 P Oct 44
Still absent 192359 P Oct 44 (8th day)
B156171 Pte. MELLE W.C. T.S. Coy.
B44628 Pte. ATKINSON L.C. T.S. Coy.

11. MARRIAGES BIRTHS & DEATHS

(a) Born, a son, Richard John at Glace Bay, Cape Breton Canada 27 Sep 44
F33210 Pte. ENGLAND J.W. (No. 6 Dist. Coy RCASC)

12. NEXT OF KIN

(a) Change of address of next of kin from:
Agnes May McDANIEL (Mother)
RCOC Petawawa Military Camp, Ont.
To: 102 Raywood Ave London, Ont. 19 Oct 44
C124187 Pte. McDANIEL R. S. of I.

(b) Change of address of next of kin from:
Mrs Dorothy Pettipas (Wife)
63 Pine St., New Glasgow
To: Charles Cove, Gubsboro Co., N.S. 13 Oct 44
F5366 Pte. (A/Cpl) PETTIPAS F.W. S. of I.

13. HOSPITAL

(a) Admitted Ald. Mil. Hosp (Sick) 10 Oct 44
B126341 Pte. GASSON S.J. "E" Coy

(b) Discharged Ald. Mil. Hosp. 16 Oct 44
B126341 Pte. GASSON S.J. "E" Coy

(c) Admitted Debert Mil. Hosp. (Sick) 16 Oct 44
B126341 Pte. GASSON S.J. "E" Coy.

D.O.No. 257 d/20 Oct 44 A14 CITC Sheet No. 3

14 INCREASE IN PAY

(a) To receive $1.40 per diem (Art 144-1 FR&I)

C124446	Pte.	BEAN	K.R.	"B" Coy	13 Oct 44
F37171	Pte.	BUNGAY	A.I.	"	16 Oct 44
C124458	Pte.	CARRIGAN	A.D.	"	15 Oct 44
F37100	Pte.	CHIASSON	D.J.	"	13 Oct 44
C124465	Pte.	COOK	F.E.	"	15 Oct 44
F58479	Pte.	CROMWELL	G.J.	"	15 Oct 44
F58480	Pte.	DeCOSTE	L.	"	15 Oct 44
F58476	Pte.	DEVILLER	H.M.	"	15 Oct 44
F37170	Pte.	DRAKES	S.H.	"	15 Oct 44
C124467	Pte.	FLYNN	D.J.	"	16 Oct 44
C124467	Pte.	GAGNON	L.V.	"	15 Oct 44
C124442	Pte.	JOHNSTON	E.F.	"	15 Oct 44
F37163	Pte.	JENNEX	J.M.	14	14 Oct 44
C124484	Pte.	KUEHL	S.L.	"	16 Oct 44
F37164	Pte.	LAYBOLT	G.E.A.	"	17 Oct 44
F58495	Pte.	MARTIN	M.A.	"	16 Oct 44
F58492	Pte.	MELANSON	G.J.	"	15 Oct 44
F59491	Pte.	MESSERVEY	K.R.	"	16 Oct 44
F10565	Pte.	MILBURY	G.K.	"	16 Oct 44
F37147	Pte.	MILLIGAN	K.R.	"	14 Oct 44
F58484	Pte.	MOMBOURQUETTE	W.	"	15 Oct 44
F37158	Pte.	MORGAN	A.E.	"	18 Oct 44
F37165	Pte.	MacDONALD	G.O.	"	16 Oct 44
F58471	Pte.	MacDONALD	J.H.	"	16 Oct 44
F37168	Pte.	MacDOUGALL	I.G.	"	13 Oct 44
F57144	Pte.	MacKAY	A S.	"	16 Oct 44
C120281	Pte.	McEWEN	L.E.	"	13 Oct 44
F37152	Pte.	NELSON	F.R.	"	15 Oct 44
C124460	Pte.	O'LEARY	F.F.	"	14 Oct 44
C124434	Pte.	PITMAN	J.E.	"	15 Oct 44
F37166	Pte.	RYAN	J.B.	"	13 Oct 44
C124451	Pte.	SARGENT	W.J.	"	16 Oct 44
F58490	Pte.	WILLIAMS	A.A.	"	15 Oct 44

(b) To receive $1.50 per diem (Art 144-1 FR&I)

B156238	Pte.	BELLHOUSE	S.L.	"F" Coy	19 Sep 44
F51878	Pte.	MacMILLAN	S.N.	"	17 Oct 44

AMENDMENT

(c) Para 19 (b) of D.O. No. 255 d/18 Oct 44 insofar as it ref to u/m is cancelled

B156328	Pte.	BELLHOUSE	S.L.	"F" Coy
F51878	Pte.	MacMILLAN	S.N.	"C" Coy

(d) Para 12 (a) of D.O. No. 249 d/12 Oct 44 insofar as it ref to u/m is hereby cancelled.

F52568 Pte. LONG T.V.

15. LEAVES & FURLOUGH

(a) Granted 14 days Privilege Leave and to draw ration allce (Art 196 (4) FR&I) 21 Oct 44 to 3 Nov 44

F36770	Pte.	BRAMWELL	H.	TS Coy	TW A782843
F57856	Pte.	CROFT	M.V.	"	TW A782844
G5551	Pte.	McKAY	H.L.	"	TW A782845
F36794	Pte.	TAYLOR	I.F.	"	TW A782846
F58158	Pte.	THOMPSON	D.H.	"	TW A782847
F58211	Pte.	ZINCK	H.L.	"	TW A782848

(b) Granted 14 days Privilege Leave and 12 days Travelling Time and to draw ration allce (26 days) (Art 196 (4) FR&I) 21 Oct 44 15 Nov 44

K2269 Pte. STROBEL E.W. TS Coy. TW A782849

15 LEAVE & FURLOUGH (Cont'd)

(c) Granted 14 days Privilege Leave and 4 days Travelling Time and to draw ration allce. (18 days) (Art 196 (4) FR&I) 21 Oct 44 to 7 Nov 44

B116032 Pte. SHERK C.E. TS Coy TW A782850

(d) Granted 5 days Embarkation Leave and to draw ration allce (Art 196 (4) FR&I) 21 Oct 44 to 25 Oct 44

F36391	Pte.	DAIRYMPLE	H.D.	TS Coy	
F36784	Pte.	FAWSON	J.E.	"	TW A782851
F36865	Pte.	HENLEY	L.H.	"	TW A782852
F51339	Pte.	HATT	R.J.	"	TW A782853
F57806	Pte.	KENNEY	G.M.	"	TW A782854
F36873	Pte.	LOWE	D.H.	"	TW A782855
F36464	Pte.	MacDONALD	D.L.	"	TW A782856
F36755	Pte.	MOULAISON	J.F.	"	TW A782857
F36413	Pte.	NICKERSON	R.W.	"	
F36996	Pte.	SEXTON	G.W.	"	TW A782858

(e) Granted 6 days Embarkation Leave and to draw ration allce (Art 196 (4) FR&I) 21 Oct 44 to 26 Oct 44

F36975	Pte.	MacNEIL	L.M.	TS Coy	TW A782860
F36264	Pte.	McEACHERN	A.D.	"	TW A782862
F5558	Pte.	WHILT	C.W.	"	TW A782861

(f) Granted 6 days Embarkation Leave and 3 days Travelling Time and to draw ration allce (9 days) (Art 196 (4) FR&I) 21 Oct 44 to 29 Oct 44

F36143 Pte. MacKINNON G.K. TS Coy TW A782863

(g) Granted 6 days Embarkation Leave and 4 days Travelling Time and to draw ration allce (10 days) (Art 196 (4) FR&I) 21 Oct 44 to 30 Oct 44

B157732 Pte. CHAPMAN J.W. "TS Coy TW A782859

(h) Granted 14 days Privilege Leave and to draw ration allce (Art 196 (4) FR&I) 21 Oct 44 to 3 Nov 44

F36980	Pte.	CANN	M.B.	SofI	TW A782841
F58356	Pte.	GILFOY	B.J.	"	TW A782840
F58350	Pte.	DYKE	F.W.	"	TW A782842

16. STRENGTH DECREASE

(a) S.O.S. ("A" Coy) Holding Establishment to H.W.E. (Adm. Wing) 18 Oct 44

(Org 1273 A.G. N.D.H.Q./41)

B159092	Pte.	BOILEAU	D.J.
F36064	Pte.	ALLISON	M.F.
F36500	Pte.	KENNEDY	L.J.
F36503	Pte.	RHYNO	G.H.
M7733	Pte.	HARRIS	R.L.
F2065	Pte.	McDONALD	D.F.

N.R.M.A.

17. STRENGTH DECREASE

(a) S.O.S. ("A" Coy) Holding Establishment to H.W.E. (Adm Wing) 18 Oct 44

(Org 1273 A.G. N.D.H.Q./41)

F607800	Pte.	ISNOR	W.A.
C812793	Pte.	DIXON	R.

(Graham Macleod) Capt & Adjt.
A-14 C.I.T.C.
ALDERSHOT, N.S.

D.O. No. 257 d/20 Oct 44 A14 CITC Sheet No. 5

Para 1b(d)

DAILY ORDERS PART II
by

Colonel H.C. MacKENDRICK, O.B.E., E.D.

Commanding

Order No. 270
4 Nov 44
ALDERSHOT, N.S.

A-14 CANADIAN INFANTRY TRAINING CENTRE

(Last Order Issued No. 269 d/3 Nov 44)

SECTION I
(H.W.F.)

"A"
OFFICERS

NIL

CERTIFIED TRUE COPY
(G. MACLEOD) CAPT., RCAMC
A-14 CITC 8 MAR 45

"B"
OTHER RANKS

1. HOSPITAL
(a) Admitted Aldershot Mil. Hosp. (Sick) 2 Nov 44
F57250 Pte. McNEIL H.G. Adm. Wing

(b) Discharged Ald. Mil. Hosp 3 Nov 44
B142416 Pte. OTTER E.B. Adm. Wing

2. COURSES
(a) Having attended No. 5 A.Tk. Battle Wing Course No 9 held at S-17 C.S. of I. qual as shown 21 Oct 44 (Auth:H.57-1-42-1 (G2) d/2 Nov 44)
F79633 Sgt. LEGGE K. "E" Coy. QI
M104907 Pte.(A/Cpl) ELDRIDGE W.R. "E" Coy. QII

3. NEXT OF KIN
(a) Change of address of N-of K. from:
Mrs Annie Mierau (Wife)
Carmdoff Box 139, Sask.
To: Kentville, N.S.
L106918 Pte. MIERAU D.J. Adm. Wing 1 Nov 44

SECTION II
(Holding Establishment)
"C"
OFFICERS

4. ATTACHMENT
(a) Cease att F.A.P. except pay to S-3 CSAS 20 Oct 44
Lieut. R.E. MILLER "C" Coy.

"D"
OTHER RANKS

5. STRENGTH INCREASE
AMENDMENT
(a) Para 7(a) of D.O. No. 266 d/31 Oct 44 insofar as it ref to u/m is am'd to read: "Pte(L/Cpl)"
F7152 Pte. COOK V.P. T.S. Coy.

6. ATTACHMENT

(a) Ceases att: F.A.P. except pay to S-5 CD&MS 1 Nov 44
on being att F.A.P. to No.2 C.R.C. 2 Nov 44
(R.O. 4432)
F82466 Pte. ELLIS J.L. TS Coy.

(b) Cease att F.A.P. except pay to S-5 CD&MS 31 Oct 44
F36686 Pte. BOHON J.J. T.S. Coy.

(c) Ceases att F.A.P. to S-5 CD&MS 31 Oct 44
(Auth: S-5 CD&MS Pt.II #241 d/27 Oct 44)
F56959 Pte. McINTOSH A.J. TS Coy.

(d) Ceases att F.A.P. to S-5 CD&MS 27 Oct 44
(Auth: S-5 CD&MS Pt.II #241 d/27 Oct 44)

K2560	Pte.	NYGARD	J.T.	TS Coy.
F16832	Pte.	THOMAS	R.A.	"
C52989	Pte.	ADAIR	F.V.	"
F57598	Pte.	ANDREWS	J.H.	"
F58195	Pte.	CROWLEY	C.J.	"
D144516	Pte.	DAVIGNON	A.	"
F58022	Pte.	GREIG	A.S.	"
F36611	Pte.	MacLEAN	W.R.D.	"
F33417	Pte.	MAGLIARO	A.	"
F36426	Pte.	HUMBY	B.P.	"
F10576	Pte;	NASH	C.	"
F65166	Pte.	MARSH	C.A.	"

7. AMENDMENT

(a) Para 2 (c) of D.O. No. 264 d/26 Oct 44 insofar as it ref to u/m is cancelled.
F57181 Pte. ISRAEL R.G. Adm. Wing

8. HOSPITAL

(a) Admitted Camp Hill Military Hospital, Halifax, N.S. (Sick) 2 Nov 44
F36893 Pte. GREELEY L.G. T.S. Coy.

(b) Admitted Ald. Mil. Hosp. (Injured) 2 Nov 44
D144205 Pte. WALSH J.M. "D" Coy.
F52568 Pte. LONG T.V. "E" Coy

(c) Admitted Ald. Mil. Hosp. (Sick) 2 Nov 44
D77637 Pte. LeBLANC F.R. "F" Coy.

(d) Discharged Ald. Mil. Hosp. 3 Nov 44

F36907	Pte.	HENLEY	L.C.	"A" Coy.
B65867	Pte.	LOWE	J.A.	"E" Coy.
F3909	Pte.	MITTON	S.F.	"F" Coy.
F37325	Pte.	HANRAHAN	J.B.	"A" Coy.
F51339	Pte.	HATT	R.J.	TS Coy.

(e) Discharged Debert Mil. Hosp. 2 Nov 44
F37137 Pte. McGILLIVARY G.F. "B" Coy.

(f) Admitted Montreal Mil. Hosp. (Sick) 22 Oct 44
D145527 Pte. PIERSON K. T.S. Coy.

(g) Discharged Montreal Military Hosp. 31 Oct 44
D145527 Pte. PIERSON K. T.S. Coy.

9. PUNISHMENT

(a) Awarded 7 days C.B. for an offence under Sec 15 (1) A.A. Absent without leave from 310600 P Oct 44 to 021100 P Nov 44
(Absent 2 days 5 hrs)(Close arrest)
Forf 3 days pay under FR&I 149 (1)(a) 3 Nov 44
F55445 Pte. GILDAY J.G. "D" Coy.

9. PUNISHMENT (Cont'd)

(b) Released from Detn. dates as shown

F96522	Pte.	COSTAIN	G.W.	"A" Coy	28 Oct 44
F58504	Pte.	ROLLS	E.E.	"F" Coy	30 Oct 44
F45359	Pte.	MacLEAN	R.J.	"	30 Oct 44
F36535	Pte.	SHUNAMON	E.	TS" Coy	30 Oct 44
F36740	Pte.	JOSEY	V.V.	"	30 Oct 44
F7237	Pte.	MUISE	P.L.	"A" Coy	1 Nov 44
F52403	Pte.	FREDRICKS	L.H.	TS Coy	1 Nov 44

(c) Granted 4 days Remission of Sentence by Commandant No. 68 M.D.B. 1 Nov 44
F52403 Pte. FREDRICKS L.H. TS Coy.
(Auth: No. 68 MDB Pt.II #65 d/3 Nov 44)

(d) Granted 4 days Remission of Sentence by Commandant No. 68 M.D.B. 30 Oct 44
F36535 Pte. SHUNAMON E.P. TS Coy
(Auth: No. 68 MDB Pt.II #64 d/31 Oct 44)

10. APPOINTMENTS PROMOTIONS & REVERSIONS

(a) Relinquishes Appt. A/Cpl. 1 Sep 44
(Copied from No. 1 Dist. Depot Pt.II #242 d/29 Aug 44)
A3428 Pte. (A/Cpl) TODD T. R. S. of I.

11. INCREASE IN PAY

(a) To receive $1.50 per diem (Art 144-1 FR&I)
(Copied from No. 1 Dist. Depot Pt.II #243 d/30 Aug 44)
A3428 Pte. TODD T.R. S. of I. 1 Sep 44

(b) To receive $1.50 per diem (Art 144 (1) FR&I)

F36686	Pte.	BOHON	J.J.	TS Coy.	15 Oct 44
F36865	Pte.	HENLEY	L.H.	"	29 Sep 44
C123606	Pte.	GUPPY	E.A.	S."of I.	5 Oct 44

12. AMENDMENT

(c) Para 13 (a) of D.O. No. 267 d/1 Nov 44 insofar as it ref to u/m is cancelled.
C123582 Pte. SMITH O.J. T.S. Coy.

13. COURSES

(a) Having attended 3" Mortar Course held at A-14 C.I.T.C. is qual as shown 3 Nov 44

F5176	Pte.	PULSIFER	R.G.	"E" Coy	QI
F58483	Pte.	CONROD	H.C.	"	QI
B126607	Pte.	CRICK	K.B.	"	QI
A61529	Pte.	CROWN	R.F.	"	QI
F37172	Pte.	DUFFY	E.E.	"	QII
F37190	Pte.	GRANT	L.D.	"	QI
F52568	Pte.	LONG	T.V.		QII
B126827	Pte.	MUNN	T.G.	"	QI
A102247	Pte.	SMITH	D.E.C.	"	QI
C124236	Pte.	SNIDER	G.P.	"	QII
G28741	Pte.	STRATTON	K.P.	"	QII
H42338	Pte.	WALLER	L.H.R.	"	QII

(b) Having attended 6 Pdr A/T Gun Number Course held at A-14 CITC are qual as shown 16 Oct 44

F36121	Pte.(L/Cpl)	TURNBULL	W.T.	"E" Coy.	QI
B17458	Pte.	BEARDEN	J.A.	"	QI
B98136	Pte.	BOUDREAU	P.J.	"	QI
C124539	Pte.	HEMLOCK	P.E.	"	QII
C124183	Pte.	JACKSON	W.C.	"	QII

D.O. No. 270 d/[illegible]

13. COURSES (Cont'd)

(b)

F58420	Pte.	KENDRICK	A.F.	"E" Coy	QII
F58494	Pte.	KNOTT	W.W.	"	QII
F95399	Pte.	LEWIS	W.H.	"	QI
F37218	Pte.	LUCAS	L.E.	"	QII
C124344	Pte.	McQUIN	D.A.	"	QI
F58473	Pte.	MILLER	R.L.	"	QII
C124433	Pte.	MINEAULT	C.W.	"	QII
C124414	Pte.	SCHRIE	G.F.	"	QI
C9942	Pte.	WADDELL	J.R.	"	QII

14. HONORS & AWARDS

(a) Awarded the Canadian Volunteer Service Medal Ribbon 2 Oct 44

B126607 Pte. CRICK K.B. "E" Coy.

15. QUALIFICATIONS OF TRADESMEN'S

(a) Qual Shoemaker Group "C" 20 Oct 44

(Auth: A-21 CO & EME TC Pt.II #259 d/26 Oct 44)

F58302 Pte. O'NEIL E.H. TS Coy.

16. ABSENT WITHOUT LEAVE

(a) Absent without leave from 022359 P Nov 44

F78778 Pte; CROMWELL W.P. T.S. Coy.
F45759 Pte. MacROBERTS B.J. "
F66809 Pte. DOUCETTE B.G. "A" Coy.

(1st Publication)

(b) Absent without leave from 262359 P Oct 44
Still absent 022359 P Nov 44 (8th day)

B126724 Pte. DEKIEL T.J. T.S. Coy.

(c) Absent without leave from 272359 P Oct 44
Still absent 022359 P Nov 44 (8th day)

C124315 Pte. McDONALD J.E. T.S. Coy.
B159566 Pte. HARDIE M.R. "

(d) Absent without leave from 122359 P Oct 44
Still absent 022359 P Nov 44 (22nd day)

B156171 Pte. MELLE W.C. T.S. Coy.

(e) Absent without leave from 262359 P Oct 44
apprehd at 020915 P Nov 44

F36893 Pte. GRFELEY L.G. T.S. Coy.

17. STRENGTH DECREASE

(a) S.O.S. to No. 6 Dist. Depot 4 Nov 44
(R.O. 4306 Para 5A)(A14/5-8)

B42003 Pte. WELDON C.C. T.S. Coy.

(b) S.O.S. des having been decld. illegally absent from 030600 P Oct 44 by a ct. of Inq held 25 Oct 44
Deficiencies of Kit to the value of $61.82 25 Oct 44.
(Forf 23 days pay under FR&I 149 (1) (a)

F10009 Pte. RICHARDSON R.W. "A" Coy.

(c) S.O.S. des having been decld. illegally absent from 082359 P Oct 44 by a Ct. of Inq held 1 Nov 44
Deficiencies of Kit to the value of $29.20 1 Nov 44.
(Forf 25 days pay under FR&I 149 (1) (a)

F57667 Pte. DOUCET P.N. "A" Coy.

18. MARRIAGES, BIRTHS & DEATHS

(a) Born, a daughter, Marylyn Linda, at Halifax, N.S. Canada. 12 Oct'44.
F58446 Pte. HAWES F.A. T.S. Coy.

(b) Having been granted permission by his Commanding Officer on 23 Sep 44 was married to Miss Theresa White, Yarmouth, N.S. 23 Sep 44.
F7237 Pte. MUISE P.L. "A" Coy.

19. CHANGE OF NEXT OF KIN

(a) Change of next-of-kin from:
Mrs. Louise Muise (Mother)
Wyman Road, Sand Beach,
Yarmouth Co., N.S.
To: Mrs. Theresa Muise (Wife)
Wyman Road, Sand Beach,
Yarmouth Co., N.S. 23 Sep 44
F7237 Pte. MUISE P.L. "A" Coy.

C.W.A.C.

20. HOSPITAL

(a) Admitted Ald. Mil. Hosp. (Sick) as shown.
W60625 Pte. INGRAM Q.E. (#17 Adm. Unit) Adm. Wing 2 Nov 44
W6724 Pte. (A/Cpl) MacKINNON F.M. (#17 Adm. Unit) Adm. Wing 31 Oct 44

(b) Removed from Ald. Mil. Hosp to Halifax Mil. Hospital 1 Nov 44
W6724 Pte. (A/Cpl) MacKINNON F.M. (#17 Adm. Unit) Adm. Wing 1 Nov 44

(Graham Macleod) Capt. & Adjt.
A14 C.I.T.C.
Aldershot, N.S.

D.O. No. 270 d/4 Nov 44 A14 C.I.T.C. Sheet No. 5

Para 7(a)

DAILY ORDERS PART II
by

Colonel H.C. MacKENDRICK, O.B.E., E.D.

Commanding

Order No. 56
6 Mar 45
ALDERSHOT, N.S.

A-14 CANADIAN INFANTRY TRAINING CENTRE

(Last Order issued No. 55 d/5 Mar 45)

SECTION I
(H.N.E.)

"A"
OFFICERS

NIL

"B"
OTHER RANKS

CERTIFIED TRUE COPY
(G. MACLEOD) CAPT., ADJT
A-14 C.I.T.C. 8 MAR 45

1. APPOINTMENTS PROMOTIONS & REVERSIONS
(a) Promoted Cpl. (Confirmed) dates as shown
G60618 Pte.(A/Cpl) MacDONALD S.F. Adn.Wing 1 Mar 45
F33087 Pte.(A/Cpl) HISCOCK J.G. "E" Coy 3 Mar 45

2. LEAVES & FURLOUGH
(a) Granted 4 days Short Leave and to draw ration allce (Art 196 (4) F.R. & I.) as shown
F42802 CSM (WO II) DORIE H.T. S. of I. 5 Mar 45 to 8 Mar 45
F5114 Cpl.(L/Sgt) BOWLBY R.C. Adn. Wing 9 Mar 45 to 12 Mar 45
F57779 Pte. EVERILL A.F. Adn. Wing 9 Mar 45 to 12 Mar 45
F82404 Pte. RICHARD R.J. Adn. Wing 9 Mar 45 to 12 Mar 45
K15513 Pte. SMITH E.M. Adn. Wing 9 Mar 45 to 12 Mar 45
F78788 Sgt. WILLIAMS J.M. Adn. Wing 9 Mar 45 to 12 Mar 45
G18231 Sgt. APPLEBY C.R. Adn. Wing 6 Mar 45 to 9 Mar 45

3. HOSPITAL
(a) Discharged Debert Military Hosp 2 Mar 45
F95552 Cpl. BOUDREAU D.J. TC HQ

4. MARRIAGE BIRTHS & DEATHS
(a) Granted permission to marry Miss Agnes Dolarita Donovan on or after 25 Apr 45
F56438 Pte.(A/Cpl) GRANT D.A. "F" Coy.

D.O. No. 56 d/6 Mar 45 A14 C.I.T.C. Sheet No. 1

C.W.A.C.

5. ATTACHMENT
(a) Cease att FAP except pay to No. 1 CWAC(A) TC 17 Feb 45
Att No. 17 Adm Unit, CWAC for adm & disc. 18 Feb 45
(Auth: 17 Adm Unit, CWAC Pt.II #44 d/26 Feb 45)
W6742 Pte.(A/Cpl) MacKINNON E.M.

SECTION II
(Holding Establishment)
"C"
OFFICERS

6. ATTACHMENT
(a) Cease att F.A.P. to No. 60 CIBTC 3 Mar 45
(Auth: No. 60 CIBTC Pt.II #47 d/3 Mar 45)
2/Lieut. C.L. CHAPMAN TS Coy.

"D"
OTHER RANKS

7. STRENGTH INCREASE
(a) Having been S.O.S. A14 C.I.T.C. by Ct. of Inq. d/6 Nov 44 (A.W.L. from 2359 hrs 12 Oct 44) T.O.S. ("A" Coy) (At Regimental rates of pay) on apprch. at Toronto, Ont. at 1700 hrs 24 Feb 45
B150171 Pte. MELIE W.C. "A" Coy.

(b) Having been S.O.S. A14 C.I.T.C. by Ct. of Inq. d/13 Feb 45 (A.W.L. from 2359 hrs 17 Jan 45) T.O.S. ("A" Coy) (At Regimental rates of pay) on apprch at St Croix Hants Co., N.S. at 1500 hrs 4 Mar 45.
F58460 Pte. BARKER E.R. "A" Coy.

(c) Having been S.O.S. A14 C.I.T.C.by Ct. of Inq. d/24 Feb 45 (A.W.L. from 2115 hrs 1 Feb 45) T.O.S. ("A" Coy) (At Regimental rates of pay) on apprch. at Springhill, N.S. at 1130 hrs 28 Feb 45.
F52614 Pte. SCHLOSSER G.H. "A" Coy.

(d) T.O.S. ("B" Coy) from No. 60 CIBTC 2 Mar 45
(Auth: No. 60 CIBTC Pt.II #46 d/1 Mar 45)
F52416 Pte.(A/Cpl) NELSON Charles Edward (S) Luth;

(e) T.O.S. ("A" Coy) from No. 5 C.C. 3 Mar 45
(Auth: No. 5 C.C. Pt.II #41 d/2 Mar 45)
K2269 Pte. STROBEL Earl Wallace (S) Pres.

8. ATTACHMENT
(a) Cease att F.A.P. to No. 1 C.C.,Gordon Head, B.C. 28 Feb 45
K21150 Pte. CAMPBELL E. "A" Coy.

(b) Att (Adm. Wing S. of C.) fap except pay from 1st Hlfx Coast Regt. RCA 3 Mar 45
M106162 Pte. DANKO W.
F16597 Pte. MANNETT H.G.

D.O. No. 56 d/6 Mar 45 A14 C.I.T. . Sheet No. 2

8. ATTACHMENT

(c) Cease att F.A.P. except pay to S-5 CD&MS 6 Mar 45
B164208 Pte. CROMWELL O.E. T.S. Coy.
B164111 Pte. DENMAN H.W. "
B164308 Pte. HAYDON D.A. "
B164213 Pte. JOHNSON F.H. "
C124356 Pte. JAMIESON J.F. "

(d) Cease att F.A.P. except pay to S-8 CATS 3 Feb 45
F76234 Pte. WEIR A.L. T.S. Coy.

(e) Att F.A.P. except pay to S-5 CD&MS 4 Feb 45
F76234 Pte. WEIR A.L. T.S. Coy.

(f) Cease att F.A.P. exdept pay to S-5 CD&MS 27 Feb 45
F76234 Pte. WEIR A.L. T.S. Coy.

9. ABSENT WITHOUT LEAVE

(a) A.W.L. from 0700 hrs 4 Mar 45 (1st Publication)
F7476 Pte. WATKINS D.K. "A" Coy.

(b) A.W.L. from 1800 hrs 28 Feb 45 Still A.W.L.
1800 hrs 4 Mar 45 (8th day)
F36253 Pte. NEWELL J.A. "D" Coy.

(c) A.W.L. from 0600 hrs 26 Feb 45 Still A.W.L.
0600 hrs 5 Mar 45 (8th day)
F64854 Pte. MUNROE C.J. "A" Coy.
F36740 Pte. JOSEY V.V. "D" Coy.

(d) A.W.L. from 2359 hrs 24 Feb 45 Ret from
A.W.L. 1415 hrs 5 Mar 45
E10070 Pte. OLIVIER G.H. T.S. Coy.

(e) A.W.L. from 0600 hrs 2 Mar 45 Ret from A.W.L.
1415 hrs 5 Mar 45
L91557 Pte. HEIMARK H. T.S. Coy.

(f) A.W.L. from 0600 hrs 2 Mar 45 Ret from A.W.L.
1545 hrs 5 Mar 45
F58891 Pte. POWER G.P. T.S. Coy.

AMENDMENT

(g) Para 14 (d) of D.O. No. 53 d/2 Mar 45 insofar
as it ref to u/n is hereby cancelled.
C124810 Pte. DAOUST C.J.T. T.S. Coy.
(Sick at home)

(h) Para 23 (e) of D.O. No. 281 d/17 Nov 44 insofar
as it ref to u/n is am'd to read:
"Ret from A.W.L. 2115 hrs 15 Nov 44"
F57899 Pte. McMULLIN E.A. "A" Coy.

(i) Para 16 (b) of D.O. No. 269 d/3 Nov 44 insofar
as it ref to u/n is am'd to read:
"Ret from A.W.L. 1100 hrs 2 Nov 44"
F55445 Pte. GILDAY J.G. "D" Coy.

D.O. No. 56 d/6 Mar 45 A14 C.I.T.C. Sheet No.3

10. HOSPITAL

(a) Admitted Aldershot Mil. Hosp (Sick) as shown

F40939	Pte.	FITZGERALD	A.S.	TS Coy 3 Mar 45
D145499	Pte.	MATHIEU	J.	" 3 Mar 45
F32479	Pte.	MATTHYS	V.R.	" 4 Mar 45
D147541	Pte.	MEECH	C.M.S.	"E" Coy 4 Mar 45

(b) Discharged Aldershot Mil. Hosp 5 Mar 45

B115809	Pte.(L/Cpl)	SMYTHE	H.A.	TS Coy.
C49631	Pte.	SMITH	J.	"B" Coy.
D147574	Pte.	STRANGER	A.	"A" Coy.

(c) Removed from Aldershot Mil. Hosp to Debert Mil. Hosp (Sick) 5 Mar 45

F93515	Pte.	WILMOT	H.J.	"A" Coy.

(d) Admitted Halifax Mil. Hosp (Sick) 23 Feb 45

G57249	Cpl.	HANSON	E.W.	"A" Coy.

(e) Discharged Debert Mil. Hosp 5 Mar 45

F36893	Pte.	GREELEY	L.G.	"A" Coy.

(f) Admitted Debert Mil. Hosp (Sick) 24 Feb 45

H105213	Pte.	COLOMY	WR.	"C" Coy.

(g) Discharged Debert Mil. Hosp. 28 Feb 45

A61446	Pte.	MILLS	J.W.	"A" Coy.

(h) Discharged Halifax Mil. Hosp 3 Mar 45

E0276	Pte.	BARON	R.	"A" Coy.

(i) Admitted Halifax Military Hosp. (Sick) 7 Feb 45

E0276	Pte.	BARON	R.	"A" Coy.

(j) Discharged Debert Mil. Hosp. 2 Mar 45

F57444	Pte.	MacDOUGALL	R.	"A" Coy.

(k) Ceases to be Sick in quarters at Home 28 Feb 45

F35830	Pte.	HAYMAN	A.N.	TS Coy.

(l) Sick in quarters at home 1 Mar 45

B157794	Pte.	WILSON	M.W.	"A" Coy.

11. LEAVES & FURLOUGH

(a) Granted 10 days Compassionate Leave and to draw ration allce (Art 196 (4) FR&I) 6 Mar 45 to 15 Mar 45

G23932	Pte.	[illegible]US	E.W.	T.S. Coy.

(R.O. 4688-4)

(b) Granted 8 days Embarkation Leave and to draw ration allce (Art 196 (4) FR&I) 6 Mar 45 to 13 Mar 45

F33472	Pte.	LAWLEY	A.M.	T.S. Coy.

(c) Granted 29 days Sick Leave and to draw to Subsistence allce (Art 196 (4) FR&I) 2 Feb 45/2 Mar 45

B130613	Cpl.	[illegible]	Y.A.	"A" Coy.

(Auth: [illegible])

(d) Granted 10 days Compassionate Leave and to draw ration allce (Art 196 (4) FR&I) 6 Mar 45 to 15 Mar 45

B112063	Pte.	HERMISTON	N.L.	T.S. Coy.

(R.O. 4688-4)

D.O. No. 56 d/6 Mar 45 A14 C.I.T.C. Sheet No. 4

11. LEAVES & FURLOUGH

(e) Ceases to be on Compassionate Farm Leave without pay 1 Mar 45
T.O.S. for pay 2 Mar 45
B157794 Pte. WILSON M.W. "A" Coy.

(f) Granted 4 days Short Leave and to draw ration allce (Art 196 (4) FR&I) 1 Mar 45 to 4 Mar 45
A103269 Cpl. SCHAFER S.C. (C.P.C.)

12. NEXT OF KIN

(a) Change of address of next of kin from:
Mrs Blanche Agnes Henderson (Wife)
11 Shirley St., Toronto, Ont.
To: R.R. No. 2 Priceville, Ont. 5 Mar 45
B163845 Pte. HENDERSON G.A. S. of I.

(b) Change of address of next of kin from:
Mrs Mary S. MacNeil (Wife)
39 Railroad [illegible], Sydney, N.S.
To: [illegible] Sydney, N.S. 5 Mar 45
F58938 Pte. MacNEIL M.J. "A" Coy.

(c) Change of name of next of kin from:
Mrs Annie Hobel (Wife)
To: Mrs Hedy Hobel (Wife)
B154790 Pte. HOBEL H.J. "C" Coy.

AMENDMENT

(d) Para 18 (a) of D.O. No. 258 d/21 Oct 44 insofar as it ref to u/m is am'd to read: "Mrs Orma Lillian Scissons (Wife)"
O124150 Pte. SCISSONS R.H.

13. PUNISHMENT

(a) Awarded 28 days Detn. and pay cost of apprh. for an offence under Sec 15 (1) A.A. A.W.L. from 2359 hrs 12 Dec 44 to 0140 hrs 20 Feb 45 (Absent 69 days 1 hr 41 mins)(In close arrest from 0140 hrs 20 Feb 45 to 1400 hrs 5 Mar 45 113 days 12 hrs 20 mins) Forf 28 days pay under F.R.& I. 149 (1)(b) Forf 13 days pay under FR&I 149 (1)(c) Cost of appreh Railway Fare $40.46 under FR&I 172 (8) Total forf 41 days pay and $40.46 5 Mar 45
(S.O.S. A14 C.I.T.C. [illegible] 12 d/13 Jan 45)
(T.O.S. A14 [illegible] d/26 Feb 45)
B55655 Pte. [illegible] "A" Coy.

(b) Awarded 28 days detn. for an offence under Sec 15 (1) A.A. A.W.L. from 0600 hrs 6 Feb 45 to 1135 hrs 2 Mar 45 (Absent 24 days 5 hrs 35 mins) (In close arrest from 1135 hrs 2 Mar 45 to 1400 hrs 5 Mar 45) (3 days 2 hrs 25 mins) Forf 28 days pay under FR&I 149 (1)(b) Forf 25 days pay under FR&I 149 (1)(c) Forf 3 days pay under [illegible] Total forf 56 days pay 5 Mar 45
D132277 Pte. COOK A. "A" Coy.

D.O. No. 56 d/6 Mar 45 A14 C.I.T.C. Sheet No. 5

13. PUNISHMENT
(a) Awarded 28 days detn. and pay cost of apprehn. for an offence under Sec 15 (1) A.A. A.W.L. from 2359 hrs 16 Dec 44 to 1710 hrs 11 Feb 45 (Absent 56 days 17 hrs 11 mins)(In close arrest from 1710 hrs 11 Feb 45 to 1400 hrs 5 Mar 45 (21 days 20 hrs 50 mins);Forf 28 days pay under FR&I 149 (1)(b) Forf 22 days pay under FR&I 149 (1)(c) Cost of apprehn Railway Fare $32.90 under FR&I 172 (8) Total forf 50 days pay and $32.90 5 Mar 45
B156206 Pte. BLASCHUK M. "A" Coy.
(S.O.S. A14 C.I.T.C. Pt.II #14/16 Jan 45
(T.O.S. A14 C.I.T.C. Pt.II # 45/ 21 Feb 45)

14. STRENGTH DECREASE
(a) S.O.S. to No. 1 C.C. Gordon Head, BC 26 Feb 45
(No. 1 C.C. Tel CCT 757)
K21150 Pte. CAMPBELL E.

C.W.A.C.

15. ATTACHMENT
(a) Att for Pay, Rations & Quarters from No. 17 Adm Unit C.W.A.C. 21 Feb 45
W6426 Pte. COOK R.M.
(Auth: No. 17 Adm. Unit CWAC Pt.II #40 d/21 Feb 45)

(b) Cease att for Pay, Rations & Quarter from No. 26 Coy C.D.C. T. . .C. 5 Mar 45
W60508 Cpl. SHAW D.I.
(R.O. 4306)(On proceeding to 106 Depot Coy CWAC)

N.R.M.A.

16. ATTACHMENT

(a) Att R. & Q. from No. 6 Dist Coy., RCASC 3 Mar 45
D637938 Pte. GIRAUD G.

17. HOSPITAL
(a) Admitted Debert Mil. Hosp (Sick) 24 Feb 45
H617210 Pte. CATELLIER R.C. "C" Coy.

(Graham Macleod) Capt. & Adjt.
A-14 C.I.T.C.
ALDERSHOT, N.S.

D.O. No. 56 d/6 Mar 45 A14 C.I.T.C. Sheet No. 6

MEDICAL OFFICER'S REPORT

I certify that No. B-756171 Pte, Melle W.C.

of A 14 C.I.T.C. is in a good state of health,

and fit to undergo Trial by Court martial.

E. G. Thymbert
Medical Officer
(R.C.A.M.C.)

Station Aldershot N.S.

Date 15th March 1945

M. F. B. 246

25M—2-43 (46525)
H.Q. 1772-39-499

H.Q.C.55-M-1612 (JAG/D-9)
Your File - H.M. 3985

March 23rd, 1945.

District Officer Commanding,
Military District No.6,
Halifax, N,S.

STANDING COURT-MARTIAL

B.156171 Pte. W.C. MELLE,
A-14 C.I.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LYV/ET

3

THIS COPY FOR H.Q.C.55-M-1612
M.D.H.M.3986

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B.156171 Name MELLE. William Clement

Rank Pte Unit A. 14 C.I.T.C. CA

Charge A.A. 15 (1) - A.W.L.

Date of Crime 12-10-44

Date of Arrest 24-2-45 Charge Signed 8-3-45

Orders for D.C.M.

Place and Date of Trial Aldershot N.S. 15-3-45

Sentence Det 60 days; stoppages $24.25

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36303

Date 22-3-45

MEMO

Balance of sentence
remitted by Conf. Auth.

M.D. 6 - A 14 CITC CA

Absent Sentence

4½ mos Det. 60 days

for Judge Advocate General

10M-1-45 (M-4629)

In reply please quote. H.M-3986 (JAG).

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

CONFIDENTIAL

Headquarters M. D. No. 6,
Halifax, N.S., 17th March, 1945.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C. 33-M-1612

STANDING COURT-MARTIAL:
B.156171 Pte. W.C.MELLE,
A-14 C.I.T.C.,C.A.

1. Proceedings of the m/n Court are forwarded herewith for the consideration of the Judge Advocate General, in accordance with R. C. 4566.

R. F. Barnes

(R.F.BARNES) Major
President Standing Courts-Martial
M. D. No. 6.

RFB/JRR:
Encl.

36303

H.Q.C.55-M-1613

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

MYKYTUIK. STEPHEN B.600527 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1613

CENTRAL REGISTRY	DATE	P.A. OR S.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
MAR 28 1945	23			J.A.G.	NEW FILE C.O.		23 1945
				J.A.G.	APR 5 1945		
APR 7 1945				DCM	To note, etc.	MM	7-4-45
APR 9 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to R.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1613 (JAG/D-9)

7 Apr 45.

District Officer Commanding,
Military District No.2,
Toronto, Ont.

Standing Court-Martial
B-600527 Pte. Stephen MYKYTUIK
(PWR) No. 2 District Depot, C.A.

Receipt is acknowledged of your T-20-M-21046 (AJAG) dated 5th April 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.L.M.
Capt.

for (R.J.Orde) Brigadier,
Judge Advocate-General.

LIV/ET

Notes
Sec Leg

L. H. CLAYTON
Lieut.-Colonel
Deputy Judge Advocate
APR 9 1945

IN REPLY PLEASE QUOTE No. T-20-M-21046 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

304719

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
5th April, 1945.

CIRCULATION STAFF Army
COURT SEC.
Apr 6 1945
File C.S.S.M. - 1613
Chgd to
Referred to J.A.G.

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-600527 - Pte. Stephen MYKYTUIK,
(PWR) No. 2 District Depot, C.A.

Reference H.Q.C.55-M-1613 (JAG/D-9) dated 27th March, 1945.

2. Returned herewith proceedings of the marginally-noted Standing Court-Martial, pursuant to C.A.R.O. 4567(7)(C)(e).

3. Pursuant to H.Q.55-1-41 F.D.74 (Adm) dated 16th January, 1945, it is considered that no administrative action is necessary.

(A. E. Potts)
Major-General
D.O.C. M.D. 2.

NAT. DEF. B. 440
2500M-4-44 (4320)
H.Q. 1772-38-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont.,

on the 6th day of March, 1945, at 1000 hours,

for the trial of: B.600527, Pte. Stephen MYKYTUIK,
Number Rank Full Name

(PWR) No. 2 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major W. P. McClemont, E.D., (A&SH) H.Q., M.D.2.

PROSECUTOR: Major N. M. Menzies, E.D., H.Q., M.D. 2.
Rank Full Name Unit Attachment, if any

(DEFENDING OFFICER:) Lieut. J. T. Barry, (CAC) No. 2 D.D., C.A.
Rank Full Name Unit Attachment, if any

FINDING:

Guilty.

SENTENCE:

To undergo detention for 75 days, and to be put under stoppages of pay until he has made good the sum of $4.15 in respect of the cost of apprehension and return to his corps.

Signed at Toronto, Ontario, this 6th day of March, 1945.

W. P. McClemont (Major)
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (46209)
H.Q. 1773-39-2296

36352 entered as No. in the Register of Courts-Martial kept in the office of the Judge Advocate General this 24 day of March 1945

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to a interpreter ?~~

Answer:

Question to the accused. Do you object to M.36367, SM CMSC, CA, HQ, R. Gostick, No. 2 Det., MD 2, acting as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or by the Court-Martial ?~~

Answer: No, sir.

The accused is arraigned upon ~~the~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B-2 5

W. H. McClement
Pres. S.C.M. Major

CHARGE SHEET

The accused, No. B-600527, Private Stephen MYKYTUIK, (PWR), No. 2 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:-

CHARGE
Sec. 15 (1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE:

- in that he -

at Exhibition Barracks, Toronto, Ontario, on the 15th day of February, 1945, absented himself without leave from No. 2 District Depot, C.A., at 0800 hours on said 15th day of February, 1945, until he was apprehended by the Military Police, at St. Catharines, Ontario, at 1400 hours, on the 28th day of February, 1945, dressed in military uniform, cost of apprehension and return to his unit, being Four Dollars and Fifteen Cents, ($4.15).

A. S. Hollinrake Colonel
Officer Commanding,
No. 2 District Depot, C. A.

Toronto, Ontario,
2nd March, 1945.

W.H.M.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge.

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

PROSECUTOR: The evidence in this case, the first was verbal, that of B.3007, Sgt. W. B. Hughes, Appraisal Wing, No. 2 D.D., evidence to the effect that the accused absented himself from No. 2 D.D., at 0800 hours the 15th of February, and was continuously absent until the 28th of February, when he was apprehended. (Pros. also produces MFM 216 and MFB 1481.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir; not now.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer (See following pages).

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE DEFENDING OFFICER: Sir, with reference to this particular charge and the accused, I would like to request mitigation of punishment on the following grounds:

In the first place, having just read the summary of character and the MFM 6, you will undoubtedly notice that there are some previous charges of A.W.L., some of them for one, two, three, four, five days, and so on. I suggest that there is a logical reason for those. In looking through the accused's documents and in talking to him, I formed an opinion which is borne out by the documents, and which I would like to leave with the Court. And to do so I would like to show you his previous training and his home background and his family upbringing.

His home is at Thorold, Ontario. His mother and his father are Ukranians, as is he himself. They have been in this country 28 years. And the father, particularly, is not able to be the bread winner for the family. He has not worked for a year and a half. The balance of the family is broken up, as all families get to be after a short time. There are two brothers, one in the Service here in Canada, and one overseas. The one overseas is married and supporting his family. The one in Canada helps to provide for the upkeep of the home. There are two sisters, one in high school and one working in Thorold.

The accused himself also provides, or had provided, I should say, for the upkeep of the home; and despite the fact that both brothers were making an allowance to the mother and father, they were unable to keep both ends going. On a previous occasion the accused had endeavoured to secure governmental aid for this family situation, and was unsuccessful.

I suggest that that, in part, is the reason for his homing instinct.

Now, as regards the man himself. His record, aside and apart from his A.W.L.s, is extremely good; and I would like to show you by virtue of his '105, just exactly how good it is. To do this I need no more than introduce into the Court Record the remarks, general remarks, on the completion of his training, which read as follows: "His military efficiency - good; his conduct - good; his leadership - could be very good. Other remarks: Works hard; intelligent; could make a good junior N.C.O. if he wished." Signed by Lieut. Currier, No. 2 C.B.R. Basic Training Centre, Vernon, B.C. In the face of this evidence, sir, I request mitigation of punishment.

THE PRESIDENT: Could you give me his PULHEMS Profile?

THE DEFENDING OFFICER: Yes, sir. "1" across the board. Born in the year '19.

THE PRESIDENT: The accused is not married; is he?

THE DEFENDING OFFICER: No, sir.

15

V

W. H. Clement
Pres. S.C.M. Major

M.F.B. 355
(355—11-41 (3273))
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-600527,	Private	Stephen MYKYTUIK, (PWR),	No. 2 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental or Squadron, Battery~~ Conduct sheets ~~Pay Sheets and Records~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.W.L.	2 times	A.W.L. 5 times
For	times	times
For	times	times
For	times	times

~~Details of any of distinguished conduct~~

or

~~There is no entry in the conduct sheets of the accused~~

~~Note: If no charge is for drunkenness the dates for drunkenness must be stated separately~~

2. The accused has not been previously convicted

or

~~Previous convictions of the accused by a court-martial or a civil court, or summary awards under Air Force Act Army Act or dispensing with trial under A.A. 78 are set out in the Schedule annexed to this statement~~

3. The accused is not under sentence at the present time.

or

~~The accused at the present time is under sentence for beginning on the~~

4. The accused has been in confinement awaiting trial on the present charge, for nil days in civil custody, and 2-6 days in military custody, making a total of 2-6 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation~~ enrolment paper is 25 years, 4 months.

6. The date of his ~~enlistment~~ ~~attestation~~ enrolment specified in his ~~record of service~~ ~~attestation~~ enrolment paper is 20th May, 1941.

7. ~~The date at which the accused is allowed to reckon towards discharge~~

8. ~~The number of his terms of service for the purpose of determining his qualification, etc.~~

9. ~~The accused has passed an examination to qualify for the rank of non-commissioned officer in the military~~ ~~military~~ ~~Specify any air force decoration or award~~ ~~military~~

10. ~~The accused has been convicted before by a court-martial or civil court~~ ~~Authority~~

16

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th ~~2nd~~ day of March, 1945 J Byles Capt&Adjt.
No. 2 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

SUBSTITUTED FOR ORIGINAL LOST. 2 Mar. 45.

No. 20 2. T. C.

Corps

Date of enlistment: 20-8-41

G.C. Badges

Tradesmen's Rates of Pay

Character

M.F.M. 6 (A.F.B. (22) 7936)—12-42 (7537) H.Q. 1772-28-1532

No. B-300327 Name MYKITUIK, S.

Sqn., Battery, or Company

Sheet No. 1

Signature O.C. Company, etc.

G.M. Alexander Lt. Col.

No. and date of last drunk

Period not reckoning towards freedom from extra line

No. 2 District Depot, C.A.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
				AWL 4 dys. 5 hrs. A.A. Sec. 15(1)		Ffts 10 dys pay	D.O.358	4-24-12-41.	Ffts 5 dys pay
Prince Ruper, BC		Pte		AWL 10 dys. 18 hrs. 30 min. A.A. Sec. 15(1)		14 dys F. P.	D.O. 318	4-14-11-42.	Ffts 11 dys pay
Long Beach, BC		"		AWL 2 dys. 22 hrs. A.A. Sec. 15(1)		3 days C.B.	D.O. 285	4-13-8-43.	Ffts 3 dys pay
Terrace, BC.		"		AWL from 00001 hrs 21 Jun44 to 2000 hrs hrs 23 Jun 44. A.A. Sec. 15(1)		Ffts 15 dys pay	D.O. 96	4-13-7-44.	Ffts 3 dys pay
Field		"		AWL from 1800 hrs 26 Dec 44 to 2330 hrs Documentary 28 Jan 45. A.A. Sec. 15(1)		24 hrs Det'n. Ffts 27 dys pay Cost app. $1.38	9 Feb 45	Lt. Col. H.M. Campbell	Ffts 34 dys pay " 18 dys pay
Toronto, Ont.	28-12-44	"							

CERTIFIED TRUE COPY.

Maylas Capt. Adjt.

No. 2 District Depot, C.A.

(P.T.O.)

W.W. McLennan Capt
Pay S.C.A.

MEDICAL OFFICER'S REPORT

I certify that No. B.600527 Pte. Stephen MYKYTUIK of No.2 District Depot is in a good state of health, and is fit to undergo Trial by Court martial.

R. Stubbings, Capt.
Medical Officer RCAMC
attached to No.2 District Depot, CA.

Station Exhibition Barracks
Toronto, Ontario.

Date 6th March 1945

M. F. B. 246
(SM—10-42 (6500)
H.Q. 1775-59-480)

W. P. McClement
Pro. S.O.M. Major

Exhibit "A"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, B-35521, Cpl. Little, F.G., No.1 Det., 31Coy., C'Pro'C'CA, Camp-Niagara
(Number) (Rank) (Name) (Unit)

hereby certify that B-600527 Pte. MYKYTUIK Stephen
(Number) (Rank) (Name in full)

of the Prince of Wales Rangers, Vernon B.C.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrendered to~~) B-27671 L/Cpl. Thompson, A.W.& G-59565
(Number) (Rank)

Pte. McCluskey, W.G., No.1 Det., 31Coy., C'Pro'C'CA, Camp Niagara, Ont.
(Name) (Unit or appointment)

at 159 Welland St., St.Catharines Ont. at 1400 Hrs.
(Place) (Hour)

on the 28th. day of February 1945 19

Strike out words not applicable } as a ~~deserter~~ (or absentee without leave), and that at the time of his arrest he was wearing military ~~clothing~~ uniform (~~dated at Camp Borden~~)

Dated at Camp Niagara, Ont. this 28th. day of Februery 19 45

F.G. Little Cpl.

B-35521 Cpl. Little, F.G., 31Coy., C'Pro'C'CA
(Signature, Number, Rank, Unit or appointment)

M.C.O. i/c No.1 Detachment, Camp Niagara, Ont.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 116
150M—2-44 (3732)
H.Q. 1772-59-1936

Exhibit "B"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Captain, F.H. Britton, RCASC, Issuing Officer for DS&TO, M.D. #2
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transportation for escort

Complete — to proceed from Toronto, Ontario. (Place) to St.Catharines, Ontario. (Place)

and return to Toronto, Ontario. (Place) for the purpose of escorting

Full description of soldier being escorted — B.600527 (Number) Pte. (Rank) Mykytuik, S. (Name in full)

Prince of Wales Rangers. (Unit) No. 2 District Depot, C.A. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~[illegible]~~ and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
TRANSPORTATION	
ESCORTS: B.31095 Sgt. Boyd, A.G.C., #2 D.D. B.11645 Gnr. Abbott, M.D., "	
Two return second class fares, Toronto to St.Catharines.----- 2.38 $4.76	
TAX:15%---- .80	
* Cost Chargeable---- $5.56	2.76
ACCUSED	
One single second class fare, St.Catharines to Toronto.-----	1.19
TAX:15%	.20
MEALS: (nil)	
Covered by M.D.#2 Transport Warrant No. C.922177 dated 1st March, 1945.	
TOTAL $4.15	$ $4.15

Dated at Toronto, Ontario. this 1st day of March A.D. 1945.

F.H. Britton
CAPTAIN, RCASC,
Issuing Officer for DS&TO, M.D.#2

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~[illegible]~~)

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482

M.F.B. 1481
(Size—10-42 (640))
H.Q. 1370-20-185)

H.Q.C.55-M-1613 (JAG/D-9)
Your File - T.20-M-21046

District Officer Commanding,
Military District No.2,
Toronto, Ont.

March 27th, 1945.

STANDING COURT-MARTIAL

B-600527, Pte. Stephen MYKYTUIK
(PWR) No. 2 District Depot., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

LYV/RT

(H.J.Orde) Brigadier,
Judge Advocate General.

IN REPLY PLEASE QUOTE No. In reply please quote No.
T-20-M-21046 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
20th March 1945

CONFIDENTIAL

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C. 35-11-1613

STANDING COURT-MARTIAL
B-600527, Pte. Stephen MYKYTUIK,
(PWR) No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

W.P. McClemont

(W.P. McClemont) Major
Permanent President
Standing Courts-Martial

36352

NAT. DEF. B. 440
2500M-4-44-4320
H.Q. 1772-39-761

THIS COPY FOR: H.Q. C.55-M-1613
M.D. T.20-M-21046

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. [redacted] B.600527 Name MYKYTUIK, Stephen

Rank Pte Unit (PWR) No. 2 D.D. C.A.

Charge A.A. 15 (1) - A.W.L.

Date of Crime 15-2-45

Date of Arrest 28-2-45 Charge Signed 2-3-45

Orders for D.C.M.

Place and Date of Trial Stanley Brks Toronto Ont 6-3-45

Sentence Det 75 days; stoppages $4.15

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36352

Date 24-3-45

MEMO

M.D. 2 - No. 2 D.D.

Absent Sentence

13 days. Det 75 days

for Judge Advocate-General

10M-1-45 (M-4629)

H.Q.C. 55-M-1614

CONFIDENTIAL

CROSS REFERENCE

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

SUBJECT STANDING COURT-MARTIAL

MARKUS. NORMAN STANLEY H.615089 PTE.

CONFIDENTIAL
H.Q.C55-M-1614

CENTRAL REGISTRY	DATE	P.J. ON B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					If space for which referred cannot be expressed on one line, add minute to file and mark here "See Minute"		
MAR 23 1945	[redacted]			J.A.G.	NEW FILE C.R. MAR 26 1945		
					With Papers C.R. APR 13 1945		
				J.A.G.		OK.	
				D.C.M.	To note & pass to E.L.M.		17/4/45
APR 18 1945							APR 19 1945
APR 19 1945					Passed to Exec. Dir.		
MAY 1 1945	[redacted]		[redacted]	J.A.G.	With Papers C.R. MAR 19 1946	OK	
MAR 22 1946					With Papers C.R. MAR 29 1946	OK	
APR 1 1946	30/3/46			J.A.G.	WITH PAPERS CR SEP 30 1946	OK	
				Adm			
OCT 4 1946	7/10/46		BM	JAG	to note		9/10/46
OCT 8 1946							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

W.1-3-1 (J)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

Winnipeg, Manitoba,
26th September, 1946.

CONF. SEC.
10844
SEP 30 1946
File CRS-M-1614
Sngd. to
Referred to admin

The Secretary,
Department of National Defence (Army),
OTTAWA, Ont.

REMISSION OF SENTENCE
SUS No. 10 District Depot, C.A.

Herewith, for custody, is Form of Remission of Sentence, together with M.F.M. 288, relative to the under-noted OR, duly completed in accordance with C.A.R.O. 3974:

H.1458	Pte.	AHOLA, H.	H.540252	Pte.	ANNALA, N.O.
H.530925	Fus.	ANTONOWSKY, N.	H.600251	Pte.	ARTINOVICH, M.
H.26217	Pte.	BELANGER, M.	H.600455	Pte.	BESKAU, E.H.
H.63048	Pte.	BLOCK, P.	L.609312	Pte.	BLOOMQUIST, O.
H.601507	Pte.	BOILY, L.	H.602472	Pte.	BOITSON, M.
H.22942	Pte.	BOURDERLIQUE, C.	H.615226	Pte.	BOURGEOIS, A.J.F.
H.601581	Pte.	BOYECHKO, N.	H.43223	Spr.	CADOTTE, R.
H.94708	Pte.	CARLSON, J.C.	H.601829	Pte.	CHAMBERS, M.
H.616559	Pte.	CHERNESKY, E.	L.465711	Rfn.	CHERPIN, J.
H.31862	Pte.	CHOMNOBOY, M.	H.10327	Pte.	CHUBLY, H.
L.155667	Pte.	CLEAVELEY, W.H.	H.616740	Gnr.	COLTON, M.
L.2744	Gnr.	CROSSIN, E.E.	H.511011	Pte.	CURE, J.R.
H.602427	Pte.	CYMBALISTY, J.	H.617392	Pte.	DESHKO, W.
D.114715	Pte.	DICKSON, J.A.	H.615285	Pte.	EILMES, J.
H.530035	Tpr.	EWCHUK, P.	H.614448	Gnr.	FEDKIW, C.
H.601312	Pte.	FEDORA, M.	H.43081	Pte.	FISHBOOK, T.
H.616910	Pte.	FIOLA, S.	H.510981	Pte.	FOURNIER, G.
H.614395	Spr.	FRIEDOFF, F.E.	L.607351	Fus.	FRIESS, M.
H.616130	Gnr.	FRYKAS, J.	H.615102	Pte.	GAUTHIER, E.J.
H.614869	Pte.	GERARDY, J.J.	H.21084	Pte.	GOMITN, J.
H.530724	Gnr.	GOSHULAK, T.	H.105159	Pte.	HANISCHUK, H.A.
H.615395	Pte.	HAYEK, G.	H.617699	Pte.	HAYKA, J.
K.18772	Tpr.	HILLE, J.E.	H.605504	Gnr.	HNINCHUK, A.
H.617677	Gnr.	JACOBSON, G.O.	H.510380	Pte.	JANECZKO, H.A.
H.615133	Pte.	JUIS, D.	L.603066	Pte.	KARCHUT, S.
H.610108	Pte.	KAZINA, M.N.	H.601031	Pte.	KIHN, L.
H.617354	Pte.	KINAL, W.	H.601382	Gnr.	KOKORUDZ, M.
H.605170	Pte.	KORPI, M.S.	H.602030	Rfn.	KOSARCHUK, N.
H.616330	Pte.	KOWALCHUK, J.	H.602326	Fus.	KRAWCHUK, J.
H.103697	Pte.	KRAYNYK, P.	L.601141	Pte.	KRYVOBLOCKI, G.
H.530858	Rfn.	KUCHMA, P.	L.601031	Fus.	KUITUNEN, E.A.
K.605798	Pte.	KURYLOWICH, M.	L.603920	Fus.	LANG, K.
H.9730	Pte.	LAPLANTE, R.	H.617083	Pte.	LASUITA, A.
H.615831	Pte.	LASUITA, P.	L.611288	Spr.	LAWRICK, S.G.
H.43184	Rfn.	LEDUCHOWSKI, W.	H.100040	Gnr.	LEFEBVRE, J.A.
H.616973	Pte.	LEFKO, F.	M.2485	Pte.	LESAGE, A.
H.617909	Pte.	LEWKO, E.	H.601794	Pte.	LOZINSKI, M.
H.614403	Rfn.	LYCHOWIT, J.	H.1691	Pte.	MARAZ, W.
H.22476	Pte.	MARCOUX, B.J.	H.615089	Pte.	MARKUS, N.S.
H.204648	Pte.	MATENICH, S.	H.617326	Pte.	MAZUR, J.
H.616086	Fus.	MELQUIST, A.W.	H.614646	Pte.	MICHASIW, B.
L.608180	Pte.	MILLER, H.A.	H.606153	Pte.	MIOR, D.
H.605638	Pte.	MORGAN, W.E.	H.610116	Rfn.	MOROZ, E.
H.615571	Gnr.	MOROZ, P.	H.10289	Pte.	MUDREY, J.
H.601700	Pte.	MUDREY, S.	L.31	Gnr.	MURASH, J.
H.600980	Pte.	NADRICHNY, P.	H.614659	Rfn.	NAKONIECZNY, B.
L.466085	Pte.	NIETZ, E.	H.615304	Pte.	PARISIEN, R.
H.14020	Gnr.	PETRASH, D.R.	H.610110	Pte.	PLAZIO, J
H.600572	Pte.	PUSHKA, J.	L.611164	Gnr.	RATZLAFF, H.
H.606245	Pte.	RENTZ, J.R.	H.14941	Pte.	REPO, P.E.
L.466394	Pte.	ROKOSH, N.S.	L.601720	Pte.	ROMANUS, R.

APPENDIX "C" TO C.M.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No. HQC. 55-M-1614
District File No. 10/M-615089

PART I

No. H-615089 Rank Private Name Norman Stanley MARKUS

Unit No. 10 District Depot

PART II

Date of Trial 11th March, 1946
Charge Desertion
Sentence One (1) year Detention
Date of Sentence 11th March, 1946
Confirmation (a) Authority N/A. SCN
(b) Date

PART III

REMISSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby remit (~~commute~~)(~~mitigate~~) (~~suspend~~)(~~put into execution~~) the balance of the sentence of One (1) year detention, effective the 11th September, 1946.

Signed at Winnipeg, MAN. THIS 4th day of September, 1946 R.O.G. Morton
(R.O.G. Morton) Brigadier, D.O.C. M.D. 10.
(To be signed by the competent authority or Superior Military Authority personally)

PART IV

PROMULGATION

Remission (~~commutation~~)(~~mitigation~~)(~~suspension~~)(~~putting into execution~~) promulgated and extracts taken at Winnipeg, Manitoba, this 11th day of September 1946.

(1) D.A.K. Evans Capt. Adjt
Officer i/c Documents
No. 10 District Depo

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

NO. H.615089 Rank Private Name Norman Stanley MARKUS

The sentence of One (1) year detention awarded by ~~District~~ (Standing) Court-Martial on the 11th March, 1946 194 has been remitted effective the 11th day of September 1946 on the 4th day of Sept. 1946, by Brigadier R.O.G. Morton, D.O.C. M.D.10

Unit No. 10 District Depot

Certified true Extract of Daily Order Part II No. 218 para 16(b) dated 11 Sept 46.

Place Winnipeg, Manitoba Date

Adjutant D.A.K. Evans
No. 10 District Depot.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of H-615089 (Number) Private (Rank) Norman Stanley MARKUS (Name in full)

No. 10 District Depot (CA) (Unit) (Attachment (if any))

Sentenced to undergo detention for one (1) year.

on 11th of March, 1946 at Winnipeg, Manitoba.

being served at No. 73 Military Detention Barracks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 years 5 months, 15 February, 1943.

Medical grade or category

YOB	P	U	L	H	E	M	S
23	1	1	1	1	1	2	1

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place .....

..... (Confirming Authority)

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

..... (Superior Military Authority)

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offences, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... (Confirming Authority)

Date .....

M.F.M. 268
(Army Form A-2104)
2M—5-45 (1860)
H.Q. 1172-43-2014

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
25 Apl 46	B.F. to 1 Sep 46	(.E.A.Fletcher) Major. A.J.A.G., M.D. 10.	
4 Sep 46	Sentence to be remitted effective 11th September, 1946.	(R.O.G.Morton) Brigadier, Disrtict Officer Commanding, Military District No. 10.	

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
Charge: Sec 12(1) (a) Army Act.	WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTYS SERVICE, in that he, at Calgary, Alta, at 0630 hrs, 2 Jul 45, absented himself from the A-16, C.I.T.C. (CA), until he surrendered to Mil. Auth. at 1830 hrs, on 25 Feb 46, at Wpg, Man, wearing Mil uniform.	2 July 1945	11 March, 1946.

(A. Thomson) Signature of Officer making entry Lieut-Colonel,
Officer Commanding,
No. 10 District Depot (CA)

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
11 March, 1946	There has been no opportunity to assess this man as to his ability, character, or usefulness as a soldier.	(A. Thomson) Lt-Col Commanding Officer No. 10 D.D. (CA)

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-M-1614(JAG/D-6)

30 Mar 46

District Officer Comma nding
Military District No.10
WINNIPEG, Man

Standing
H-615089 Pte Norman StanleyMARKUS
No.10 DD CA Court-Martial.

10/H-615089(J)

25th March, 6

Receipt is acknowledged of your
dated 194 , Standing under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E.L.M

(R.J. Orde), Brigadier

/kb

Judge Advocate-General.

6M-5-45(M-96)

10/H-615089 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba,
25th March, 1946.

CENTRAL REGISTRY Army
CONF. SEC.
11922
MAR 29 1946
File
Chgd. to
Referred to JAG

Judge Advocate-General,
Dept. of National Defence (Army),
OTTAWA, Ontario.

STANDING COURT-MARTIAL
No. H-605089, Pte. N.S. MARKUS
No. 10 District Depot, C.A.
Reference HQC55- M-1614 (JAG/D-3)
dated 21st March, 1946.

2. The proceedings of the marginally-noted Court-Martial, having been reviewed, are returned herewith for custody.

(E.A. Fletcher) Major,
Assistant Judge Advocate-General,
Military District No.10.

vep
encs.

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Minto Armouries, Winnipeg, Manitoba.

on the 11th day of March 19 46 at 1030 hours,

for the trial of: No. H-615089 Private Norman Stanley MARKUS
Number Rank Full Name

No. 10 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Lieut.-Colonel A.E.L. Shand, District Headquarters, M.D. No. 10

PROSECUTOR: Captain E.L. Elliott, District Headquarters, M.D. No. 10
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Captain C.B. Anderson, No. 10 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, No. H-615089 Private Norman Stanley MARKUS, No. 10 District Depot, C.A., is Not Guilty of Desertion but Guilty of Absence without leave on the charge.

SENTENCE: The Court sentence the accused No. H-615089 Private Norman Stanley MARKUS, No. 10 District Depot, C.A., to undergo detention for one (1) year.

Sentence entered in No. 43574 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 20 day of Mar 19 46

Signed at Winnipeg, Manitoba this 11th day of March 1946.

A.E.L. Shand Lieut.-Col.
(A.E.L. Shand) President,
Standing Court-Martial
District Headquarters, M.D. No. 10

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~Question to the accused.~~ ~~Do you object~~

~~Answer:~~

Question to the accused. Do you object to No. SH-46589 CSM (WOII) E.E. Duffy, District Headquarters, M.D. No. 10 acting as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

~~Question to the prosecutor: Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?~~

Answer:

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Not Guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

Question to the prosecutor:	Has the accused elected to be tried by court-martial rather than summarily by his C.O.?
Answer:	No, sir.
Question to the prosecutor:	Has the accused elected to be tried by Standing Court-Martial?
Answer:	No, sir.

B-2 Plea Pros. S.G.M.

5

CHARGE SHEET

CHARGE:
Sec 12(1)(a)
Army Act.

The accused, No. H-615089 Private Norman Stanley MARKUS, No. 10 District Depot (CA), an NRMA soldier of the Canadian Army, placed on Active Service, is charged with:

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

- in that he -

at Calgary, Alberta, at 0630 hours, on the 2nd day of July, 1945, absented himself from the A-16, Canadian Infantry Training Centre, (CA), until he surrendered to the Military Authorities, at 1830 hours, on the 25th day of February, 1946, at Winnipeg, Manitoba, wearing Military Uniform.

Winnipeg, Manitoba.
7th March, 1946.

(E.L. Elliott) Captain
Prosecutor, Courts-Martial
Military District No. 10.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

being duly sworn, is examined by the Prosecutor.

Question

By the Prosecutor: Mr. President, the evidence for the Prosecution on this charge is documentary and I tender M.F.B. 375 and M.F.M. 216 pursuant to C.A.R.O. 5126.

By the Court to the Defending Officer: Have you any objection to these documents Captain Anderson?

By the Defending Officer: No, sir.

M.F.B. 375 is read, marked "F", signed by the President and attached to the Proceedings.

M.F.M. 216 is read, marked "G", signed by the President and attached to the Proceedings.

By the Prosecutor: That is the case for the Prosecution, sir.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make an unsworn statement, sir.
(See Page "H" attached)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

The Defending Officer makes a closing address.

The Prosecutor makes a closing address.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. No, sir.

The Defending Officer speaks on behalf of the accused.

(See Page "I" attached)

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

13

RECORD of the Declaration of a Court of Inquiry assembled at CALGARY, Alberta

on the 26th day of JULY, 1945, for the purpose of investigating recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H.615089 Pte. MARKUS, Norman Stanley A.16 Canadian Infantry Training Centre, C.A.

DECLARATION

The Court declare that No. H.615089 (Reg't No.) Private (Rank)

MARKUS, ~~Wm~~ Norman Stanley. (Full Name) A.16 Canadian Infantry Training Centre, C.A. (Unit)

illegally absented himself without leave from A.16 Canadian Infantry Training Centre, C.A.

at Currie Barracks, CALGARY, Alberta (Place) at 0630 hours on the 2nd day of July, 1945,

that he is still so absent, and that on the 3rd day of July, 1945 he was deficient, and

that he is still deficient of the following articles:

A.16 C.I.T.C., C.A.

Signed at Currie Barracks, Calgary, Alta. (Name) (Rank) (Unit) Member

this 26th day of July 1945 (Name) (Rank) (Unit) Member

Signature of Commanding Officer "Louis Scott" Colonel (Name) (Rank) (Unit)

Certified true copy CMDT., A.16 CITC CA. (Rank) (Unit)

(Signature of Officer having custody of original record)

(B.G.West) Lieut. & A/Adjt.,
A.16 C.I.T.C., C.A.

M.F.B. 375
A.F.B. 115
150M—10-42 (6520)
H.Q. 1772-99-257

RECORD of the Declaration of a Court of Inquiry assembled at CALGARY, Alberta on the 26th day of JULY, 1945, for the purpose of investigating recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H.615089 Pte. MARKUS, Norman Stanley A.16 Canadian Infantry Training Centre, C.A.

DECLARATION

The Court declare that No. H.615089 (Regt'l No.) Private (Rank) MARKUS, ~~Yank~~ Norman Stanley, (Full Name) A.16 Canadian Infantry Training Centre, C.A. (Unit) illegally absented himself without leave from A.16 Canadian Infantry Training Centre, C.A. Currie Barracks, at CALGARY, Alberta (Place) at 0630 hours on the 2nd day of July, 1945, that he is still so absent, and that on the 3rd day of July, 1945 he was deficient, and that he is still deficient of the following articles:

CAT. NO.			VOC. RATE	LESS 25% CARO 3464
	CLOTHING DIVISION "A"			
A.9420	Dressings, First Field	1	.22	.16
A.24000	Overalls, Combination	1	2.52	1.89
	CLOTHING DIVISION "B"			
B.450	Blouses, Battle Dress, Serge	1	6.50	4.87
B.10200	Trousers, Battle Dress Serge, prs	1	6.55	4.91
B.700	Boots, ankle, prs	2	11.64	8.72
B.1800	Caps, Field Service	1	.70	.52
B.3550	Drawers, Woollen, prs	2	2.80	2.10
B.8600	Shirts, Woollen	2	2.40	1.80
B.7950	Shirts, Cotton, hkhaki	3	4.62	3.48
B.8750	Shoes, Leather, black, prs	1	4.84	3.63
B.8850	Socks, Army, prs	4	1.84	1.40
B.8700	Shoes, Canvas, prs	1	2.29	1.72
B.10360	Trousers, K.D. Long, prs	1	1.80	1.35
	CLOTHING DIVISION "C"			
C.100	Bags, Kit	1	1.27	.95
C.250	Belts, Waist Web 1½"	1	.25	.19
C.2250	Sticks, Button	1	.04	.03
C.850	Brushes, Cloth	1	.17	.13
C.950	Brushes, Shaving	1	.42	.32
C.1000	Brushes, Tooth	1	.09	.07
C.1100	Combs, Hair	1	.04	.03
C.1650	Neckties, Black	1	.19	.14
C.1700	Pins, Collar, safety	1	.06	.05
C.2100	Socks, Black, prs	2	.56	.42
C.2400	Towels, Hand	2	.31	.23
	CLOTHING DIVISION "D"			
	Badges, Cap	1	.09	.07
	SECTION "1-A"			
	Bags, Ration	1	.04	.03
	Braces, Right	1	.33	.25
	Haversacks	1	2.29	1.72
	SECTION "2-A"			
	Outfits, Anti-Diming	1	.15	.11
	Eyeshields, A/G (Pkt of 6)	1	1.04	.78
			$56.06	$42.07

15

CERTIFICATE in accordance with Order in Council P.C. 2967 dated April 10th, 1942, and in General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major A.S. Furness, Camp Commandant, Fort Osborne Barracks
(Number) (Rank) (Name) (Unit)

hereby certify that H-615089 Pte. MARKUS Norman Stanley
(Number) (Rank) (Name in full)

of the A16 C.I.T.C., Currie Barracks, Calgary, Alta.
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) H-69882 Cpl.
(Number) (Rank)

Tascona, F., District Headquarters, M.D.10, (Camp Commandant's Staff)
(Name) (Unit or appointment)

at the Garrison Custody Barracks Fort Osborne Barracks, Winnipeg, Manitoba at 1830 hours
(Hour)

on the 25th day of February 1946

Strike out words not applicable } as a deserter (~~absent without leave~~) and that at the time of his ~~arrest~~ surrender he was wearing military ~~clothing~~ uniform (~~civil or other clothes~~).

Dated at Winnipeg, Manitoba this 26th day of February 1946.

A. S. Furness Major
(Signature Number, Rank, Unit or appointment)
(A.S. Furness)
Camp Commandant, Fort Osborne Barracks

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

"G" Branch Head
for D.O.M.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1272-39-1936

"H"

UNSWORN STATEMENT OF THE ACCUSED

All I have to say sir, is that I was having a little bit of trouble with my rib. I reported on sick parade and when I came off sick parade I was told to report to the Sergeant Major and he told me that I was not sick unless I was laying down. I had some trouble with a fractured rib at Saskatoon but I waited until I reported to Curry Barracks in Calgary. When I reported sick because of this rib that is what they told me. I couldn't stand it so I left.

"Y" Branch Filed Cmp. S.C.M.

19

M.F.S. 355
75M—5-42 (145)
H.Q. 1772-30-630
A.F.B. 204

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-615 089	Private	Norman Stanley MARKUS	No. 10 District Depot, CA

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Absence Without Leave	1 times	Absence Without Leave	3 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 78~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of ..... ,~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and Nil days in ~~military~~ Air Force custody, making a total of Nil days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper enrolment is - 22 years, 6 months.

6. The date of his ~~commission~~ attestation enrolment specified in his record of service is attestation paper enrolment - 15 February, 1943.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to~~). State any ~~air force~~ military decoration or reward. - Nil.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of ..... ,~~ Air Force

10

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— .....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

~~NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.~~

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number H-615089 Rank Pte. Unit

Name Markus, N.S. of 10 District Depot, C.A. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
District Court-Martial.	14 March 45 Prince George, B.C.	Sec. 15 A.A.	45 days detention. Forf. 116 days pay. Stopp $8.66.	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11th day of March, 1946. (W. Throp) Capt. & Adj. No. 10 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

M.F.M. 8

58th COAST BATTERY, R.C.A.

Date of Birth

Date of enlistment or enrolment 15 February, 1943

Sheet No. one of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Reg. No. H-615089 Name MARKUS, Norman Stanley Corps C.I.C.

Signature O.C. Company, etc. R. HUNTER Major.

Place	Date of offence	Rank	Crime of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or with discharge	By whom awarded	Remarks
				First sheet destroyed as at 18 Aug 43 on 14 Jun 45. H.C. HUGHES, Major.					
Vancouver, BC	19 Jul 44	Gnr		AWL 2215 hrs 19 Jul 44 to 2000 hrs 21 Jul 44 (1 day 21 hrs 45 mins) AA Sec 15(1)	Sgt. Laughton Sgt. Hjordsvar. L/Bdr. Lott.	Forf 3 days pay. (FR&I 149-2)	22 Jul 44	Major. C.H. Munsie	Auto forf 2 days pay (FR&I 149-1a)
Pr. Geo. B.C.	3 Jan 45	Pte		AWL from 0830 hrs 3 Jan 45 until 0800 hrs 28 Feb 45. 55 days 23 hrs 30 mins (Sec 15 A.A.	Documentary.	45 days det'n forf 116 days pay Stop $8.66	14 Mar 45	D.C.M.	Auto forf 55 days pay FR&I 149(1)(a)
Dundurn, Sask.	3 Jun 45	Pte.		A.A. Sec 15(1) AWL 0730 hrs 3 Jun 45 to 0600 hrs 4 Jun 45. (Absent 22 hrs 30 mins)	Cpl Michael Cpl Fakas	7 days CB	4 Jun 45	Major H.C. Hughes.	Forf 1 days pay under FR&I 149 (1)(a)

(P.T.O.)

M.F.M. 8—500M—9-44 (5280)
H.Q. 1772-38-1252

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Dundurn, Sask.	18 Jun 45	Pte		A.A. 15(1) AWL from 0730 hrs 17 Jun 45 to 0600 hrs 18 Jun 45. (Absent 22 hrs 30 mins)	Cpl McMichael Cpl. Fakas	168 hrs Detention	18 Jun 45	Major GK Watts.	Forf 1 days pay under FRI&I 149 (1)(a)
				(CERTIFIED TRUE COPY)					

(D.H.T. Evans) Capt.
(Signature of officer having custody of original record)
No. 10 Distrcit Depot (CA)

"I"

Pres S.C.M.

DEFENDING OFFICER'S STATEMENT
IN MITIGATION OF PUNISHMENT

Sir, the accused was enrolled as a N.R.M.A. soldier on the 15th of February, 1943. Every so often after being enrolled he was asked to volunteer for Active Service. Early in 1944 upon being asked again to volunteer for Active Service he was paraded to his Battery Commander and stated that he was agreeable to going Active providing arrangements could be made whereby his older brother could claim him. At that time his older brother was stationed at Petawawa and was making an effort to claim him. His brother wrote to him and told him that he, the brother, had been told by his Commanding Officer that he could claim the accused if the Unit that he was serving with would let him go. Upon being paraded to his Commanding Officer was told that he could not be released as his Battery was regarded as an operational unit. He then volunteered to go Active providing that he could get transferred to the Navy but was refused this oportunity to transfer. Then the accused volunteered for the Paratroops but after one interview by a psychiatrist heard no more about it. After these experiences in the army he lost intrest. Finally at Calgary in June 1945 he was having a great deal of trouble with a fractured rib, and every time he paraded sick his Battery Sergeant Major told him he wasn't sick as long as he could stand and would take his name off the sick report and give him extra fatigues at night. Finally he could stand it no longer so went A.W.L. the first time he got a pass. I have a psychiatrist's report I would like to submit to the Court. (See report attached)

PSYCHIATRIC REPORT

Vancouver Barracks — 30 March 1944

NO-069 Gnr. MARKUS, Norman Stanley. — 20 - 8 - WRMA /23/1111121
38 CN 15th Vancouver Coast Regt.

REFERRED BY: Lt. Edgar as paratroop recruit.

SITUATION: Does not like the army at all, but would like to get away from this present situation. Never worked at any heights.

PERSONAL HISTORY: Family history negative. Subject was born in Winnipeg Manitoba, 11 Sept. 1923. He was enuretic to age 11. Somnambulism, somniloquy, was afraid in the dark, had bad dreams, stammered as a child, temper unstable, was teased as a child. Commenced school aged 6, finished Grade 8 at aged sixteen. Worked in a slaughterhouse, sadlery foundry and flour mill. Never been in jail or on relief.

He was called up at No. 10 DD at Winnipeg, on 13 Feb. 1943. Went to 15th (V) Coast Regt. Vancouver 13 March 1943. Has had no crimes.

No serious illnesses, but is subject to dizzy spells. He is interested in boxing and football. He belongs to no clubs. Attends the Pentecostal Church but has not yet been converted. Reads no magazines and has no hobbies.

He describes himself has sensitive, feels that people talk about him, is subject to crying spells. Has some troubles at home. Was engaged to a girl at home but she has stopped writing recently. There is a history of some insomnia. Output of energy is fair. He is sociable, at time becomes depressed, temper very unstable.

PSYCHIATRIC: The subject is frank and gives a good account of himself. W score 101, sub totals 27/38/36.

IMPRESSION: This man gives of history of enuresis after the age of 8, childhood fears, is not particularly anxious for the paratroops, etc. There is an unsatisfactory home situation which is affecting the man. I do not consider him suitable as a paratrooper.

DIAGNOSIS: No psychiatric disability.

RECOMMENDATIONS: Fit for suitable for service in the Canadian Army. He should be pulhems graded accordingly M-1 S-1.

(D. E. ALCORN) Major RCAMC
Consultant Psychiatrist.

DEA/M

TRIAL OF: H-615089 Pte. MARKUS, Norman Stanley

No. 10 District Depot (CA)

I, H-615089 Pte. MARKUS, Norman Stanley.
No. 10 District Depot (CA), desire ~~do not desire~~
an officer assigned to defend me at my trial by
Court-Martial.

N. Markus.

Winnipeg, Manitoba,
6 March 1946. 194

PRECIS OF EVIDENCE

No. H-615089 Private Norman Stanley MARKUS, No. 10 District Depot (CA), an N.R.M.A. soldier of the Canadian Army, placed on Active Service.

CHARGE: DESERTION

TO PROVE THE CHARGE: the following evidence is available:

Documentary: M.F.B. 375

M.F.M. 216

A.16 CANADIAN INFANTRY TRAINING CENTRE, Part II Order No. 194, dated 31 July, 1945, Para 22, sub-para (e).

NOTICE

TAKE NOTICE: that I propose to present No. H-615089 Private Norman Stanley MARKUS, No. 10 District Depot (CA), an N.R.M.A. soldier of the Canadian Army, placed on Active Service, the accused, for trial by Standing Court-Martial, at 1015 hours, Monday, the 11th day of March, 1946, at Minto Armouries, Winnipeg, Manitoba.

Winnipeg, Manitoba.
7th March, 1946.

(A. Thomson) Lieut-Colonel,
Commanding Officer,
No. 10 District Depot (CA)

MEDICAL OFFICER'S REPORT

I certify that No. H-615 089 Pte. MARKUS, H. S.
of #10 District Depot (CA) is in a good state of health,
and fit to undergo Trial by Court martial.

Capt. R CAMC.
Medical Officer
No. 10 District Depot (CA)

Station Winnipeg, Manitoba.

Date 11th March, 1946.

M. F. B. 246
5051—9-44 (5437)
H.Q. 1773-39-460

H.Q.C.55-M-1614 (JAG/D-3)
Your 10/H615089 (J)

21 Mar 46

The District Officer Commanding,
Military District No. 10, Winnipeg, Man.

STANDING COURT-MARTIAL

H. 615089 Pte. Norman Stanley Markus,
No. 10 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

KPL/MM

12M-11-45 [M-430]

THIS COPY FOR: H.Q. C. 55-M-1614
M.D. 10/H615089

NRMA

MEMORANDUM · ~~DISTRICT~~ STANDING COURT-MARTIAL

No. H-615089 Name MARKUS, Norman Stanley

Rank Pte. Unit No. 10 DD, C.A.

Charge AA 12 (1)(a) WOAS desertion

Date of Crime 2-7-45

Date of Arrest 25-2-46 Charge Signed 7-3-46

Orders for D.C.M.

Place and Date of Trial Minto Armouries, Winnipeg, Manitoba. 11-3-46

Sentence Detention 1 year.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 43574

Date 19-3-46

MEMO Guilty AWL

Balance of sentence ~~remitted by Conf. Auth.~~ 11-9-46

MD 10

Absent

7 3/4 mos.

No. 10 DD, C.A.

Sentence

Det. 1 year.

for Judge Advocate-General

10M-11-45 [M-425]

10/H615089 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Winnipeg, Manitoba

13 MAR 46

Judge Advocate-General
Department of National Defence (Army)
OTTAWA, Ontario.

CENTRAL REGISTRY ARMY
CONF. SEC.
MAR 18 1946
12640
File 6.55-11-164-4
Chart No.
Referred to

STANDING COURT-MARTIAL

No.H-615089 Pte. Norman Stanley MARKUS,
No. 10 District Depot, C.A.

Herewith for review, are the proceedings of the marginally-noted Standing Court-Martial.

Lieut.-Col.
~~Major~~
President,
Standing Court-Martial

/eed

43574

H.Q.C.55-M-1614 (JAG/D-7)

17 Apr 45.

General Officer Commanding-in-Chief,
Pacific Command,
Vancouver, B.C.

Standing Court-Martial
H-615089, Pte. N.S. Markus
No. XI District Depot, CA

Receipt is acknowledged of your 22-M-4147 (JAG) dated 9 April 1945 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E L M
Capt.

LJR/ET

for (R.J.Orde) Brigadier,
Judge Advocate-General.

L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 19 1945

IN REPLY PLEASE QUOTE

No. 22-M-4147(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Pacific Command,
Vancouver, B.C.

9th April 1945.

LEGAL REGISTRY ARMY
CONF. SEC.
APR 14 1945
File 55-M-1614
Chgd. to
Referred to JAG

The Secretary,
N.D.H.Q.,
OTTAWA, Ont.

306690

Standing Court-Martial
H-615089, Pte. N.S. Markus,
No. XI District Depot, CA

1. Receipt is acknowledged of your H.Q.C. 55-M-1614(JAG/D-7) dated 28 March 45.

2. The proceedings in the m/n case are returned herewith for safe custody. The attention of the unit has been drawn to what was alleged in relation to the care and accounting for kits.

3. Instructions have been issued to impress on all concerned the necessity for the greatest care in matters pertaining to accounting for clothing and care of kits.

Major-General,
G.O.C.-in-C., Pacific Command.

encl.

N.D. 23
300036—10-44 (5769)
H.Q. 1772-101-23

A

PROCEEDINGS of a Standing Court Martial held at Camp Headquarters, Prince George, BC. on the 14th. day of March, 1945, at 0910 hours, for the trial of

H.615089 Private Norman Stanley MARKUS, No. XI Ordnance Depot, RCOC. (PC) Prince George Detachment

President: Major R.H. GREEN, Headquarters Pacific Command.

Prosecutor: Lieutenant Roderick Murdoch McLEOD, No. XI District Depot, CA.

Defending Officer: Lieutenant John Burgess GLENN, Pacific Command Coy, RCEME, Prince George Detachment.

FINDING: The Court find that the accused is GUILTY of the first and the second charge except that he did not lose by neglect the following articles, viz:

1 Blouse, battledress,	$6.50
1 Drawers, woollen	1.40
1 pr. socks,	.46
1 shirt, woollen,	1.20
1 Belts, waist, leather, brown	.35
1 Coats, waterproof, army	6.91
1 Trousers, khaki drill, long	1.80
1 Trousers, battledress	6.55
1 Trousers, khaki, short	1.31
Total	$ 26.48
Less 25%	6.62
	$ 19.86

SENTENCE: The Court sentence the accused, H.615089 Pte. Norman Stanley MARKUS, No. XI Ordnance Depot, RCOC. (PC) Prince George Detachment to UNDERGO DETENTION FOR FORTY-FIVE (45) DAYS AND TO BE PUT UNDERSTOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF $8.66 IN RESPECT OF THE ARTICLES LOST BY HIS NEGLECT.

SIGNED at Prince George, BC. this 14th. day of March, 1945.

(R.H. GREEN) Major
President of Standing Court Martial.

Extracts entered as No. 3395 in the Record of Conduct Book in the [illegible] 27 March 45

Question to accused:

Q Do you object to be tried by me as President of the Court ?

A No, sir.

Question to Prosecutor:

Q Has the accused elected to be tried by a Standing Court Martial ?

A No, sir, remanded.

THE ACCUSED IS ARRAIGNED UPON EACH CHARGE IN THE CHARGE SHEET MARKED B2, AND ANNEXED TO THE PROCEEDINGS AFTER HAVING BEEN SIGNED BY THE PRESIDENT.

Question to accused:

Q Is that your number, rank, name and unit ?

A Yes, sir.

Q Are you guilty or not guilty of the first charge against you, which you have heard read ?

A GUILTY, sir.

Q Are you guilty or not guilty of the second charge against you, which you have heard read ?

A NOT GUILTY, sir.

THE ACCUSED HAVING PLEADED GUILTY TO THE FIRST CHARGE, THE PROVISIONS OF RULE OF PROCEDURE 35(B) ARE HERE COMPLIED WITH.

CHARGE SHEET

The accused, H.615089 Pte Norman Stanley MARKUS No.11 Ordnance Depot, RCOC (P.C.) Prince George Detachment, a N.R.M.A. soldier of the Canadian Army placed on active service, is charged with:

FIRST CHARGE SEC.15(1) ARMY ACT

ABSENTING HIMSELF WITHOUT LEAVE

B2

in that he

at Prince George, B.C. at 0600 hours, 3 January 1945, absented himself without leave from the Prince George Detachment, No.11 Ordnance Depot RCOC (P.C.) and remained so absent until he surrendered to his Unit at 0600 hours 28 February, 1945.

SECOND CHARGE SEC.24(2) ARMY ACT

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT AND REGIMENTAL NECESSARIES

in that he

at Prince George, B.C. on 25 January 1945 was deficient in his clothing, equipment and regimental necessaries in the following amount, viz:

1 Blouses Battle Dress	$ 6.50
1 Caps Tank Battalion	1.01
1 Drawers Cotton Short	42
2 Drawers Woollen	2.80
1 Overalls Combination	2.52
2 Socks	92
1 Trousers Battledress	6.55
2 Shirts Woollen	2.40
1 Holdalls	22
1 Bags Ration	04
Carried forward	$23.38

Brought Forward	$23.38
1 Belts Waist Leather Brown	35
1 Belts Waist Web 1½"	25
1 Coats Waterproof Army	6.91
1 Overshoes 4 Buckle	2.04
1 Mitts Pullover Leather	93
1 Pins Collar Safety	06
1 Shirts Under Cotton	43
2 Socks Black	56
1 Trousers Khaki Drill Long	1.80
1 Trousers Khaki Short	1.31
TOTAL	$38.02
Less 25%	9.51
	$28.51

SIGNED at Vancouver, B.C.
9 March, 1945

(R.M.MacLeod) Lieut.
No.11 District Depot CA
Prosecutor.

C

PROCEEDINGS ON PLEA OF NOT GUILTY

Question to accused:

Q Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient time for preparing your defence ?

A No, sir.

THE PROSECUTOR PROCEEDS TO CALL WITNESSES:

First witness for Prosecution: Lieutenant G.W.VANDERBILT, No. XI Ordnance Depot, RCOC. Prince George Detachment, being duly sworn, is examined by the Prosecutor:

Q What is your appointment ?
A I am acting officer commanding of the detachment.

Q Will you identify this document ?
A MFB. 375 dated at Prince George, BC. the 26th. January, 1945 referring to the accused.

COURT TO DEFENDING OFFICER:
Q This appears to be in order. Have you any objection to it being admitted ?
A No, sir.
(DOCUMENT is read, marked "F" signed by the President and attached to the proceedings).

THE DEFENDING OFFICER DECLINES TO CROSS EXAMINE THIS WITNESS.

THE WITNESS WITHDRAWS.

Second witness for Prosecution: C.28623 S/Sgt. D.H.SLEETH, No. XI Ordnance Depot, RCOC. (PC) Prince George Detachment, being duly sworn, is examined by the Prosecutor:

Q What are your duties ?
A I am acting CQMS.

Q Do you recall when the accused went AWL ?
A Yes, the 3rd. January, 1945.

Q What did you do ?
A His kit was picked up at his quarters and returned to the QM.stores by myself and a storeman, Pte. McConnell. Inventory of his kit was made by me - list of shortages was made and values totalled and forwarded on to the orderly room.

Q Was a Court of Inquiry held ?
A Yes.

Q Would you refer to exhibit "F" ? Is this list right ?
A No, sir.

Q Would you explain what you mean by that ?
A I gave evidence that list of shortages made by me was correct. Then on accused's return inventory of his kit was again taken by myself and several of the missing stores were recovered.

Q What date did you make this final inspection ?
A On 28th. February, 1945.

Q Is list set out in exhibit "F" the correct list and valuation on the date of his return ?
A Yes.

Q Have you made a check since 28th. February, 1945 ?
A No, sir.

Q Has the accused reported to you that this list is incorrect ?
A No, sir.

Q To your knowledge is list in exhibit "F" correct and is he still deficient these articles ?
A Yes, sir.

CROSS EXAMINED BY THE DEFENDING OFFICER:

Q If a man were ordered by a medical officer, due to skin conditions, to have his battledress disinfected, what is the normal procedure in the Q.M.stores ?
A If work can be completed in a few days the uniform is taken in and the man given a packing note.

Q Would he be issued with another uniform ?
A In the accused's case it was necessary to issue a new uniform as both his uniforms had been contaminated and this uniform was issued on MFC. 512 - free issue, and entered on MFC. 800 giving the accused credit for three uniforms.

Q Would it be possible for a man to turn in uniform without having it taken off his 800 ?
A No personal stores are returned to the Q.M.stores unless a man is on draft or discharge.

Q In this case he would retain three uniforms ?
A If one wore out it would be taken off his 800.

REEXAMINED BY THE PROSECUTOR:

Q Did the accused turn in battledress for disinfection ?
A Yes, sir.

Q Was a new battledress given him ?
A Yes.

Q Was anything else turned in for disinfection ?
A Yes, 1 suit winter underwear.

Q Was another issued in its place ?
A Yes.

Q Is that all that was turned in for disinfection to you ?
A I am not sure but believe it was.

Q Did the accused return any of these items given in place of those turned in ?
A No, sir.

QUESTIONED BY THE COURT:

Q Is it possible that the accused could have turned in those items to comebody other than you ?
A If this had happened the stores returned would have been marked off his 800.

Q Do I understand this MFB. 375 exhibit "F" does not include all the articles on your original list as set out in the court of inquiry proceedings ?
A No, sir.

Q Then this MFB. 375 exhibit "F" is not a true copy of militia book 68 ?
A No, sir.

AS A RESULT OF THE ANSWERS GIVEN BY THE SECOND WITNESS TO QUESTIONS PUT BY THE COURT THE PRO ECUTOR ASKED FOR AN ADJOURNMENT UNTIL 1300 HOURS IN ORDER TO CHECK INTO THIS. THE DEFENDING OFFICER HAD NO OBJECTION AND ADJOURNMENT WAS GRANTED.

At 1000 hours on the 14th. day of March, 1945 the Court adjourn until 1300 hours on the 14th. day of March, 1945.

On the 14th. day of March, 1945 at 1300 hours the Court reassemble, pursuant to adjournment, present the same President as when adjourned.

THE COURT RECALLED THE FIRST WITNESS FOR THE PROSECUTION, LIEUTENANT G.W.VANDERBILT, No. XI Ordnance Depot, RCOC Prince George Detachment, and examined him on his former oath:

Q Where is military book No. 68 kept ?
A In my orderly room here at Prince George, BC.

Q Did you compare this MFB. 375 exhibit "F" with militia book 68 before giving evidence this morning ?
A 1945. No, sir this was prepared in Vancouver and was not subject to check when received here.

Q Have you compared it today with said militia book 68 ?
A Yes, sir and I found this is not a true copy of militia book 68.

THE COURT RULES THAT THIS MFB. 375 PREVIOUSLY ADMITTED AND MARKED EXHIBIT "F" IS NOT ADMISSIBLE AND SHOULD NEVER HAVE BEEN ADMITTED. THE SAID EXHIBIT "F" IS NOW REJECTED.

PROSECUTOR TO WITNESS:
Q Do you identify this document ?
A Yes, MFB. 375 dated at Prince George, BC. 26th. January, 1945 referring to the accused and certified by myself as acting officer commanding No. XI Ordnance Depot, RCOC., Prince George Detachment.

Q This new MFB. 375 now produced, did you prepare it from militia book 68 ?
A Yes.

CROSS EXAMINED BY THE DEFENDING OFFICER:
Q Was this new MFB. 375 prepared from a copy of the Court of Inquiry ?
A No, from militia book 68 which is in my possession.

QUESTIONED BY THE COURT:
Q Did you compare this new MFB. 375 with militia book 68 ?
A Yes, sir.

Q Is it a true copy of the same ?
A Yes, sir.

COURT TO DEFENDING OFFICER:
Q This document appears to be in order. Have you any objection to it being admitted ?
A No, sir.
(DOCUMENT is read marked "F1" signed by the President and attached to the proceedings).

AT THE REQUEST OF THE PROSECUTOR, AND WITH THE CONSENT OF THE COURT THE SECOND WITNESS FOR THE PROSECUTION, C.28623 S/Sgt. D.H.SLEETH, No. XI Ordnance Depot, RCOC. (PC), Prince George Detachment, is recalled and examined on his former oath by the Prosecutor:

Q When the accused returned did you make an inventory of his kit ?
A Yes, sir, on 28th. February, 1945.

Q Did you find any articles previously listed as missing, now returned ?
A Yes, sir. 1 battledress blouse; 1 pr. boots, ankle; 1 cap, field service; 1 great coat, drab; 2 prs. socks; 2 shirts, khaki cotton; 1 pr. shoes, leather, blakc; 1 trousers, battledress; 1 bags, kit, MK.II; 1 brushes, cloth; 1 brushes shaving; 1 brushes, tooth; 1 combs, hair; 1 housewife complete; 1 razors, safety, with blade; 1 towels, hand; 1 caps, winter Melton cloth; 1 mufflers, khaki; 1 braces, W.E. right; 1 haversack, WE; 1 badges, cap, RCOC. The total value of these is $51.46 which leave a balance missing of $38.02.

Q What is allowed against the vocabulary price ?
A 25%.

Q What is the net value of the articles still deficient ?
A $28.51

Q Have any of these turned up to this date ?
A No, sir.

Q Do you recall the accused turning in any clothing and equipment for disinfection?
A Yes, sir, certain items: 1 battledress; 1 suit woollen underwear.

Q Were any socks turned in ?
A No, but it is possible he might have done so.

Q What happened when these items were turned in ?
A Items turned in were replaced on free issue and the accused made to understand that he was charged with them. They were entered on his MFC. 800 and no entry is made on his 800 showing them having been turned in.

Q So, actually, he was charged with more than he had ?
A No, when he had kit inspection he was given credit for the things in for disinfection.

Q What happened to the clothes in for disinfection ?
A We still have them. Due to moving they never went to the disinfector.

Q In order for him to get these out of stores would he have to return similar articles to you ?
A The accused and I came to the agreement that due to the stock we issued him being new, he would have to keep that on his 800.

Q Is it still there ?
A Yes, sir.

Q He signed for it ?
A Yes, sir.

CROSS EXAMINED BY THE DEFENDING OFFICER:

Q Have any articles of clothing been turned into you which had been left in any huts ?
A No, sir.

Q Would it be possible if the accused turned in battledress to L/Cpl. McNeil that he might not have taken it off his 800 ?
A L/Cpl. McNeil is a qualified storeman and it is doubtful if he would take a battledress in.

THE PROSECUTOR DECLINES TO REEXAMINE THIS WITNESS.

QUESTIONED BY THE COURT:

Q Where is L/Cpl. McNeil ?
A He is absent on Polar Bear.

Q This battledress, etc. handed in for disinfection to you, on whose charge is it now ?
A It is on charge to the accused.

Q How many battledresses are on his charge ?
A 3 complete suits.

Q Where are they ?
A One is the Q.M. stores; one with him and the third is missing.

THE PROSECUTOR HAS NO FURTHER WITNESSES TO CALL.

D

The prosecution is closed.

DEFENCE

THE PRESIDENT ADVISES THE ACCUSED AS TO HIS RIGHTS IN THE GENERAL CONDUCT OF HIS DEFENCE.

Question to accused:

Q Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement ?
A On oath, sir.

Q Do you intend to call any witness in your defence ?
A No, sir.

First witness for Defence:

The accused, H.615089 Pte. Norman Stanley MARKUS, No. XI Ordnance Depot, RCOC. Prince George Detachment, being duly sworn, is examined by the Defending Officer:

Q Will you tell the Court what occurred as far as your clothing is concerned, from the time you were in Vancouver ?
A I was at Bassborough Armouries, Vancouver, BC. on a boxing course then transferred to Seaforth Armouries, Vancouver, with my equipment. I got into an accident on the way back to the armouries, with a truck and as I was injured I was sent to hospital where I was for 28 days. My clothing and equipment were supposed to be forwarded to West Point Grey, 58th. Coast Battery. When I returned from hospital I found I was missing 1 waterproof rain coat; 1 pr. khaki trousers; 1 khaki shorts; 1 brown belt. Then I went on 3 months' farm leave. I applied for an extension which was granted but told to report on my return to Little Mountain Camp where my kit was supposed to be forwarded from Point Grey. Before I left Point Grey on farm leave I notified the Q.M. and sargeant major that these articles were missing. They said nothing, I was supposed to get it at Little Mountain. At Little Mountain they told me to get it at Ordnance at Prince George where I was to be stationed. I reported it here at Prince George on arrival but was not fixed up. Then I went on Christmas leave. Now I come back and am charged with these shortages.

Q Regarding the shortage of 1 battledress, blouse and trousers, what happened to that ?
A I had scabies in Vancouver and still had them when I got to Prince George. I saw the M.O. who ordered me to get a new battledress complete, change of underwear 1 towel, 1 pr. woollen socks. I got the uniform and returned the uniform to S/Sgt. Sleeth. He issued me with another charging me with these- not giving me a slip to show I turned in one and underclothes, towel and socks. So S/Sgt. Sleeth told me nobody was to wear my clothes after they had been disinfected so I was to return the new one and get my disinfected one back. Four days before I left on Christmas leave I turned in one complete battledress to L/Cpl. McNeil in the QM stores expecting to get back the disinfected one but it was not back yet, leaving me with only one battledress.

Q Is it your understanding that you have one battledress in the QM stores ?
A Yes.

Q Were you given a receipt for the articles turned in ?
A No, but I believe S/Sgt. Sleeth made out a slip and I signed it.

Q Then it was your understanding that you would return one battledress ?
A Yes, actually charged to my SOO.

CROSS EXAMINED BY THE PROSECUTOR:

Q When you went to Vancouver did you take all your equipment with you ?
A I was stationed in Vancouver and came from there to Prince George.

Q These shortages you found in Vancouver were they charged against you ?

A Yes, but it was supposed to be fixed up before I went on farm leave.

Q When did you go on farm leave ?
A In July, 1944.

Q What did you do with your equipment ?
A Turned it in to West Point Grey.

Q Did you take any military clothing with you ?
A Just what they gave me, overalls, leather mitts and a regular battledress for travelling.

Q When you returned from farm leave where did you go ?
A To Little Mountain and from there to Prince George.

Q What did you do about your equipment ?
A I went to the Q.M. and told them.

Q When you got to Prince George did you tell anybody about these missing articles ?
A Yes, I just mentioned them as lost in Vancouver.

Q Lost as a result of this accident ?
A Whoever was in charge of my stuff while I was in hospital was supposed to send it to West Point Grey where I was stationed.

Q Did you have them at the time of the accident ?
A Yes, in Seaforth armouries.

Q When did you go on Christmas leave ?
A 27th. December, 1944.

Q When were you due back ?
A On 3rd. January, 1945 at 0600 hours.

Q And you did not return ?
A No.

Q You were AWL from 0600 hours January 3rd. 1945 ?
A Yes.

Q When did you return ?
A At 1400 hours on the 28th. February, 1945.

Q During this time you were absent from Prince George Camp ?
A Yes.

Q Did you surrender voluntarily ?
A Yes.

Q Did you have permission to be away ?
A No.

Q Re the battledress! Did you sign MFC. 800 ?
A I think so. I signed for it anyway.

Q Did you get a receipt from L/Cpl. McNeil ?
A No.

Q Did you ask for one ?
A No.

Q On this exhibit F1, are there any items you disagree with ?
A Yes, I had some of it with me.

Q As far as the Q.M.stores records were concerned these were missing ?
A Yes, but I had some with me and these were the articles I have already mentioned as missing.

Q When did you last ask for the battledress turned in for disinfecting ?
A I'm not sure, but about the 26th. December, 1944.

Q Have you asked for it since your return ?
A I have been in close arrest since I have come back.

Q Have you asked anybody for it ?
A No, they have been asking me.

Q Where is your cap, tank, battalion ?
A I gave it to one of the firemen as he had none.

Q Did you get it back ?
A No.

Q Where are your drawers, cotton, short ?
A I think I left them in my barrack box when I went on Christmas leave.

Q How about your drawers, woollen ?
A I lost one of them off the clothes line, the other pair was turned in for disinifecting and never received it back.

Q How about the overalls ?
A I left them in a cupboard in "H" area which I understand has not been occupied for the last 10 weeks.

Q And socks ?
A One pair I turned in for disinfecting and I don't know where the other pair is.

Q Trousers, battledress ?
A The same as the battledress blouse.

Q Where are your shirts, woollen ?
A I turned one in for disinfection and lost one off the line.

Q And your holdall ?
A It got dirty and I threw it away.

Q Bags, ration ?
A I lost it.

Q Belt, waist, leather, brown ?
A That was one of the articles reported missing in Vancouver.

Q Belts, waist, web, 1½ ?
A I don't remember ever having been issued with it.

Q Have you ever worn one ?
A No.

Q How about your waterproof coat ?
A I explained about it missing in Vancouver.

Q Overshoes, four buckle ?
A I don't know what happened to them.

Q Mitts ?
A They were left with the overalls in the cupboard.

Q Pins, collar ?
A I lost it.

Q Shirts, undercotton ?
A That was left in the barrack box.

Q And 2 pairs socks, black ?
A They were worn out and I threw them away.

Q Trousers, khaki drill, long and short ?
A I have already explained them missing in Vancouver.

THE DEFENDING OFFICER DECLINES TO REEEXAMINE THE ACCUSED.

QUESTIONED BY THE COURT:

Q These articles you mention as having lost in Vancouver where were they at the time ?
A In my kit bag, in the Seaforth armouries, the raincoat hanging on a nail.

Q What was this accident you mentioned ?
A I was in the army truck going from the Western Club where boxing classes were held, back to Seaforth and I was injured.

Q Were you taken straight to hospital from the scene of the accident ?
A Yes.

Q Did you eventually get your kit bag and contents ?
A Yes, but only part of the contents.

Q When you went on Christmas leave did you leave some clothing and equipment in camp ?
A Yes.

Q Where ?
A I packed all I could in the barrack box, locked it and gave the key to one of the boys, I don't know his name. My rifle, summer drill jacket and walking out dress were hanging on a nail in the barrack room and the coveralls, mitts, cap, tank battalion were left in the cupboard.

Q When going on leave are you not supposed to turn your stuff in to the Q.M. stores ?
A No, not when we are to be away only a couple of days.

THE ACCUSED RESUMES HIS SEAT.

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS.

THE PROSECUTOR DECLINES TO MAKE A CLOSING ADDRESS.

CC

PROCEEDINGS ON PLEA OF GUILTY

The accused having pleaded guilty to the first charge is found guilty of the first charge.

Question to Prosecutor:

Q Have you any statement to make regarding all the circumstances connected with the offence ?

A Nothing other than the evidence is documentary.

Q Have you any statement to make in reference to the charge to which you pleaded guilty ?

A Yes, sir. I went home to Winnipeg on Christmas leave. I'd had a letter saying my brother was sick. He has 55 head of cattle and only his wife and 10 year old boy to look after it. He tried to get help but could not do so so I helped him out with it. My brother lives at Chatfield, Man. I was going to wire for an extension of leave but understood if I did and it was refused and I stayed I would have two charges laid against me, one for AWL, and one for disobeying an order. I could have got proof that I was there but it would mean waiting 15 days and he was not able to go to town and I do not know my way around there as he had just bought the farm. My brother only takes cream into town every 15 days, just when he can do so, due to road conditions. If I had known I was going to be held awaiting trial so long I could have wired and got proof of working for my brother.

Q Do you wish to make any statement in mitigation of punishment ?

A No.

Q Do you wish to give evidence yourself as to character ?

A No.

Q Do you wish to call any witness as to character ?

A No.

E

PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

The Court having arrived at a finding on both the charges against the accused, and such findings having been announced to the accused, the Prosecutor tenders to the President MFB. 355 and certified copy MFM.6

These documents are read to the Court by the President, are marked "Y" and "Z" signed by the President and attached to the proceedings.

Question to accused:

Q Have you any statement to make concerning the documents which have just been read to you ?

A No.

Q Do you wish to address the Court ?

A The Defending Officer will speak for me, sir.

(THE DEFENDING OFFICER hands in a written address which is read, marked "G" signed by the President and attached to the proceedings).

THE SENTENCE IS RECORDED AND ANNOUNCED TO THE ACCUSED IN OPEN COURT.

"F" 27

RECORD of the Declaration of a Court of Inquiry assembled at Prince George B.C. on the 25 day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H-615089 Pte MARKUS N.S. No.11 Ordnance Depot RCOC Prince George Detachment

DECLARATION

The Court declare that No. H-615089 Pte Norman Stanley MARKUS No.11 Ordnance Depot RCOC, Prince George Detachment illegally absented himself without leave from No.11 Ordnance Depot Prince George Detachment at 0600 hours at Prince George B.C. on the 3 day of January 1945, that he is still so absent, and that on the 25 day of January 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
1 Blouses Battle Dress	6.50	1 Trousers Khaki Drill Long	1.80
1 Caps Tank Battalion	1.01	1 Trousers Khaki Short	1.31
1 Drawers Cotton Short	.42		
2 Drawers Woollen	2.80		
1 Overalls Combination	2.52		
2 Socks	.92	TOTAL	$38.02
1 Trousers Battledress	6.55	Less 25%	9.51
2 Shirts Woollen	2.40		$28.51
1 Holdalls	.22		
1 Bags Ration	.04		
1 Belts Waist Leather Brown	.35		
1 Belts Waist Web 1½"	.25		
1 Coats Waterproof Army	6.91		
1 Overshoes 4 Buckle	2.04		
1 Mitts Pullover Leather	.93		
1 Pins Collar Safety	.06		
1 Shirts Under Cotton	.43		
2 Socks Black	.56		

"F"

Rejected

(SIGNED) J. W. CROFT Lieut President
(J.W.Croft) Lieut
No.11 Ord Depot RCOC, Pr George Det.

Member

Signed at Prince George, B.C.

Member

this 26th day of January 19 45

Signature of Commanding Officer (SIGNED) H. G. PATCHETT
(H.G.Patchett) Major,
No.11 Ord Depot RCOC,Pr George Det.

Signature of Officer having custody of original record

Certified true copy

CERTIFIED true copy
(P.H.) Martin) Capt
Officer i/c Records
No.11 Ord Depot RCOC (P.C.)

M.F.B. 175
A.F.B. 155
MM—9-43 (1000)
H.Q. 1772-39-257

"F1"

29

RECORD of the Declaration of a Court of Inquiry assembled at Prince George, B.C. on the 25th day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H-615089 Pte MARKUS N.S., No.11 Ordnance Depot RCOC Prince George Detachment.

F1

Major
President

DECLARATION

The Court declare that No. H-615089 Pte Norman Stanley MARKUS, No.11 Ordnance Depot RCOC, Prince George Detachment illegally absented himself without leave No.11 Ordnance Depot, PrinceGeorge Detachment, at 0600 hours at Prince George, B.C. on the 3 day of January, 1945, that he is still so absent, and that on the 25 day of January 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
2 Blouses Battle Dress	13.00	1 Razors Safety w/blade	.42
1 Boots Ankle	5.60	1 Towels Hand	.31
1 Caps Field Service	.70	1 Bags Ration	.04
1 Caps Tank Battalion	1.01	1 Braces W.E. Right	.33
1 Drawers Cotton Short	.42	1 Haversack W.E.	2.29
2 Drawers Woollen	2.80	1 Belts Waist Leather Brown	.35
1 Greatcoat Drab	15.54	1 Belts Waist Web 1½"	.25
1 Overalls Combination	2.52	1 Caps Winter Melton Cloth	1.05
4 Socks	1.84	1 Coats Waterproof Army	6.91
2 Trousers Battle Dress	13.10	1 Overshoes 4 Buckle	2.04
2 Shirts Woollen	2.40	1 Mitts Pullover Leather	.93
1 Badges Cap R.C.O.C.	.06	1 Mufflers Khaki	.93
1 Bags Kit Mk II	1.27	1 Pins Collar Safety	.06
1 Brushes Cloth	.17	2 Shirts Khaki Cotton	3.08
1 Brushes Shaving	.42	1 Shirts Under Cotton	.43
1 Brushes Tooth	.09	1 Shoes Leather Black	4.84
1 Combs Hair	.04	2 Socks Black	.56
1 Holdalls	.22	1 Trousers Khaki Drill L.	1.80
~~1 Housewife complete~~	~~.35~~	~~1 Trousers Khaki Drill S.~~	~~1.31~~
		Total	89.48
		less 25%	22.37
			67.11

(SIGNED) J. W. CROFT Lieut. President
(J.W.Croft) Lieut.
No.11 Ord Depot RCOC, Pr George Det.

..... Member

Signed at Prince George, B.C.

..... Member

this 26th day of January 1945.

Signature of Commanding Officer (SIGNED) H. G. PATCHETT
(H.G. Patchett) Major,
No.11 Ord Depot RCOC, Pr George Det.

~~Certified True Copy~~

Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 115
1000—4-42 (4657)
H.Q. 1172-39-267

CERTIFIED True Copy
(G.W. Vanderbilt) Lieut.,
A/Officer Commanding,
No.11 Ordnance Depot RCOC,
Prince George Detachment.

Pte Markus has been in the army more than two years and ~~it will be now~~ ~~at that time~~ has never committed a serious crime. In fact his record is almost without blemish. His MFM 6 has only 1 charge recorded on it. Last July he was AWL for ~~1 day~~ one day + ~~[illegible]~~ 21 hrs.

In this instance his actions are traceable to a desire to assist a sick brother who was unable to carry out the work normally required on a farm. Unfortunately time has not permitted us to obtain documentary evidence to this effect. Pte Markus has assured me ~~that~~ he can still get letters from responsible citizens of Chatfield Manitoba to the effect that his presence was necessary on his brothers farm during the time he was A.W.L.

Also the fact that Pte Markus returned to his unit in Prince George

~~of this case expense~~ is a point that should be taken into consideration.

~~Regarding the second charge, namely of losing by negligence his clothing, there seems to be considerable doubt as to whether he act really lost certain items such as one suit of battle dress and one rain coat. Obviously he should not have surrendered this article to the Quarter Master without obtaining a receipt. However the fact remains that he did.~~

In view of what I have said I believe that the court should take these findings into consideration and be as lenient as possible.

M.F.B. 355
7M—8-46 (6400-1)
H.Q. 1772-99-420
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number H.615089 Rank Pte Name Norman / Stanley MARKUS Regiment (or unit) No.11 Ordinance Depot, RCOC (P.C.) Prince George Detachment

1. The following is a fair and true summary of the entries in the Field ~~Service Record~~ Regimental and Squadron, Battery Conduct sheets ~~Rec~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.W.L.	1 times	A.W.L. 1 times
For	times	times
For	times	times
For	times	times
For		

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted or,

3. The accused is not under sentence at the present time. or,

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 15 days in military custody, making a total of 15 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his enrolment paper is 21 Years 6 months.

6. The date of his enrolment specified in his enrolment paper is 15 Feb 43

7.

8.

9. The accused is in possession of or entitled to no military decoration, or military reward

10.

Permanent Force
unit 2

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

null

SCHEDULE

Of convictions by a court-martial or civil court, or summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit ..... Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

null

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th day of March 1945

G.W. Vanderbilt
a/Officer Commanding #11 Ord.Depot RCOC Pr.Geo.Detachment (G.W. Vanderbilt) Lieut.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.B. 122)
500M—11-41 (3498)
H.Q. 1779-39-1431

37

No.	Name	Sqn., Battery, or Company	Corps	Date of enlistment	G.C. Badges	Tradesmen's Rates of Pay
H.6[illegible]89	MARKUS Norman Stanley	No. and date of last drunk: Nil	Period not reckoning towards freedom from extra fine	15 Feb. 1943	Nil	

Sheet No. One

Signature O.C. Company, etc.: R. Hunter Capt.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Vancouver, B.C.	19 July 44	Gnr		A.W.L. 2215 hrs. 19 Jul 44 to 2000 hrs. 21 Jul 44 (1 day 21 hrs. 45 min) AA Sec 15 (1)	Sgt.Laughton Sgt.Hyordsvar L/Bdr.Lott	Forf.3 days Pay FR&I 149(2)	22 Jul 44	Major C.H. Munsie,A.G	Rut. forf. 2 days Pay FR&I 149(1)(a)

CERTIFIED TRUE COPY
G.W. Vanderbilt
(G.W. Vanderbilt)Lieut.
A/Officer Commanding,
#11 Ordnance Depot, RCOC
Prince George Detachment,
Prince George, B.C.

Major
President

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. H-615089 Pte MARKUS N.S.

of #11 Ordnance Depot Prince George Detachment is in a good state of health,

and fit to undergo Trial by Court martial (Standing).

L D Maxwell Capt

Medical Officer
(L.D. Maxwell)Capt.
R.C.A.M.C.
Prince George Military Hosp.
Prince George, B.C.

Station Prince George, B.C.

Date 14th March, 1945

M.F.B. 246

Certified true copy
P. H. Martin Capt.
Officer i/c Records
#11 Ordnance Depot
R.C.O.C. (P.C.)

DAILY ORDER PART II

by

MAJOR B. C. BEAMER

Commanding

NO 11 ORDNANCE DEPOT, R.C.O.C. (Pacific Command)

Part II Order No 30
2 March 45
Vancouver, B.C.

Sheet ONE

Last Order Issued No 29 d/ 28 Feb 45

DIVISION "A" VANCOUVER DETACHMENT

SECTION "A" OFFICERS ON STRENGTH

1. STRENGTH INCREASE

Amendment
Part II Order No 1 d/ 1 Jan 45, Sec. "A", sheet 1, para 1 insofar as it concerns the u/m effective date is amended to read "21 Dec 44" and unit is amended to read #11 D.D.
Auth: HQPC 22-B-6680 (D1) d/ 23 Feb 45

Lieut B W BUECKING

2. COMMAND

(a) Off command to Terrace at 1900 hrs — 28 Feb 45

Lieut J E STARK

(b) On command to Esquimalt and Nanaimo at 2359 hrs — 1 Mar 45
Auth: DDOS PC

Capt P H MARTIN

3. SUBSISTENCE ALLOWANCE

(a) Having been compelled to pay rent for quarters while absent on duty is authorized to draw subsistence allowance for the 30 day period 27 Dec 44 to 25 Jan 45.
Auth: FR&I 199(4)(c)

Lieut J E STARK

(b) Granted Subsistence Allowance — 16 Feb 45
Auth: DAQMG 73-1-2-8-11L d/ 27 Feb 45

Capt C P GAUTHIER

4. APPOINTMENTS, PROMOTIONS AND REVERSIONS

Appt Officer Commanding ~~No 11 Ordnance Depot, R.C.O.C.~~ — 2 Jan 45

Auth: HQ ~~352-1-133 (Para~~ 1B2) d/ 15 Feb 45

Major B C BEAMER

(CONTINUED)

C.P.M.

DIVISION "A" VANCOUVER DETACHMENT

SECTION "A" OFFICERS ON STRENGTH

5. NEXT OF KIN

Change of address of Next of Kin:
Mrs. Dorothy MASER (Wife)
From: 589½ Bank Street,
OTTAWA, Ontario

To: 3494 Laurel Street,
Vancouver, B.C. 1 Mar 45

Lieut D J MASER

SECTION "B" OTHER RANKS

1. ATTACHMENT

(a) Detailed for duty Kamloops Detachment to Vancouver Detachment 2 Mar 45
Auth: RCOC M.A. #159 d/ 26 Feb 45

K76561 Pte CICCOZZI J

(b) Cease att for trng to No 11 V.T.S. 23 Feb 45
Auth: #11 VTS D.O. #33 d/ 26 Feb 45

W22086 Pte JOHNSON L N
W13610 Pte OPITZ H M

(c) Att Vancouver Detachment for rations and 10 Area Sigs for quarters 1 Mar 45

M57444 Pte (L/Cpl) CHRISTENSEN L
K83627 Pte FLODBERG P G

(d) Cease att to No 29 Admin Unit fap except duty 25 Feb 45
Att fap except disc to No 1 WHSC and for discipline to No 28 Admin Unit CWAC 26 Feb 45
Auth: PC Circular Letter #267 d/15 Feb 45.

W110429 Pte (L/Cpl) McKENZIE D G

2. COMMAND

(a) On command to Prince George at 1915 hrs 22 Feb 45
Auth: DDOS PC

Off command to Prince George at 0915 hrs 2 Mar 45

P34965 S/Condr FORSYTHE W M

(b) On command to Prince George from Vancouver at 0001 hrs 24 Feb 45
Auth: DDOS PC

Off command to Prince George at 0915 hrs 2 Mar 45

K45241 Sgt LAVOIE J L

(CONTINUED)

NO 11 ORDNANCE DEPOT, R.C.O.C. (PC)
Part II Order No 30

2 Mar 45

DIVISION "A" VANCOUVER DETACHMENT

SECTION "B" OTHER RANKS

2. COMMAND

(c) On command to Victoria at 1030 hrs 20 Feb 45
Auth: OC Depot

Off command to Victoria at 1830 hrs 28 Feb 45

M53350 Pte (A/Cpl) O'NEILL F.H.

3. PRIVILEGE LEAVE

Granted privilege leave for the period 1 Mar to 14 Mar 45.(CARO 4688)
Granted T.T. for period 15 Mar to 21 Mar 45
Granted 48 hours leave for period 22 Mar to 23 Mar 45
Issued with T.W.#A878974

A110941 Pte CUNNINGHAM J F

4. HOSPITAL

(a) Admitted to #1 WSHC Harrison Hot Springs 26 Feb 45

W110429 Pte (L/Cpl) MACKENZIE [illegible]

(b) Admitted Vancouver Military Hospital (sick) 17 Feb 45

Discharged Vancouver Military Hospital 24 Feb 45

W13525 Pte HUNKA J

(c) Admitted Vancouver Military Hospital (sick) 28 Feb 45

W13525 Pte HUNKA J

5. TRADESMEN'S QUALIFICATIONS

(a) Retested under the provisions of PCRO 1380 & Qualified Strmn T & D Group "C"
Auth: PC TTB Ser #1519 16 Feb 45

L93483	Pte (A/Cpl)	BARNES	I
C94681	Cpl (A/Sgt)	DICKMAN	W J
L59628	Pte	HOWE	M L
K46961	Pte	NEWBOLD	J J
M57455	Pte	MILLIKEN	A R
W 11461	Pte	PERRETT	R E
W11107	Pte (A/Cpl)	WEST	R

(b) Qualified Strmn T & D Group "C"
Auth: PC TTB Ser # 1519 16 Feb 45

K51229	Pte (L/Cpl)	APPLEBY	G W
K37190	Pte	BAKER	R C
K4826	Cpl	NEWTON	D F
W110372	Pte	OLIVER	A M
W10751	Pte	RUDD	O M
W11499	Pte (L/Cpl)	SIEB	A K
K73111	Pte	WHITING	H W

(CONTINUED)

Pl. [illegible]

DIVISION "A" VANCOUVER DETACHMENT

SECTION "B" OTHER RANKS

6. SUBSISTENCE ALLOWANCE

(a) Cease subsistence allowance dates shown:

B626619 Pte BEZENER M — 1 Mar 45
M57444 Pte (L/Cpl) CHRISTENSEN L — 20 Feb 45

19 Feb 45

(b) Granted subsistence allowance
Auth: DAQMG 73-1-2-8-11L d/ 27 Feb 45

M57455 Pte MILLIKEN A R

(c) Amendment
Part II Order No 92 d/ 13 Dec 44, Sec. "B", sheet 3, para 6(a) insofar as it concerns the u/m is hereby cancelled.

H99016 Cpl McKAY K R

(d) Amendment
Part II Order No 15 d/ 31 Jan 45, sec. "B", sheet 2, para 5 insofar as it concerns the u/m is hereby cancelled.

H99016 Cpl McKAY K R

7. NEXT OF KIN

Change of address of Next of Kin:
Mrs. Anne WARAWA (Wife)
From: 256 East Georgia Street, Vancouver, B.C.

To: Insignor, Saskatchewan. — 1 Mar 45

M602470 Pte WARAWA P

8. STRENGTH DECREASE — 1 Mar 45

SOS to #2 District Depot
Auth: PC Indent #1672

B626619 Pte BEZENER M

SECTION "C" OFFICERS ATTACHED

N I L

SECTION "D" OTHER RANKS ATTACHED

1. ATTACHMENT

(a) Att Vancouver Detachment for R & Q from #1 Depot RCASC — 28 Feb 45

M609827 Pte ROUSCH V

(CONTINUED)

DIVISION "A" VANCOUVER DETACHMENT

SECTION "D" OTHER RANKS ATTACHED

1. ATTACHMENT

(b) Cease att fsp from No 11 District Depot 1 Mar 45
Auth: DA&G 2-1-28-3(D2) d/ 21 Feb 45

K29070 S/Sgt YOUNG S
K78453 Sgt HUNTER R G

(c) Cease att fsp from #11 ES&W Coy 16 Feb 45
Auth: #11 ES&W Coy RCE PTO #22 d/ 19 Feb 45

Att fsp from 24 Fd. Coy RCE 17 Feb 45
Auth: 24 Fld Coy RCE PTO #22 d/ 23 Feb 45

B123856 Spr (U/A/Sgt) ALLEN T E
B623910 Spr CHESTER C
B628973 Spr CORBETT R T
A604936 Spr GOODYEAR W.T
B612649 Spr LIPINSKI A
K605207 Spr RYLL C J.L
B623916 Spr SANDRIN T
K608755 Spr SCHEER E P
M601380 Spr SPRECHER G
L607922 Spr THORESON B M
K573415 Spr WILSON J

2. COMMAND

(a) Off command from Terrace at 0915 hrs 1 Mar 45

K78453 Sgt HUNTER R G
K29070 S/Sgt YOUNG S

(b) Off command from Terrace at 0915 hrs 2 Mar 45

B123856 Spr (U/A/Sgt) ALLEN T E
K78944 Cpl (A/Sgt) MacKENZIE J C

3. PRIVILEGE LEAVE

Granted 96 hrs leave for period 3 Mar to 6 Mar 45.
(CARO 4688) with Ration allce (Art 196(4) FR&I)

B623910 Spr CHESTER C (24 Fld Coy)
B628973 Spr CORBETT R T (24 Fld Coy)
G52354 Spr CROWSMAN K H (A 6 GETC)
M606171 Gnr DAVIS G T (27 AA Regt)
D646684 Gnr DOLHAN M. (27 AA Regt)
M607555 Spr FLEMING R S (#11 D.D.)
A604936 Spr GOODYEAR W T (24 Fld Coy)
B612605 Gnr GUREVITCH M M (27 AA Regt)
A471179 Gnr HALL G E (27 AA Regt)
B520280 Gnr HILLS G L (27 AA Regt)
H613044 Pte KRISTINNSON S J (#11 D.D.)
B612649 Spr LIPINSKI A (24 Fld Coy)

(CONTINUED)

NO 11 ORDNANCE DEPOT, R.C.O.C. (PC)
Part II Order No 30

2 Mar 45

DIVISION "A" VANCOUVER DETACHMENT

SECTION "D" OTHER RANKS ATTACHED

3. PRIVILEGE LEAVE

Granted 96 hrs leave for period 3 Mar to 6 Mar 45 (CARO 4688) with Ration allce (Art 196(4) FR&I)

L611046	Spr	MARGORETTA	A	(A6 CETC)
H614034	Gnr	MULDER	E G	(27 AA Regt)
H613661	Gnr	NEUSTAEDTER	P	(27 AA Regt)
K45629	Gnr	PARKIN	A A	(#11 D.D.)
K695307	Spr	RYLL	C J L	(24 Fld Coy RCE)
B633916	Spr	SANDRIN	I	do
K608755	Spr	SCHEER	E P	do
M601380	Spr	SPRECHER	G	do
M606124	Gnr	SMITH	R M	(27 AA Regt)
L607022	Spr	THORESON	B M	(24 Fld Coy RCE)
M538072	Gnr	UTAS	P E	(27 AA Regt)
B628671	Gnr	WILEY	J B	do
K573415	Spr	WILSON	J	(24 Fld Coy RCE)

//

ESQUIMALT DETACHMENT - ESQUIMALT, B.C.

SECTION "A" - OFFICERS

N I L

SECTION "B" - OTHER RANKS

1. NEXT OF KIN
AMENDMENT:

D.O.#4 d/17 June 44 Sheet 13 Sec "B" Para 11 ref to u/m amend "Change of Address N.of K." to read " Change of Next of Kin".(NDHQ obs #B1322)

P7419 Pte MURRAY P

SECTION "C" - ATTACHED OFFICERS

N I L

SECTION "D" - ATTACHED OTHER RANKS

N I L

(Continued)

11/2/3

SHEET SEVEN

No.11 ORDNANCE DEPOT,R.C.O.C.(P.C.)
Part II Order No 30

2 Mar 45

ORDNANCE DETACHMENT, MERNON, B. C.

SECTION "A" OFFICERS ON STRENGTH

1. COMMAND

(a) Off Command to Kamloops, B.C. 1230 hrs. 28-Feb-45.

LIEUT. W. R. WATERS,

(b) On Command to Salmon Arm,B.C. 1120 hrs. 1-Mar-45.

LIEUT. W. R. WATERS,

SECTION "B" OTHER RANKS ON STRENGTH

1. COMMAND

(a) Off Command to Kamloops,B.C. 1200 hrs. 26-Feb-45.

K76505 CPL.(A/SGT.)WOLF, B.W.

(b) Off Command to Kamloops,B.C. 1230 hrs. 28-Feb-45.

B 1991 PTE.(A/CPL.)EDDIE, W.E.

K 601023 PTE. WYNNYCHUK, N.

(c) On Command to Salmon Arm,B.C. 1120 hrs. 1-Mar-45.

B 1991 PTE.(A/CPL) EDDIE W.E.

K 601023 PTE. WYNNYCHUK, N.

2. LEAVE AND FURLOUGH

(a) Granted 96 hrs Short Leave and Ration Allce.
(Auth. C.A.R.O. 4688 F R & I 196,(4)
2-Mar-45 to 5-Mar-45.

K 71585 PTE. COX, W. H..G.

3. TRADESMANS' QUALIFICATION

(a) Qualified as Textile Refitter Group "C" 25-Jan-45
(Auth. Bd Proceedings Serial P.C. 1421 .

K 543 PTE. LEE, C. J.

SECTION "C" AND SECTION "D"

N I L

(Continued)

23/1/3 NO. 11 ORDNANCE DEPOT R.C.O.C. (PC)
PART II ORDER NO. 30 2 Mar 45

SHEET NO. EIGHT

NANAIMO DETACHMENT, NANAIMO, B. C.

SECTION "A" - OFFICERS

1. ATTACHMENTS

(a) Ceases att. for R. & Q. to Pacific Command Company, RCEME 28 FEB. 45
Nanaimo Detachment for one day only
Lieut. S.R. GOUDIE

(b) Ceases att. for R. & Q. to Pacific Command Company, RCEME 28 FEB. 45
Nanaimo Detachment
Lieut. (A/Capt) A.W. DOWNE

2. COMMAND

(a) On command to Alberni, B. C. 0815 hours 28 FEB. 45
Off command to Alberni, B. C. 1000 hours 1 MAR. 45
Lieut. S.R. GOUDIE

(b) On command to Victoria, B.C. 0900 hours 28 FEB. 45
Lieut. (A/Capt.) A.W. DOWNE

3. SUBSISTENCE ALLOWANCE

Granted subsistence allowance for period 1 MAR 45 to 31 MAR 45
(Auth: DAQMG 73-1-2-8-11M d/ 23 Feb. 45 & P.R. & I. 199 (1)
Lieut. (A/Capt.) B.J. KERR

SECTION "B" - OTHER RANKS

1. STRENGTH INCREASE

(a) T.O.S. from No. 11 District Depot (CA) 27 FEB. 45
(Auth: P.C. Indent No. 1617 d/23 Feb. 45)
K-48457 Pte. MILLER, J.R.

(b) AMENDMENT

Part II Order No. 23 dated 19 Feb. 45, Section "B" Para 1, Sheet No. 5 insofar as it concerns H-610043 Cpl. HOPF, W.J. regimental number is amended to read A-610043 Cpl. HOPF, W.J.

2. ATTACHMENTS

(a) Ceases att. for R. & Q. to Pacific Command Company, RCEME 28 FEB. 45
Nanaimo Detachment for one day only
K-76949 Cpl (A/Sgt) GRAHAM, R.B.
K-62403 Sgt. KIRBY, T.R.

(b) Ceases att. for R. & Q. to Pacific Command Company, RCEME
Nanaimo Detachment as shown.
K-46252 Pte. CHALMERS, G. 28 FEB. 45
B-628190 Cpl. BATT, J.C. 8 FEB. 45
K-573750 Pte. HARRISON, D. 27 FEB. 45
K-78451 Sgt. MITCHELL, W.J.G. 28 FEB. 45
H-43466 Pte. PREZAMENT, J. 28 FEB. 45

(c) Att. for R. & Q. to Pacific Command Company, RCEME Nanaimo 27 FEB 45
Detachment
K-57103 Pte. BILLSBOROUGH, J.M.

CONTINUED -

23/1/3 NO. 11 ORDNANCE DEPOT R.C.O.C. (PC)
PART II ORDER NO. 30

SHEET NO. NINE 2 Mar 45

NANAIMO DETACHMENT, NANAIMO B.C.

SECTION "B" - OTHER RANKS - CONTINUED

2. ATTACHMENTS (Cont'd.)

(d) Att. for R. & Q. to Pacific Command Company, RCEME Alberni Detachment 1 MAR. 45
H-43466 Pte. PREZAMENT, J.

3. COMMAND

(a) On command to Alberni, B.C. 0815 hours 28 FEB. 45
Off command to Alberni, B.C. 1000 hours 1 MAR. 45
K-76949 Cpl (A/Sgt) GRAHAM, R.B.
K-62403 Sgt. KIRBY, T.R.

(b) On command to Victoria, B.C. 0900 hours 28 FEB. 45
K-78451 Sgt. MITCHELL, W.J.G.

4. ABSENT WITHOUT LEAVE

Absent without leave from 0800 hours 27 Feb. 45. Still absent 0800 hours 2 Mar. 45 (First entry)
K-48457 Pte. MILLER, J.R.

5. HOSPITAL

Discharged from Nanaimo Military Hospital 27 FEB. 45
K-57103 Pte. BILLSBOROUGH, J.M.

6. MARRIAGES, BIRTHS, DEATHS

Son, William Charles, born at Nanaimo General Hospital, Nanaimo, B. C. 10 FEB. 45
K-8909 Pte. WOOLLACOTT, W.B.

7. STRENGTH DECREASE

(a) S.O.S. to A.16 C.I.T.C., Calgary, Alta. 8 FEB. 45
(Auth: P.C. Indent No. 1303 d/3 Feb. 45)
B-628190 Cpl. BATT, J.C.

(b) S.O.S. to S.1 CC & AAAS, Esquimalt, B.C. 28 FEB. 45
(Auth: P.C. Indent No. 1626 d/24 Feb. 45)
K-46252 Pte. CHALMERS, G.

SECTIONS "C" AND "D" NIL

(Continued)

PHNV.

16/28/2 No.11 Ordnance Depot RCOC (Pacific Command)

Sheet TEN Part II Order No. 30 2 Mar 45

Ordnance Detachment, Prince George, B.C.

SECTION "A" - OFFICERS

N I L

SECTION "B" - OTHER RANKS

1. STRENGTH INCREASE

(a) Having been S.O.S. #11 Ordnance Depot RCOC by Ct.Inq. 24 Jan.45
for A.W.L.....0600 hrs... 3 Jan.45
T.O... (at $1.50 per diem) on rejoining from des. .....0600 hrs...26 Feb.45

H.615089 Pte. MARKUS, N.S.

2. ATTACHMENTS

(a) Att. for R.& Q.....1 Mar.45

H.610590 Pte. VOIGT, R.

(b) Cosses att. for R.& Q.....27 Feb.45

B.628483 Pte. KRESZOVIC, W.

3. DETAILED FOR DUTY

(a) Detailed for duty to Prince Rupert Detachment 28 Feb.45
(Auth: Inter-Unit Move Order #100 d/27 Feb.45)

B.628483 Pte. KRESZOVIC, W.

4. TRADESMEN'S RATES OF PAY

(a) Having qualified are granted Tradesmen's Rates of Pay as Cooks (RCASC) Group "B".....2 Feb.45
(Auth: H.R. 6-5-4 d/23 Feb.45)

H.500400 Pte. GESKE, E. (RCASC)
K.46852 Pte. WADDLE, V.C (RCASC)

5. STRENGTH DECREASE

AMENDMENTS

(a) Section "B", Sheet 2, Para.2 of D.O. #24 d/20 Feb.45 insofar as it concerns the u/n amend Regt'l No. to read K.[illegible]280

K.607113 Pte. MALONEY, M.D.

SECTION "C" - OFFICERS ATTACHED

1. ATTACHMENTS

(a) Cosses att. for R.& Q.....22 Feb.45

1 Officer (B Pro.C)

CONTINUED

Ordnance Detachment, Prince George, B.C.

SECTION "D" - OTHER RANKS ATTACHED

1. ATTACHMENTS

(a) Cosmos att. for R.& Q. 28 Feb.45

K.9380 Pte. MALONEY, M.D. (#7 Mob Laundry Unit)

2. LEAVE

(a) Granted 8 days Compassionate Lve. with Ration Allce. (Vide Art. 196(4) P.R.& I.) for the period 28 Feb. to 7 Mar.45.

K.9380 Pte. MALONEY, M.D. (#7 Mob Laundry Unit)

3. STRENGTH DECREASE

AMENDMENTS

(a) Section "D", Sheet 2, Para.2 of D.O. #25 d/21 Feb.45 insofar as it concerns the n/a amend Regt'l No. to read K.9380

K.607113 Pte. MALONEY, M.D.

(Continued)

TERRACE DETACHMENT - TERRACE, B.C.

SECTION "A" - OFFICERS

1. ATTACHMENTS
(a) AMENDMENT:

D.O.#4 d/17 June 44 Sheet 32 Sec "A" Para 1(a) insofar as it ref to u/m, delete "and to Camp Headquarters, Terrace for pay"

Lieut. (A/Capt) A. F. TUFTS

(b) D.O.#4 d/17 June 44 Sheet 32 Sec "A" Para 1(c) insofar as it ref to u/m, delete "Att'd to Camp H.Q. Terrace B.C. for pay .... 22 May 44".

Lieut D. C. WEST

SECTION "B" - OTHER RANKS

1. ATTACHMENTS
AMENDMENT:

D.O.#4 d/17 June 44 Sheet 32 Sec "B" Para 1(a) insofar as it ref to u/m delete "and to Camp Headquarters, Terrace for pay"

41 O.R's.

SECTION "C" - ATTACHED OFFICERS

N I L

SECTION "D" - ATTACHED OTHER RANKS

1. ATTACHMENTS
AMENDMENT:

D.O.#4 d/17 June 44 Sheet 34 Sec "D" Para 1 insofar as it ref to u/m delete "and to Camp Headquarters Terrace B.C. for pay"

7 O.R's. (A21 CCTC Bamsfield)

(Continued)

Hm.

18/2/3

No. 11 Ordnance Depot RCOC PC

Part II Order No. 30 2 Mar 45

Sheet THIRTEEN

Ordnance Detachment Kamloops
(Paid by Paymaster No. 11 Ordnance Depot)

"A" OFFICERS ON STRENGTH

1. ATTACHMENTS

Ceases att. to Kamloops Det. for R&Q.....22 Feb 45
Att. to Kamloops Det. for R&Q.....27 Feb 45

Capt. A. SOUTHWELL

2. COMMAND

On comd to Bralorne 1700 hrs.....22 Feb 45
Off comd to Bralorne 0100 hrs.....27 Feb 45
(Auth: HQPC "G" Staff - DDOS phone 22 Feb 45)

Capt. A. SOUTHWELL

"B" OTHER RANKS ON STRENGTH

3. ATTACHMENTS

Ceases att. to Kamloops Det. for R&Q.....22 Feb 45
Att. to Kamloops Det. for R&Q.....27 Feb 45

K 48178 Pte. (A/Sgt) BLAKE W.A.

(b) Ceases att. to Kamloops Det. for R&Q ..... 1 Mar 45

K 76561 Pte. CICCOZZI J.

(c) Ceases att. to Kamloops Det. for rations....28 Feb 45

K 608833 Pte. RECINA P.

4. DETAILED FOR DUTY

Detailed for duty from Kamloops Det to Vancouver Det. .....1 Mar 45
(Auth: RCOC M.O. 159 d/26 Feb 45)

K 76561 Pte. CICCOZZI J.

5. COMMAND

On comd to Bralorne 1700 hrs. 22 Feb 45.
Off comd to Bralorne 0100 hrs.....27 Feb 45
(Auth: HQPC "G" Staff and DDOS Phone 22 Feb 45)

K 48178 Pte. (A/Sgt) BLAKE W.A.

Continued

18/2/3

No. 11 Ordnance Depot RCOC PC

Part II Order No. 50

Sheet FOURTEEN 2 Mar 45

Ordnance Detachment Kamloops

"B" OTHER RANKS ON STRENGTH

6. LEAVE

Granted 96 hr. leave (CARO 4688) and ration allse (Art 196(4) FR&I) 2 Mar 45 to 5 Mar 45.

M 609609 Pte. BELANGER A.
M 57421 Pte. (A/Cpl)DUBE J.A.A.
K 67604 Pte. JENKINS W.
C 15735 Cpl. (L/Sgt)NOLAN D.T.
K 9284 Pte. (A/Cpl)SMITH C.W.
K 63182 Pte. SMYTHE W.G.
K 46250 Pte. (L/Sgt)TREVETT C.W.

7. HOSPITAL

Admitted to Vernon Mil. Hosp. (Injury).....28 Feb 45

K 608833 Pte. REGINA P.

8. APPOINTMENTS, PROMOTIONS, REVERSIONS

Reverts to rank of Pte. at his own request....1 Mar 45

K 76561 Cpl. CICCOZZI J.

9. TRADESMENS RATES OF PAY

Ceases to draw Trades Pay as Foreman Dept. Gp. B. .....1 Mar 45

K 76561. Pte. CICCOZZI J.

10. STRENGTH DECREASE

SOS to #10 District Depot.....2 Mar 45
(Auth: HQPC V-22-M-5833 (D4) d/26 Feb 45)

H 617500 Pte. MOLINE F.J.

"C" OFFICERS ATTACHED

N I L

Continued

18/2/3

No. 11 Ordnance Depot RCOC PC

Part II Order No. 30

2 Mar 45

Sheet FIFTEEN

Ordnance Detachment Kamloops

"D" OTHER RANKS ATTACHED

11. LEAVE

Granted 14 days privilege leave and 7 days T.T. (CARO 4886) and ration allce. (Art 196(4) FR&I) 1 Mar 45 to 21 Mar 45.

D 649451 Cnr. POULIN R. (11 Gen Emp Coy)

12. SPECIAL LEAVE AND FURLOUGH WARRANT

Issued Special leave and furlough transportation warrant A 94/684.....28 Feb 45

D 649451 Gnr. POULIN R. (11 Gen Emp Coy)

O.C. Martin Capt

for (B.C.BRAMER) Major

Officer Commanding, No. 11 Ordnance Depot, R.C.O.C. (P.C.)

HQC.55-M-1614 (JAG/D-7)
Your File 22-M-4147

28 Mar 45

General Officer Commanding-in-Chief,
Pacific Command,
VANCOUVER, B.C.

STANDING COURT-MARTIAL
H.615089, Pte. MARKUS, N.S.
No. XI Ordnance Depot, RCOC

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

R.J.G.

(R.J. Orde), Brigadier,
Judge Advocate-General.

LJR/AB

R.A.P.

THIS COPY FOR: H.QC.55-M-1614
M.D22-M-4147

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. H.615089 Name MARKUS, Norman Stanley

Rank Pte Unit No. 11 Ordnance Depot R.C.O.C. (PC) Pr George Det

Charge (1st) A.A. 15 (1) - A.W.L.

(2nd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 3-1-45; (2) 25-1-45

Date of Arrest (1) 28-2-45 Charge Signed 9-3-45

Orders for D.C.M.

Place and Date of Trial Camp H.Q. Pr George B C 14-3-45

Sentence Det 45 days; stoppages $8.66

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36395

Date 27-3-45

DMO

Pac Com - No. 11 Ord Depot RCOC

Absent	Sentence
1½ mos	Det. 45 days

R. Y. Rogers 2/Lt.
for Judge Advocate General

45(M-4629)

IN REPLY PLEASE QUOTE No. 22-M-4147

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters Pacific Command
Vancouver Barracks,
Vancouver, BC.

21st. March, 1945.

6-55-M-1614

Judge Advocate General
National Defence Headquarters
Ottawa, Ontario.

STANDING COURT MARTIAL
H.615089 Pte. MARKUS, N.S.
No. XI Ordnance Depot, RCOC

1. Pursuant to CARO. 4565 herewith proceedings in the m/n court-martial.

(R.H.GREEN) Major
President of Standing Court-Martial.

encl
airmail.

36395

NAT. DEF. B. 440
(5000M-1-43) (3951)
H.Q. 1772-28-787

H.Q.C. 55-M-1615 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERE

SUBJECT DISTRICT COURT-MARTIAL

MARQUIS. AUGUSTE D.128948 SPR.

405-M-29499

CONFIDENTIAL
H.Q.C. 55-M-1615

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				J. A. G.	NEW FILE	C.R.	MAR 26 1945
APR 3 1945				I.C.M.	To note & Pass to Admin		2 Apr. 45
APR 14 1945				Admin			APR - 3 1945
APR 19 1945					PER B.F. APR 20 1945		
APR 24 1945					With Papers C.R. APR 27 1945		
MAY 3 1945				Admin	PER B.F. APR 30 1945		
MAY 16 1945				Admin	PER B.F. MAY 15 1945		
MAY 28 1945				I.C.M.	PER B.F. MAY 27 1945		
JUN 11 1945				Admin	PER B.F. MAY 30 1945		
JUN 23 1945				Admin	PER B.F. JUN 20 1945		
JUN 29 1945				Admin	PER B.F. JUN 28 1945		
				CMBR	NOV 30 1945		
DEC 15 1945				Admin	Recommendation		DEC 11 1945
				JAG	With Papers C.R. DEC 24 1945		
				CMBR	To note		26/12/45
JAN - 4 1946				Admin	To note		29/12/45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use once.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE.

NMG 55-

SUBJECT	FOLIO
Opening Address by Prosecutor	.....
Closing Address by Prosecutor	.....
Closing Address by Defence	.....
MFM 6	9
MFM 355	10
Special	.....
.....	.....
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.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....

HQC 55-M-1615
(JAG/D-6)

5

OTTAWA, 27 December,

Commander,
Petawawa Military Camp
PETAWAWA, Ontario

D-128948, Spr MARQUIS, A
Formerly A-5 CETC - now No 4 DD CA

Receipt is acknowledged of your P. 6-0-M-1750 (JAG) dated 22 December, 1945, under cover of which you forwarded to this headquarters for custody Form of Remission, together with MFM 288, in respect of the m/n soldier.

(RJ Orde) Brigadier
Judge Advocate General

/jm

Notify Pl Pedon

IN REPLY PLEASE QUOTE No. P.6-0-M-1750 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Petawawa Military Camp,
22 December 45.

CONFIDENTIAL

Secretary,
Department of National Defence,
OTTAWA - Canada.

17109

DEC 24 1945

Referred to JAG

STANDING COURT-MARTIAL
D.128948, Spr MARQUIS, A.
Formerly A-5, CETC now #4 DD
Remission of Sentence

Reference your file HQC 55-M-1615 and this HQ P.6-0-M-1750 (JAG) dated 1 December 45.

2. In accordance with para 28 of CARO 5913 and Adjutant-General's Circular Letter R356B dated 21 September 45, one copy of a Form of Remission in accordance with Appendix "G" to CARO 5913 and MFM 288 are enclosed herewith for your records.

3. This case has been the subject of a recommendation by the Court-Martial Board of Review after the remission had been granted. In this connection reference is made to your RANKS 1391 dated 13 December 45 and this HQ JAPWA 9948 dated 13 December 45.

James S. Craig, Major

for (G.T.A. McNeill) Lt-Col,
Officer Administering,
Petawawa Military Camp.

JSC/ML
Encls

NAT. DEF. 9. 440
250M-4-44 (A2)
H.Q. 1773-29-767

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-128948 (Number) Sapper (Rank) MARQUIS, Auguste (Name in full)

A-5, Canadian Engineer Training Centre (Unit) (Attachment (if any))

Sentenced to undergo detention for eighteen (18) months

on 5 Mar 45 at Petawawa Military Camp

being served at Petawawa Military Camp Detention Barracks (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 24 years, 28 Jan 42

Medical grade or category YOB P U L H E M S
18 1 1 3 1 1 1 1

FIRST TRIAL—PART II

To Adjutant-General, Department of National Defence, Ottawa. (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~(not)~~ committed to undergo his sentence, which I recommend should ~~(not)~~ be ~~(suspended)~~ ~~(put into execution)~~ (reviewed on when medical reports received.) (date) for reasons given in paragraph X.

Place Petawawa Military Camp.

Date 22nd March, 1945.

(Confirming Authority)
(W. C. Thackrey) Brigadier,
Commander
Petawawa Military Camp.

PART III

For C.O.'s remarks, see Part IX

I direct that the sentence (which I hereby commute to .....)

of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 288
(Army Form A-3106)
[illegible]
H.Q. 1772-20-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
MAY 28 1945	B.F. for Review on 5/9/45	C Stuart Lt Adjutant-General for Superior Military Authority	
22 Aug 45	Review again on completion of ½ of the sentence, 5 Dec 45.	James A Coy Maj. AIA JAG for (WC Thackray) Brig Cmdr Petawawa Mil Camp.	
30 Nov 45	Balance of sentence (273 days) remitted eff 5 Dec 45 under authority of Sec 57(2) of the Army Act.	W C Thackray (W C Thackray) Brigadier, Commander Petawawa Military Camp	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Deserting His Majesty's Service in that he, at Petawawa Military Camp, Ontario, on the 5th day of October 1944, having been warned for special duty and with full intent to avoid so proceeding, absented himself without leave from A-5, Canadian Engineer Training Centre (CA) from 0600 hours, 5th day of October 1944, until he was apprehended by the Military Authorities at Montreal, Quebec, at 1430 hours, the 20th day of February 1945, dressed in Military Uniform, the cost of apprehension and return to his corps being $13.86 (Sec. 12 (1)(a) A.A.) Signature of officer making entry	5 Oct 1944	5 Mar 1945

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
20 Mar 45	If this man is found to be medically fit I would recommend that suspension of sentence be considered with the view that he proceed overseas.	Robt Bradley Capt

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
22 Mar 45	I recommend that this sentence be reviewed as soon as the medical reports concerning the m/n soldier are received, and if he is medically fit, consideration be given to granting suspension of sentence in order that he may proceed Overseas.	W C Thackray (W.C. Thackray) Brig Commander Petawawa Mil Camp.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

FORM FOR REMISSION, COMPUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY COURTS MARTIAL

NDHQ File No.: HQC 55-M-1615

District File No.: P.6-O-M-1750(JAG)

PART I

No. D-128948 Rank Spr. Name MARQUIS Auguste

Unit Formerly A-5 CETC CA - No. 4 District Depot CA

PART II

Date of Trial 5th day of March 1945

Charge(s) Desertion (AWL 5 Oct 44 - 20 Feb 45)

Sentence Eighteen (18) months detention

Date of Sentence 5th day of March 1945

Confirmation - (a) Authority: Brigadier W.C. Thackray, Commander Petawawa Military Camp

(b) Date: 7th day of March 1945

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act ~~xxxx

VER V PWA NR 50 ******** I M M E D I A T E ******

FROM COMDR PETAWAWA ONT 131539R

TO DEFENSOR OTTAWA ONT

GR 84 BT

"JAPWA 9948 CONFIDENTIAL

RETEL RANKS 1391 DATED 13 DEC 45 NOTIFYING RECOMMENDATION

OF ~~XXXX~~ CMBR RE D 128948 ON SPR MARQUIS A ON YOUR FILE HQC 55-M-1615

STOP REFERENCE IS MADE TO THIS COMDRS P 6-0-M-1750 (JAG)

DATED 1 DEC 45 ~~XXXXXX~~ NOTIFYING YOU THAT REMISSION HAD BEEN GRANTED

EFF 5 DEC 45

BT 131549R GL B

ROYAL CANADIAN SIGNALS
Army Signal Office
DEC 13 1945
Phone
RECEIVED
DEC 13 1945
A.G.M.I.N.
3A
THIS IS AN EXTRA COPY
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ARMY MESSAGE
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INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

HQC 55-M-1615
FILE: Adm 3(a)

PLACE | DATE

OTTAWA ONTARIO 13 DEC 45

COMMANDER
PETAWAWA MILITARY CAMP
PETAWAWA ONT

RANKS 1391 RESTRICTED

REVIEW REF AG 0267 D/18 OCT 45 REFERS D 128948 STR MARQUIS A (.)

CMBR RECOMMENDS IMMEDIATE RELEASE (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFM COPY TO: CMBR
JAG

GDB/MA

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
CIPHER		IMMEDIATE	1000

for Major-General
Adjutant-General

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

Petawawa Military Camp, 1 Dec. 5

CONFIDENTIAL

12725
DEC 8 1945

Commandant,
No. 64 Military Detention Barracks,
Petawawa Military Camp.

Secretary,
Department of National Defence,
Ottawa, Canada.

} Reference file HQC.55-E-1615

District Officer Commanding,
Military District No. 4,
Montreal, Quebec.

PA on file

Officer Commanding,
No. 4 District Depot,
Montreal, Quebec.

} Reference teletype
MP 323 dated 21 Feb.45.

DISTRICT COURT-MARTIAL
D-128948, Spr. MARQUIS, A.
formerly A-5, C.E.T.C. now No. 4 D.D.
Remission of Sentence.

The m/n soldier is presently undergoing a sentence of 18 months detention in No. 64 Military Detention Barracks awarded by District Court-Martial at this Camp on 5 March 1945.

2. In accordance with para. 8(b) of C.A.R.O. 5913 his case has been reviewed with a view to remission on completion of one half of his sentence on 5 Dec. 1945. In view of a favourable report on conduct submitted by the Commandant No.64 M.D.B. in which remission on 5 Dec. 1945 is recommended, this Commander has granted a remission of the balance of the sentence to effect the release of Spr. Marquis from detention on 5 Dec. 1945.

3. Owing to the reduction of A-5, C.E.T.C. to nil strength, Spr. Marquis was struck off strength A-5, C.E.T.C. to No. 4 District Depot while in No. 64 M.D.B. effective 26 Oct. 1945 under authority of HQS 20-4-18-C FD 20 (Org.1) dated 10 Oct. 1945, under Part II Order No. 34 of A-5, C.E.T.C. dat d 26 Oct. 1945 item 8(u).

4. Enclosed herewith for the Commandant of No. 64 M.D.B. are four copies of a form of remission in qccordance with Appendix "G" to C.A.R.O. 5913. When the remission has been promulgated Part IV of the form should be completed by the Commandant of No. 64 M.D.B. and three copies of the form should then be returned to this Headquarters in order that the form may be forwarded to the District Officer Commanding M.D.4 for completion of Part V at No. 4 D.D.

5. Upon his release from detention Spr. Marquis should be dispatched to No. 4 D.D. with advice by wire to the Officer Commanding No. 4 D.D. notifying the exact time and date of his arrival.

P.T.O.

6. All regimental documents for Spr. Marquis in the possession of the Commandant of No. 64 M.D.B. should be forwarded by him direct to the Officer Commanding No. 4 D.D. together with copies of all ~~Remove~~ Part II Orders which may be issued at No. 64 M.D.B. in connection with the remission and the dispatch of Spr. Marquis to No. 4 District Depot.

James S. Craig, Major

for (W.C.Thackray) Brigadier,
Commander,
Petawawa Military Camp.

Encl.
JSC/RO

M-1615 (CMHQ 7) MGT

3 Dec 45

Case No 1218

PAGE 1

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: D-128948 Spr MARQUIS A.

2. Unit at date of offence: A-5 CETC CA

3. Charge: AA 12(1)(a) - DESERTION: When on active service deserting His Majesty's Service - at Petawawa Military Camp, Ont. on 5 Oct 44 having been warned for special duty absenting himself from 0600 hours until apprehended by Military authorities at Montreal P.Q. at 1430 hours 20 Feb 45 dressed in Military uniform. (Total absence 4 months 15 days).

4. Plea: Not guilty

5. Place and Date of Trial: Petawawa Military Camp, Ont. 5 Mar 45

XXXXXX XXXX

5. Finding: Guilty

6. (a) Sentence: 18 months detention

(b) Date of Sentence: 5 Mar 45

7. Date of Confirmation: 7 Mar 45

8. Date of Promulgation: 13 Mar 45

9. Being served at: 64 MDB in M.D. Petawawa Camp

(N.B. - Discharged under RC 1029( ) for ref

44

PAGE 3

CONDUCT	Offence	Date	Sentence
11. (a) Prior to conviction			
(i) Civil Convictions	NIL		
(ii) Courts-Martial	NIL		
(iii) Summary Convictions	NIL		

(b) After Conviction. Fair. Expected date of release - 4 Mar 46.

(c) Date of ~~XXXXXXXX~~ enlistment: 28 Jan 42 Present age 27

12. Remarks (Here note any petition or representation other than in item 10, but if item 10 has been omitted, show here any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) The accused in sworn evidence said that he was put on fatigues after his advanced training was completed. He wanted to go overseas, but was taken off one draft. He said that he had an accident to one of his feet, but was never treated for it. His pulheme was reduced to "L-3". He said he would have been willing to stay and go overseas if his foot had been properly treated.

13. Recommendations (State by whom made, e.g. C.O., Reviewing Officer, etc.)

Reviewing Officer: Having served 9 months of sentence, recommend immediate release.

Reviewed by A.D. Crowe (A.D. CROWE) Capt

14. Recommendation of the Board:

Immediate Release

R.A. Stikwell 43
Secretary
Courts-Martial Board of Review

Date DEC 11 1945

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

H.Q.C 55-M-1615 (ICM)

NDHQ Ottawa, Ontario

1 Aug. 1945

CONFIDENTIAL
C.M.

~~Commander,~~

~~Petawawa Military Camp,~~

PETAWAWA, Ont.

~~D.128948 Spr. MARQUIS, A.~~

Ref 6-0-M-1750

2. Enclosed herewith:-

(a) MFM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

6. In the event that the soldier under sentence has been transferred to another District or Command these documents will be transmitted by the recipient to the appropriate authority.

for (A.E. Walford)
Major-General
Adjutant-General

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HQC55-M-1615 (Adm

Copy for HQ 405-M-29499

OTTAWA ONTARIO
3 May 45

Commander,
Petawawa Military Camp,
PETAWAWA, Ont.

D.128948 - Spr. MARKUL, A.

Ref P. 6-0-M-1750 (JAG) d/22 Mar 45 and our Ranks 6470 d/11 Apr 45 requesting that a Court of Inquiry be held for the alleged injuries referred to in the Court-Martial proceedings as having been incurred by this soldier at Kingston.

2. May this HQ be informed as to how this matter now stands.

(A.E. Walford)
Major-General
Adjutant-General.

YB/MD

HQ 405-M-29499 (Adm 4)

Copy for HQ.C.55-M-1615

22 Jun 45

Commander,
Petawawa Military Camp,
Petawawa, Ontario

COURT OF INQUIRY - Injuries
B.128948 - Spr. Marquis, A.

Ref P.6-O-M-1750 (JAG) d/14 May 45.

1. Inform as to how matter stands and when the proceedings of the Court of Inquiry may be expected.

(A.E. Walford)
Major-General,
Adjutant-General.

YB/MD

See folio 22 of 405-M-29499

309666

File No. P. 6-0-M-1750

Petawawa Military Camp,

....26. Apr.....1945.

Department of National Defence,
OTTAWA, Ont.

CENTRAL REGISTRY AND CONF. SEC.
APR 27 1945
File 055-M-1615
Chgd. to
Referred to

D-128948 Spr. MARQUIS, Auguste

1. Ref. your H.Q.C 55-M-1615....(ICM) dated. 19. APR. 45...

2. Form I.C.M - B in the case of the m/n soldier, duly completed and returned herewith.

F.B. Cheasy maj.

(F.B. CHEASY) MAJOR,
for N.C. THACKRAY, BRIGADIER,
PETAWAWA MILITARY CAMP.

39

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1615,(ICM)
OTTAWA, 19 APR 1945.

Your File - P.6-0-M-1750

Commander,
Petawawa Military Camp,
PETAWAWA, Ontario.
D126948 Spr Auguste MARQUIS,

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in Petawawa, Military Detention Barrack, under your command, a sentence of 18 months' detention awarded by a District Court-Martial on the 5 day of MAR 1945.

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

37

LHC:WS.

5M-2-45(M-4516)

ARMY MESSAGE

CLEAR (OUTGOING) FILE: HQS 55-16-1615 (Vol 1)

PLACE DATE

OTTAWA ONT - 11 APR 45

COMMANDER
PETAWAWA MILITARY CAMP
PETAWAWA ONTARIO

RAMPE 6470 - REURT P.6-0-M-1750 (JAG) 22 MAR 45 (.) SEARCH OF RECORDS AT DEPARTMENT FAILS TO REVEAL ANY COURT OF INQUIRY ON NPR 371 RE ALLEGED INJURY REFERRED TO IN COURTMARTIAL PROCEEDINGS TO HAVE HAPPENED AT KIRKSTONE (.) MATTER TO BE INVESTIGATED BY COURT OF INQUIRY USUAL WAY

ADJUTANT-GENERAL

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT INCLUDING WIRELESS	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED (A.E. Walford) Major-General Adjutant-General		1700

COPY 4 FOR ORIGINATOR'S FILE

1291-W-cc 56 H

CANADA

In reply quote No. H.Q.C.55-M-1615 (JAG/D-8)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

INTER-OFFICE CORRESPONDENCE

OTTAWA, April 2nd, 1945.

TO: D. OF ADMIN.

District Court-Martial
D. 128948 Spr. A. Marquis,
A-5 C.E.T.C., C.A.

Your attention is directed to Paragraph 3 of letter P.6-O-M-1750 (JAG) dated 22nd March 1945, from Commander, Petawawa Military Camp.

MO/MM

(R.J.Orde), Brigadier,
Judge Advocate-General.

Noted
L. H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR. 3 1945

35

H.Q.C.55-M-1615 (JAG/D-8)

April 2nd, 1945.

The Commander,
Petawawa Military Camp, Petawawa, Ont.

District Court-Martial
D. 128948 Spr. A. Marquis,
A-5, C.E.T.C., C.A.

Receipt is acknowledged of your P.6-O-M-1750 (JAG) dated 22nd March 1945, under cover of which you forwarded, for registration and custody, the proceedings of the marginally-noted District Court-Martial.

2. It is noted that the accused was found Guilty of the charge and sentenced to 18 months detention.

3. As the Finding would appear to be supported by the evidence and the Sentence is legal, the proceedings are being retained for custody.

(R.J.Orde), Brigadier,
Judge Advocate-General.

MO/MM

34

2M-1-44 (M-3431)

I.C.M. - L 3961

REVIEW OF SENTENCE

DATE APR 3 1945

H.Q.C. File: 55- M-1615

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES Deserting from 5 Oct. 44. after been arrested till arrested 20 Feb. 45 4 mos. 15 days.

8. PREVIOUS CONDUCT ENLISTED ~~ENROLLED~~ 25 ~~Nov.~~ 42 AGE 26
nil. enlisted 18 - 113 1111

9. STATEMENT OF ACCUSED Otherwise one dwgt. taken off. While drawing had accident with gas. L3. Never treated for it. Knew had been injured.

10. RECOMMENDATION

35

THIS COPY FOR: H.Q.C.55-M-1615
M.D. F.6-0-M-1750

G.S. MEMORANDUM - DISTRICT COURT-MARTIAL

No. D.128948 Name MARQUIS. Auguste

Rank Spr Unit A 5 C.E.T.C. CA

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 5-10-44

Date of Arrest 20-2-45 Charge Signed 28-2-45

Orders for D.C.M. Cmdr Petawawa Mil Camp

Place and Date of Trial Petawawa Mil Camp Ont 5-3-45

Sentence Det 18 mos

Date of Confirmation 7-3-45

Date of Promulgation 13-3-45

Entered in Records of J.A.G. as No. 36452

Date 29-3-45

MEMO Balance of sentence remitted by Conf. Auth. 30-10-45

Petawawa - A 5 CETC CA

Absent	Sentence
4½ mos	Det 18 mos

M. Oster, Capt
for Judge Advocate General

32

10M-1-45 (M-4629)

IN REPLY PLEASE QUOTE No. P.6-O-M-1750(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Petawawa Military Camp 22 March 1945.

CONFIDENTIAL

Judge Advocate-General,
Department of National Defence,
OTTAWA - Canada.

6-55-M-1615

DISTRICT COURT-MARTIAL
D-128945, Spr. MARQUIS, A.
A-5, C.E.T.C.

The marginally named soldier was tried by District Court-Martial, Petawawa Military Camp on 5 Mar 45 on a charge of deserting His Majesty's Service (having been warned for special duty). The accused was found guilty of the charge and sentence to eighteen months detention.

2. The finding and sentence were confirmed by the Commander, Petawawa Military Camp, 7 Mar 45 and were promulgated and extracts taken at Petawawa Military Camp, 13 Mar 45.

3. The Officer Commanding A-5 reports that a medical investigation is being carried out on the marginally named soldier. He further reports that there is no record of the accused having suffered an accident while training in Kingston on the files or records at A-5, CETC. There is no record of such injury on the files or records of this Headquarters. May advice be received as to whether there is any record of such an injury on the files at your Headquarters and whether you consider a Court of Inquiry necessary under the circumstances.

4. Enclosed herewith proceedings of the marginally noted District Court-Martial, along with M.F.M. 288 for this soldier.

(W.C.Thackray) Brigadier,
Commander,
Petawawa Military Camp.

ABS/EJ

36052

31

A

FORM OF PROCEEDINGS FOR DISTRICT COURT-MARTIAL

Proceedings of a District Court-Martial held at Petawawa Military Camp, Ontario, on the 5th day of March 1945, by order of Brigadier W.C.Thackray, Commander, Petawawa Military Camp, Petawawa, Ontario, dated the 2nd day of March 1945.

President

Major J.C.A.Campbell, attached Camp Headquarters, Petawawa Military Camp.

Members

Capt. J.D.Manson, A-37, C.I.T.C., C.A.
Lieut. D.L.Chipman, A-37, C.I.T.C., C.A.

DD61

Trial of D-128948 Sapper Auguste Marquis of A-5, Canadian Engineer Training Centre (CA).

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor: Capt. J.R.McMullen, R.C.A., Camp Headquarters, Petawawa Military Camp.

Defending Officer: Lieut. M. Mainguy, R.C.E., A-5, C.E.T.C., C.A.

for SAG.

At 1000 hours the Trial commences.

The order convening the Court is read, and is marked "Z", signed by the President and attached to proceedings.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q.1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over?

A.1 No, sir.

I have satisfied myself that none of the officers detailed as members of this Court has previously served upon any Court of Inquiry respecting the matters forming the subject of the charge before this Court-Martial.

J C A Campbell Major
President D.C.M.

30

3

MEDICAL OFFICER'S REPORT

JC&C

I certify that No. D-128948 Spr. Marquis, Auguste of A-5, C.E.T.C. is in a Good state of health, and Fit to undergo Trial by Court martial.

A. Vissier Capt. R.C.A.M.C.
Medical Officer, A5, C.E.T.C.

Station Petawawa Military Camp, Ont.

Date 5th., March 1945.

M. F. B. 246
[illegible]—12-43 ([illegible])
H.Q. 1773-20-480

B 2

J H Campbell Major Pres DCM

CHARGE SHEET

The accused D-128948 Sapper Augustin MARQUIS of A-5, Canadian Engineer Training Centre (CA) a G.S. soldier of the Canadian Army placed on Active Service is charged with:

CHARGE
SECTION 12 (1)(a)
ARMY ACT.

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he at Petawawa Military Camp, Ontario, on the 5th., day of October 1944, having been warned for special duty and with full intent to avoid so proceeding, absented himself without leave from A-5, Canadian Engineer Training Centre (CA) from 0600 hours, 5th., day of October 1944, until he was apprehended by the Military Authorities at Montreal, Quebec, at 1430 hours, the 20th., day of February 1945, dressed in military uniform, the cost of apprehension and return to his corps being $13.86

Petawawa Military Camp
28th., February 1945.

(Pol Brisset des Nos) Major, R.C.E.
A/Commandant (A5) C.E.T.C., C.A.

TO BE TRIED BY A DISTRICT COURT-MARTIAL.

Petawawa Military Camp,
2nd., March, 1945.

(E. F. Mulhern) Major,
R.A.A. & Q.M.G.,
for COMMANDER,
Petawawa Military Camp.

29

B

The President and members are duly sworn.

Q.2 Do you object to D-641979 L/Cpl. Dorion, L., A-5, C.E.T.C. acting as interpreter during your trial?

A.2 No, Sir.
D-641979 L/Cpl. Dorion, L. is duly sworn as interpreter.

Q.3 Do you object to Miss Anne Hughes, Civil Servant, Petawawa Military Camp, acting as Shorthand Writer during your trial?

A.3 No, Sir.
Miss Anne Hughes is duly sworn as Shorthand Writer. JCC

Charge-Sheet

The charge-sheet is signed by the President, marked B2 and annexed to the proceedings.

At 1010 hours the accused is arraigned upon the charge in the above-mentioned charge-sheet.

Q.4 Is that your number, rank, name and unit?

A.4 Yes, sir.

Q.5 Are you guilty or not guilty of the charge against you, which you have heard read?

A.5 Not guilty, sir.

JCC

PROCEEDING ON PLEA OF NOT GUILTY

Q.6 Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

A.6 No, sir.

THE PROSECUTOR DECLINES TO MAKE AN OPENING ADDRESS

The prosecutor proceeds to call witnesses.

First witness for the prosecution

Lieut. R.G.Code, R.C.E., A-5, C.E.T.C., having been duly sworn, is examined by the prosecutor.

Q.7 Mr. Code, you are the acting officer in charge of records at A-5, C.E.T.C.?

A.7 I am.

Q.8 I show you a number of documents, what is this?

A.8 That is an M.F.B.375 dated 27 Oct 44 relating to the accused.

(Document produced is read, marked Exhibit "G", signed by the President and attached to the proceedings).

That is an M.F.M.216 dated 21 Feb 45 relating to the accused.

(Document produced is read, marked Exhibit "H", signed by the President and attached to the proceedings).

That is an M.F.B.1481 dated 26 Feb 45 relating to the accused.

(Document produced is read, marked Exhibit "I", signed by the President and attached to the proceedings).

That is an M.F.B.1482 dated 24 Feb 45 relating to the accused.

(Document produced is read, marked Exhibit "J", signed by the President and attached to the proceedings).

That is a certified true extract of Part 11 Daily Order No. 49 dated 27 Feb 45 A-5 CETC relating to the accused.

(Document produced is read, marked Exhibit "K", signed by the President and attached to the proceedings.

The accused being advised of his rights pursuant to R.P.76 states that he does not require an adjournment or postponement in respect of the first witness for the prosecution.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE

In the opinion of the Court it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Second witness for the prosecution

Lieut. T.E.Newkirk, R.C.E., A-5, C.E.T.C., having been duly sworn, is examined by the prosecutor.

Q.9 Lieut. Newkirk, your unit ic A-5, C.E.T.C.?

A.9 That is right.

Q.10 How long have you been at A-5?

A.10 2 years the middle of February.

Q.11 What is your appointment at A-5?

A.11 2 i/c #1 Training Coy.

Q.12 What was your appointment last fall - the fall of 44?

A.12 Administration officer at Training Wing, A-5.

Q.13 Have you in your official capacity at A-5 had any dealings with a soldier by the name of Marquis?

A.13 I cannot identify the man but I remember the name.

Q.14 How do you remember the name?

A.14 Because I called the roll and read the Warning Order.

Q.15 Do you remember when that was?

A.15 13 Sept 44.

Q.16 And what did you do?

A.16 I called the roll, read the Warning Order and explained it in English. Mr. Spall read the Warning Order and explained it in French. When I was satisfied that they all understood the Warning Order they were called forward and signed it in my presence.

Q.17 You say that you called the roll, can you remember any of the names on the roll?

A.17 No, I don't.

Q.18 Was there a name by the name of Marquis?

A.18 Yes, there was one by the name of Marquis.

Q.19 Are you able to identify this document?

A.19 Yes.

Q.20 What is it?

A.20 Special Warning Order.

Q.21 Is it signed?

A.21 It is signed by myself, Mr. Spall, Sgt. Cassidy and Spr. McKinnon.

Q.22 And who else?

A.22 This Warning for Special Duty included Spr. Marquis.

Q.23 Can you tell the court whether or not the parties warned by that Warning Order signed in your presence?

A.23 I called them up individually and they signed in my presence.

(Document produced is read, marked Exhibit "L", signed by the President and attached to the proceedings).

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q.24 Could Lieut. Spall speak French?

A.24 He read the Warning Order in French.

Q.25 Did he give an explanation in French?

A.25 After the Warning Order was read he said something in French; I didn't understand it.

Q.26 Do you understand French?

A.26 No, I don't.

THE PROSECUTOR DECLINES TO RE-EXAMINE

QUESTIONED BY THE COURT

Q.27 Mr. Newkirk, when the roll was called at this parade were there any absentees?

A.27 No, there were none.

Q.28 So that the name of Marquis was answered on the parade?

A.28 The man answered his name when the men came forward individually to sign the Warning Order.

Q.29 Did they repeat their name and number or was there anything done to identify the man?

A.29 They repeated their name when they signed in my presence.

In the opinion of the Court it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Third witness for the prosecution

A-116846 Sgt. Cassidy, F.H., A-5, C.E.T.C., having been duly sworn, is examined by the prosecutor.

Q.30 Sgt. Cassidy, you are on the strength of A-5, C.E.T.C.?

A.30 Yes, sir.

Q.31 How long have you been at A-5?

A.31 Approximately 2 years.

Q.32 What is your appointment there?

A.32 I am Orderly Room Sergeant in T.S.Coy., A-5.

Q.33 In the execution of your duties in the Orderly Room of T.S.Coy. do you recall having any dealings with a soldier by the name of Marquis?

A.33 He signed a Special Duty Warning Order.

Q.34 When was that?

A.34 13 Sept. 1944.

Q.35 Were you there?

A.35 Yes, sir, I witnessed it.

Q.36 What was done?

A.36 His name was called and he answered to his name and the Warning Order was explained and the paragraphs at the top of the Warning Order were read in both French and English, then when his name was called he came forward and signed his signature. Everyone was then asked if they understood what was on the Warning Order.

Q.37 Who read the Warning Order in French?

A.37 Lieut. Spall.

Q.38 Are you able to tell the court what this is (showing witness Exhibit "L")?

A.38 This is a Special Duty Warning Order signed by all soldiers before going on embarkation leave. Spr. Marquis' name is here and I witnessed the signing of this Special Duty Warning Order.

Q.39 And your name is where?

A.39 The lower right-hand corner (indicating).

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE

QUESTIONED BY THE COURT

Q.40 Do you understand French, Sgt.?

A.40 No, sir.

In the opinion of the Court it is not necessary to comply with R.P. 83(B).

The witness withdraws.

The prosecution has no further witnesses.

D

The prosecution is closed.

DEFENCE

Q.41 Do you apply to give evidence yourself as a witness?

A.41 Yes, sir.

Q.42 Do you intend to call any other witness in your defence?

A.42 No, sir.

The evidence of the accused is recorded on a separate page (see overleaf).

JAC

First witness for the Defence

The accused, D-128948 Sapper Auguste Marquis of A-5, Canadian Engineer Training Centre (CA) having been duly sworn, is examined by the defending officer.

Q.43 Spr. Marquis, when did you join active?

A.43 The 28th of January 1942.

Q.44 When did you finish your advanced training?

A.44 30 January 1942.

Q.45 Were you in the army before you joined active?

A.45 Yes, sir.

Q.46 What was your medical category when you joined active?

A.46 Class "A".

Q.47 What did you do after your advanced training was completed?

A.47 Fatigues, sir.

Q.48 For how long?

A.48 About two and a half to three months.

Q.49 What was your intention when you signed active?

A.49 To go to the other side.

Q.50 Were you on draft before?

A.50 I was on one and they took me off.

Q.51 Have you tried to be sent overseas?

A.51 I did in August 1942.

Q.52 Why did you not try after August 42 to go overseas?

A.52 Because I was sick.

Q.53 What did you have?

A.53 I had trouble with my foot.

Q.54 What kind of trouble did you have with your foot?

A.54 When I walked.

Q.55 What happened when you walked?

A.55 When I walked a couple of hundred yards my foot swelled.

Q.56 How did this happen?

A.56 When I was training at Kingston, Ontario.

Q.57 Was it an accident during training?

A.57 Yes, sir.

Q.58 Were you treated for that?

A.58 Never.

Q.59 What is your Pulhems now?

A.59 L-3.

Q.60 When was it changed?

A.60 In Jan 44.

Q.61 Were you treated for your foot after your Pulhems were changed?

A.61 No, sir.

Q.62 They never tried to give you treatment?

A.62 They said to put my foot in cold water.

Q.63 What is this trouble you have with your foot?

A.63 The toes of the left foot don't come up like the others.

Q.64 Did you have a leave when you left camp?

A.64 Yes, sir.

Q.65 What is the reason why you stayed away after your leave?

A.65 I wanted to be treated by a civilian doctor because the army didn't want to treat me.

Q.66 What was your intention regarding your military duties?

A.66 When it concerns my military duty I am ready to do anything as long as I can be treated.

Q.67 Do you still want to go overseas?

A.67 If I am treated I will; if I am not I won't.

Q.68 Did you wear your uniform after the expiration of your leave?

A.68 I wore it when the provost arrested me.

Q.69 What was your intention to wear your uniform that day?

A.69 To come back and report myself.

CROSS-EXAMINED BY THE PROSECUTOR

Q.70 Spr. Marquis, did you absent yourself without leave from A-5, CETC, from 0600 hrs on the 5th day of October 1944 until 1430 hrs on the 20th day of February 1945?

A.70 Yes, sir.

Q.71 And you were apprehended by the military authorities at Montreal?

A.71 Yes, sir.

Q.72 What unit were you with when in Kingston?

A.72 In the Ordnance.

Q.73 And when was that?

A.73 About the middle of June 42.

Q.74 Did you report to the army medical officer?

A.74 Yes, sir, I reported twice and the second day he told me if I would report the third day he would put me in the clink.

Q.75 Did you sign a Special Duty Warning Order last September?

A.75 Yes, sir, I did.

Q.76 Is this the document you signed (showing witness Exhibit "L")?

A.76 Yes, sir.

Q.77 Where is your signature?

A.77 Here, second from the bottom (indicating).

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE

QUESTIONED BY THE COURT

Q.78 Spr. Marquis, was it your intention to return in time for the draft if you could have your foot treated while you were away?

A.78 Yes, sir.

Q.79 Was this Special Duty Warning Order read to you in French?

A.79 Yes, sir.

Q.80 And did you understand that it was a Special Duty Warning Order?

A.80 Yes, sir.

Q.81 You knew that if you over-stayed your pass you were liable to be charged with desertion?

A.81 Yes, sir.

In the opinion of the Court it is not necessary to comply with R.P. 83(B).

The witness resumes his seat.

The Defence has no further witnesses.

The Defence is closed.

THE PROSECUTOR DECLINES TO MAKE A CLOSING ADDRESS

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS

(See document attached marked "M")

20

E

FINDING

The Court is closed for the consideration of the finding.

The Court find that, D-128948 Sapper Auguste Marquis of A-5, Canadian Engineer Training Centre (CA) is guilty of the charge.

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

The Court being re-opened, the accused is again brought before it.

Lieut. R.G.Code, R.C.E., A-5, C.E.T.C. being recalled, is examined on his former oath.

Q.82 Have you any evidence to produce as to the character and particulars of service of the accused.

A.82 I produce M.F.B.355 and certified true copy of M.F.M.6.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "X", signed by the President and attached to the proceedings. Certified true copy of M.F.M.6 is read, marked "Y", signed by the President and attached to the proceedings.

Q.83 Is the accused the person named in the statement which you have heard read?

A.83 Yes, sir.

Q.84 Have you compared the contents of the above statement with the regimental books?

A.84 Yes, sir.

Q.85 Are they true extracts from the regimental books and is the statement of entries in the conduct sheets a fair and true summary of those entries?

A.85 Yes, sir.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE

In the opinion of the Court it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Q.86 Do you wish to address the Court?

A.86 Yes, sir, my defending officer will speak for me (see document attached marked "N").

The Court is closed for the consideration of the sentence. The sentence to be awarded by the Court being subject to confirmation will not be announced but will be promulgated later and the proceedings in open Court are accordingly terminated.

F

SENTENCE

	Detention
The Court sentence the accused, D-128948 Sapper Auguste Marquis of A-5, Canadian Engineer Training Centre (CA) to undergo detention for eighteen (18) months.	18 Months

Signed at Petawawa Military Camp, Ontario, this 5th day of March A.D. 1945.

J.C.A. Campbell Major

J.C.A.Campbell, Major,
President, District Court-Martial,
Camp Headquarters, Petawawa Military
Camp, Ontario.

Confirmed
Signed at Petawawa Military Camp this Seventh day of March 1945.

W.B. Rockey
Brigadier
COMMANDER
Petawawa Military Camp.

Promulgated and Extracts taken at Petawawa Military Camp, this Thirteenth day of March 1945.

A.W. Turner Capt.
Adjutant,
A-5, C.E.T.C.

Extracts entered as No. 36452 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 29 day of MAR 1945

"M"

THE DEFENDING OFFICER ADDRESSES THE COURT

Mr. President and members of the Court:

The evidence given by this man proves that he didn't have special care for his foot that he was supposed to have so his intention when he stayed away was not to desert His Majesty's Service, it was only to try to have the proper care for his foot so he could be fit to be a soldier. He proved that he does not want to go overseas as a casualty, he wants to be fit to be there. His medical category was changed 18 months after his accident and it dropped down to L-3. I think this is one of the many reasons why you see the care he needs should be given and when he will be treated, as he gave in his evidence, he is ready to go overseas and that was always his intention and it is still his intention.

"N"

THE DEFENDING OFFICER ADDRESSES THE COURT IN MITIGATION OF SENTENCE

Mr. President and members of the Court:

I would like the court to consider that during the three years this man was an active soldier he had no entries in his conduct sheet.

JRC

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P.6-O-M-1750(JAG)
P.6-O-D-1563(JAG)

ORDER BY
BRIGADIER W.C. THACKRAY
COMMANDER PETAWAWA MILITARY CAMP,
PETAWAWA ONTARIO

Petawawa Military Camp,
3rd., March, 1945.

DISTRICT COURTS-MARTIAL

D-126948, Spr. Auguste MARQUIS, A-5, C.E.T.C., C.A.
D-652594, Spr. Jacques DUMONT, A-5, C.E.T.C., C.A.

1. The Detail of Officers as mentioned below will assemble at Petawawa Military Camp, Ontario at 1000 hours, Monday, 5th day of March, 1945, for the purpose of trying by District Court-Martial the accused persons named in the margin (and such other persons as may be brought before them).

PRESIDENT

Major J.C.A. Campbell, Attached Camp Headquarters, Petawawa Military Camp

MEMBERS

Capt. J.D. Manson, A-37, C.I.T.C., C.A.
Lieut. D.L. Chipman, A-37 C.I.T.C., C.A.

WAITING MEMBERS

Lieut. D.D. Carter, A-37, C.I.T.C., C.A.

JUDGE ADVOCATE

PROSECUTOR

Capt. J.R. McMullen, R.C.A., Camp Headquarters, Petawawa Military Camp

DEFENDING OFFICER

Lieut. M. Mainguy, R.C.E., A-5, C.E.T.C., C.A.

OFFICER UNDER INSTRUCTION

2. The accused persons will be warned and all witnesses duly required to attend at Room 43, ground floor, Administration Building.

3. The A.A. & Q.M.G., Petawawa Military Camp, will arrange for necessary accomodation and stationery.

4. The Proceedings of the Court will be forwarded to the Commander, Petawawa Military Camp, Ontario.

Signed this 3rd day of March 1945.

(E. F. Mulhern) Major,
A/A.A. & Q.M.G.,
for COMMANDER,
Petawawa Military Camp.

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EXHIBIT "D" 35

J.A. Campbell may in Cross A-5, C.E.T.C.

RECORD of the Declaration of a Court of Inquiry assembled at Petawawa Mil Camp on the 27th day of October 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-128948 Spr. Marquis, A., No. 1 Trained Soldier Company A-5, C.E.T.C., (CA)

DECLARATION

The Court declare that No. D-128948 Spr. Marquis, A. No. 1 Trained Soldier Company, A-5, C.E.T.C. (CA) illegally absented himself without leave from A-5, C.E.T.C. Petawawa Mil Camp at 0600 Hours on the 5th day of October 1944, that he is still so absent, and that on the 26th October 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
CLOTHING DIVISION "A"			Brushes Shaving		42
Anklets web		74	Brushes Tooth		09
Coats Waterproof Army	6	91	Combs Hair		04
Gloves Woollen Crosswise		66	Forks Table		08
	8	31	Holdalls		22
CLOTHING DIVISION "B"			Housewives		35
Blouses Battle Dress Serge	6	50	Knives Clasp		66
Boots Ankle Army	5	82	Knives Table		18
Caps Field Service		70	Lanyards Clasp Knife		02
Jackets Serge Drab w/o.c.	10	80	Neckties Black		19
Shirts K.C. (2)	3	08	Pins Collar Safety		06
Shirts Undercotton		43	Socks Black (2)		56
Shoes Leather Black	4	84	Spoons Table		08
Trousers Battle Dress Serge	6	59	Sticks Button		04
Trousers Serge Drab N.P.	4	33	Towels Hand		31
	43	09		4	12
CLOTHING DIVISION "C"			CLOTHING DIVISION "D"		
Brushes Boot Polishing		21	Badges Cap RCE		06
Brushes Button		11			06
Brushes Cloth		17			

Lt. D.L. Featherstone, R.C.E. A-5, C.E.T.C., C.A. President

Nil Member

Nil Member

Signed at Petawawa Mil Camp, Ont.

this 27th day of Oct 19 44

Signature of Commanding Officer J.P. Richards, Colonel, R.C.E. Commandant (A5) C.E.T.C.

Certified true copy (G.M. Partridge) Lt., R.C.E. A/A/Adj. & Intelligence Officer (Legal) A-5, C.E.T.C., C.A.

Signature of Officer having custody of record being MB68

M.F.H. 375
A.F.H. 115
(MB4—4-42—4397)
H.Q. 1773-38-257

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ARTICLES	VALUE	ARTICLES	VALUE
SECTION "A-1"			
Braces W.E. '37	46		
Haversacks W.E. '37	2 14		
	2 60		
TOTAL VOCABULARY PRICE	58 14		
TOTAL PRICE IN ACCORDANCE WITH R.O. 3464	43 61		

"H" EXHIBIT "E" 37

J.K. Humphrey was sworn

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Capt. J.B. MARTINEAU, T/Commanding Officer Composite Provost Coys., M.D. 4
(Number) (Rank) (Name) (Unit)

hereby certify that D-126948 Private MARQUIS, Auguste
(Number) (Rank) (Name in full)

of the R.C.E.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrendered to~~) D-145171 Lance-Corporal
(Number) (Rank)

SEVIGNY, L. of the Composite Provost Companies M.D. 4
(Name) (Unit or appointment)

at Montreal, Que. at 1430
(Place) (Hour)

on the 20th day of February 19 45

Strike out words not applicable } as a ~~deserter (or absentee without leave)~~, and that at the time of his arrest he was wearing military (~~air force~~) uniform (~~dressed in civilian clothes~~).

Dated at Montreal, Que. this 21st day of February 19 45

JFG...

(J.B. MARTINEAU) Capt.
(Signature, Number, Rank, Unit or appointment)

T/Commanding Officer Composite Provost Coys., M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (696)
H.Q. 1772-39-1936

SOLDIER of the ACTIVE ARMY.

37

ABSENTEES AND DESERTERS "J"

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 38/4015
DATED JUNE 5TH. 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Major A.R. Read, (Rank) SS & T O (Name) R. C.A.S.C. (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~XXXXXXX~~ or) hereinafter itemized transportation for escort

Complete — to proceed from Petawawa Ontario (Place) to Montreal Quebec. (Place)

and return to Petawawa Ontario (Place) for the purpose of escorting

Full description of soldier being escorted — D-128948 (Number) Spr Marquis A. (Rank) (Name in full)

A-5 C.E.T.C. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~XXXXXXXXXXXXXXXXXX~~ or) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
ESCORTS	
B-100553 Cpl. Clark A.R.W. A-5 C. E. T.C. D-652080 Spr. Menard J.P. A-5 C. E. T.C.	
P.M.C. Transport Warrant No.C-885582 dated 22-2-45 covering two (2) second class fare Petawawa Ontario to Montreal Quebec (return).	$16.48
One fare Petawawa Ont. to Montreal Que and return which was issued to D-652080 Spr. Menard J.P., was returned to S.S. & T.O. for cancellation, dated 25-2-45.	8.24 $ 8.24
ABSENTEE	
D-128948 Spr. Marquis A. A-5 C.E.T.C.	
P.M.C. Transport Warrant No. C-885583 dated 22-2-45, covering one (1) second class fare Montreal Que., to Petawawa Ont. (single)	$ 4.12
TOTAL	$ 12.36

Dated at Petawawa Ontario this 26th. day of February A.D. 19 45

(A.R. Read) -- Major S.S. & T.O.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~XXXXXXXXXXXXXXXXXX~~ or)

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
12224—(5-43) (1442)
H.Q. 1777-44-1481

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~~EXHIBIT "G"~~ 41

ABSENTEES AND DESERTERS

"G" Returned wages

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-CONCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1099, 1941

(INCIDENTAL EXPENSES)

Complete description

I, B-100553 (No.) Cpl. (Rank) Clark, A.R.W., (Name) A-5, C.E.T.C. (CA) (Unit),

Strike out words not applicable

as (escort) (~~XXXXXXXXXXXXXXXX~~) consisting of myself and D-652080 Spr.

Members of escort

Menard, J.P., A-5, C.E.T.C., C.A.

detailed to proceed from Petawawa, Ont. (Place) to Montreal, P.Q. (Place)

Name and description of soldier escorted

to return D-128948 Spr. Marquis, A., A-5, C.E.T.C.

alleged to be a deserter or absentee without leave, to Petawawa Military Camp, Ont. (Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
ESCORT B-100553 Cpl. Clark, A.R.W., A-5, C.E.T.C. (CA)	
MEALS FOR ESCORT 23 Feb 45 1 Breakfast at Station @ .75¢ 1 Supper at Station @ .75¢	 .75 .75
ABSENTEE D-128948 Spr. Marquis, A. A-5, C.E.T.C. (CA)	
MEALS FOR ABSENTEE Nil	
Total	$ 1.50

Dated at Petawawa, Ont. this 24th day of February A.D. 19 45

A R Clark Cpl

(Signature of officer or soldier in charge of escort) ~~XXXXXXXXXXXXXX~~

Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1492
50M—7-41 (1139)
H.Q. 1772-39-1550

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EXHIBIT "F"

"K"

DAILY ORDERS PART II

by

LT. COL. E.J. CASSIDY, O.B.E. E.D., P.C.E.

commanding

(A5) CANADIAN ENGINEER TRAINING CENTRE

Order No 49
27 Feb 1945
Petawawa, Ont.

(Last Order issued No 48 d/26 Feb 45)

"B" - OTHER RANKS

10. STRENGTH INCREASE (cont'd)

(b) Having been S.O.S. (A5) CETC by Ct.Inq....27 Oct 44
for A.W.L. from .....0600 hrs..... 5 Oct 44
T.O.S. (at $1.50 per diem) on apprehn. from des.
by Military Authorities at Montreal, P.Q. at 1430
hrs.....20 Feb 45

TS Ccy

D-128948 Spr. MARQUIS, A.

(Sgd) L.H. Turner, Capt.

(L.H. TURNER) CAPTAIN
ADJUTANT (A5) C.E.T.C.

CERTIFIED TRUE EXTRACT

12

EXHIBIT "I" 45

"L"

NOTE I

WARNING ORDER

The following draft will proceed on SPECIAL DUTY any date after 1000 hours the 13th day of Sep. 1944 and any soldier who is absent without leave or overstays his pass or furlough after this warning will be liable to be charged with DESERTION.

Le groupe suivant est susceptible d'etre en DEVOIR SPECIAL en tout temps apres 1000 heures le 13th Sep. 1944 et tout soldat qui s'est absente sans permission ou n'est pas de retour a l'expiration de sa permission ou de son conge annuel pourra etre accuse de DESERTION.

ACKNOWLEDGEMENT

I, the undersigned, hereby acknowledge that I have been warned this day of 13th Sep. 1944, that I will proceed on SPECIAL DUTY any date after 1000 hours the 13th day of Sep. 1944 and I am aware that if I absent myself without leave, or if I overstay my pass or furlough for anytime, I shall be liable to be charged with DESERTION under the Army Act, Section 12.

Je, soussigne, reconnait par les presentes avoir ete averti aujord'hui, le 13th Sep. 1944, que je pourrai etre appele en DEVOIR SPECIAL en tout temps apres 1000 heures, le 13th Sep. 1944, et je realise que si je M'absente sans permission ou si je ne suis pas de retour a l'expiration de ma permission ou de mon conge annuel pour quelque periode de temps que ce soit, je serai susceptible d'etre accuse de desertion en vertu de l'article 12 de l'Army Act.

NOMINAL ROLL ROLE NOMINAL	AND I HAVE SIGNED ET J'AI SIGNE (SIGNATURE OF SOLDIER) (SIGNATURE DU SOLDAT)	(Officer calling roll signs here ONLY when soldier is marked Absent)
D-650324 Spr. Vincent, A.	Aim Vincent	
A-107899 Spr. Masnopian, G.	Masnopian G	
A-608992 Spr. Mahon, S.	S. Mahon	
G-2221 Spr. Agnew, F.W.	F.W. Agnew	
E-626985 Spr. Lebrecque, E.	E Lebrecque	
A-104670 Spr. Schultz, G.A.	G.A. Schultz	
B-117049 Spr. Robertson, C.H.	C.H. Robertson	
F-36357 Spr. Maye, W.T.	W.T. Maye	
A-117998 Spr. Thorious, J.	J. Thorious	
B-117296 Spr. Loucks, A.G.	A.G. Loucks	
B-26711 Spr. Court, F.H.	F.H. Court	
F-82722 Spr. Gallant, L.A.	L.A. Gallant	
M-7712 Spr. O'Keefe, M.C.	M.C. O'Keefe	
E-41505 Spr. Pomerleau, B.	Pomerleau B	
D-128948 Spr. Marquis, A.	Marquis A	
D-136558 Cpl. Dorion, C.C.	C.C. Dorion	

I, the undersigned, gave the foregoing order verbally, called the above roll and witnessed the signatures in acknowledgement affixed thereto.

J.E. Humphrey Lt.
Officer calling the Roll

The foregoing order was given verbally, the roll called and the acknowledgement explained to each soldier, all in my presence. I witnessed the signing of the acknowledging signatures.

Witness

Officer, W.O. or N.C.O. NOT proceeding with the draft.

46

SPECIAL DUTY WARNING ORDER

I hereby acknowledge, with my signature, that I have been warned for Special Duty.

I understahd that if I am absent without leave, or overstay my leave or furlough after the date mentioned opposite my name, I am liable to be charged with desertion under Section 12 of the Army Act.

AVERTISSEMENT POUR DEVOIR SPECIAL

Je, soussigne reconnait que Je fus averti pour devoir special et Je comprends que, si Je suis absent sans permission ou que si j'entre on retard de ma permission ouide mon conge, Je suis passible d'une accusation de desertion en conformite avec la section 12 de l'Army Act.

DATE	NUMBER	NAME	SIGNATURE

The above-mentioned men signed this document before me on the dates mentioned opposite their names.

Witnesses by:

No. 1 Trained Soldier Coy.

No. 1 Trained Soldier Coy.

TRAINED SOLDIER COY, NO. 1

A-5 C.E.T.C.

Date _____ Petawawa Military Camp, Ont.

Page No. ___

EXHIBIT "G" "J" 41

ABSENTEES AND DESERTERS

J C Campbell wap
Pres DCM

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1099, 1941

(INCIDENTAL EXPENSES)

Complete description

I, B-100553 Cpl. Clark, A.R.W., A-5, C.E.T.C. (CA),
(No) (Rank) (Name) (Unit)

Strike out words not applicable

as (escort) (~~XXXXXXXXXXXXXXXX~~) consisting of myself and D-652080 Spr.

Members of escort

Menard, J.P., A-5, C.E.T.C., C.A.

detailed to proceed from Petawawa, Ont. to Montreal, P.Q.
(Place) (Place)

Name and description of soldier escorted

to return D-128948 Spr. Marquis, A., A-5, C.E.T.C.

alleged to be a deserter or absentee without leave, to Petawawa Military Camp, Ont.
(Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
ESCORT B-100553 Cpl. Clark, A.R.W., A-5, C.E.T.C. (CA)	
MEALS FOR ESCORT 23 Feb 45	
1 Breakfast at Station @ .75¢	.75
1 Supper at Station @ .75¢	.75
ABSENTEE D-128948 Spr. Marquis, A. A-5, C.E.T.C. (CA)	
MEALS FOR ABSENTEE Nil	
Total	$ 1.50

Dated at Petawawa, Ont. this 24th day of February A.D. 19 45

A R Clark Cpl.
Signature and rank
acc ~~XXXXXXXXXXXX~~
(escort)
Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1482
50M—7-41 (1120)
H.Q. 1772-59-1880

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"X" J.A. Campbell Lieut. Pers D

47

A.F.B. 155
(SM—6-42 (5902))
G.O. 1939-30-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-128948	Sapper	MARQUIS, Auguste	A-5, C.E.T.C., CA

1. The following is a fair and true summary of the entries in the Field Service and General Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.W.L.	Nil times	Nil times
For	times	times
For	times	times
For	times	times

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted by a court-martial or a civil court.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for 70 days in civil custody, and 13 days in military custody, making a total of 13 days in custody, of which 70 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 26 years, 6 months

6. The date of his attestation specified in his attestation paper 28 January 1942

7.

8.

9. The accused is in possession of or entitled to no military decoration, or air force reward military

10.

10

48

11. ~~The case of [illegible] The accused joined the Royal Canadian [illegible]~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Name..... of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

XXXX

D128948 MARQUIS, A.

No. Name

Sqn., Battery, or Company } Corps R.C.E. Date of enlistment } 28Jan42 G.C. Badges } Service or Proficiency Pay }

M.F.M. 6 (A.F.B. 122) 500M—11-40 (5725) H.Q. 1773-45-18

Date of last entry in Company Conduct Sheet } 13Mar44 No. and date of last drunk } Nil Period not reckoning towards freedom from extra fine } Sheet No. One Signature O.C. Company, etc. } (Sgd) G.C.Tyrrell, Major, RCE (G.C. Tyrrell), Major, R.C.E. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				SHEET DESTROYED 28 JUL 44		(Sgd) G.C.Tyrrell, Major, RCE			
				CERTIFIED TRUE COPY: A. Wattingt Capt. Adjutant R. C. E. Training Centre. (A-5).					

(P.T.O.)

SUMMARY OF EVIDENCE

In the case of

No. D-128948 Sapper Auguste MARQUIS, attached to A-5, C.E.T.C., C.A., a G.S. soldier of the Canadian Army placed on Active Service.

Charge: Deserting His Majesty's Service

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS:
Lt. L.E. Peer, A/Adj. & Intelligence Officer (Legal) A-5, C.E.T.C., having been duly sworn, states:

"I am A/Adj. & Intelligence Officer (Legal) A-5, C.E.T.C., C.A. I produce the following documents relating to the accused and offer them as exhibits lettered as follows:

EXHIBIT "A"
Certified true extract of A-5, C.E.T.C., C.A., Part II Orders No. 244 dated 9th Oct 1944 at Petawawa Military Camp, Ont., showing the accused D-128948 Spr. Marquis, A. of TS Coy. absent without leave from 0600 hours, 5th October 1944 (1st Notice).

EXHIBIT "B"
Certified true extract of A-5, C.E.T.C., C.A., Part II Orders No. 248 dated 13 Oct 1944 at Petawawa Military Camp, Ont., showing the accused D-128948 Spr. Marquis, A. of TS Coy. absent without leave from 0600 hours, 5th October 1944 (8th day) (second notice).

EXHIBIT "C"
Certified true extract of A-5, C.E.T.C., C.A., Part II Orders No. 259 dated 26 Oct 1944 at Petawawa Military Camp, Ont., showing the accused D-128948 Spr. Marquis, A. of TS Coy. absent without leave from 0600 hours, 5th October 1944 (22nd day)(third notice).

EXHIBIT "D"
Certified true copy Mil. Bk. 68, Record of the Declaration of a Court of Inquiry assembled at Petawawa Military Camp, Ontario, A-5, C.E.T.C., C.A. on the 27th day of October 1944, investigating and reporting on the illegal absence and deficiencies of kit and equipment of D-128948 Spr. Marquis, A.

EXHIBIT "E"
An original M.F.M. 216 (Apprehension by or Surrender to Service Authorities) showing the accused D-128948 Spr. Marquis, Auguste was apprehended by D-145171 L/Cpl. Sevigny, L. of the Composite Provost Companies, M.D. 4, at Montreal, Quebec at 1430 hours, on the 20th day of February 1945, as an absentee without leave and at the time of his arrest he was dressed in military uniform. Dated at Montreal, Quebec, the 21st day of February 1945.

EXHIBIT "F"
A certified true extract of A-5, C.E.T.C., C.A., Part II Orders No. 49 dated 27 Feb 1945 at Petawawa Military Camp Ontario, showing the accused D-128948 Spr. Marquis, A. of Trained Soldier Company having been struck off strength A-5, C.E.T.C., C.A., by a Court of Inquiry held 27 Oct 1944 and having been apprehended by Military Authorities at Montreal, Quebec, at 1430 hours, 20th February 1945, is taken on strength A-5, C.E.T.C., C.A. effective 20 Feb 45.

7

Summary of Evidence (Cont'd)
D-128948 Spr. Marquis, A.

EXHIBIT "G"
An original M.F.B. 1482 showing a total expenditure of $1.50 to cover incidental expenses of apprehension and return of D-128948 Spr. Marquis, A. alleged to be a deserter to Petawawa Military Camp, Ontario. Dated at Petawawa, Ontario, the 24th day of February 1945.

EXHIBIT "H"
An original M.F.B. 1481 showing a total expenditure of $12.36 to cover transportation costs of D-128948 Spr. Marquis, A. and escorts B-100553 Cpl. Clark, A.R.W. A-5, C.E.T.C., C.A. and D-652080 Spr. Menard, J.P., A-5, C.E.T.C., C.A. Dated at Petawawa, Ontario, on the 26th day of February 1945.

"This concludes my evidence."

The accused declined to cross-examine.

The accused D-128948 Spr. Auguste Marquis is hereby notified that in the event of the charge of Desertion being brought to District Court-Martial, the prosecutor will be a person possessing legal qualifications and subject to military law.

L.E. Peer, Lt.,
A/Adj. & Intelligence Officer (Legal)
A-5, C.E.T.C., C.A.

SECOND WITNESS:
Lt. Newkirk, T.E., A-5, C.E.T.C., having been duly sworn, states:

"I, Lt. Newkirk, T.E. was Officer calling the Roll on 13 Sep 44 on which date I witnessed the signature of D-128948 Spr. Marquis, A. The significance of the Special Duty Warning Order was explained in English by myself and in French by Lt. S.J. Spall. I heard all the soldiers who signed the order say that they understood it.
I present this Special Duty Warning Order which D-128948 Spr. Marquis, A. has signed, as evidence (Exhibit "I").

"This concludes my evidence."

The accused declined to cross-examine.

T.E. Newkirk, Lt., R.C.E.
A-5, C.E.T.C., C.A.

THIRD WITNESS:
A-116846 Sgt. Cassidy, F.H., A-5, C.E.T.C., C.A., Orderly Room Sgt., Trained Soldier Company, having been duly sworn, states:

"I, A-116846 Sgt. Cassidy, F.H. was Orderly Room Sgt., Trained Soldier Company, A-5, C.E.T.C., C.A. on 13 Sep 1944, when on that date I witnessed the signature of D-128948 Spr. Marquis, A. to a Special Duty Warning Order. I was present when the significance of the Special Duty Warning Order was explained in English and French, and heard Spr. Marquis, who signed the order, say that he understood it.

This concludes my evidence."

The accused declined to cross-examine.

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A-116846 Sgt. Cassidy, F.H.

Summary of Evidence (Cont'd)
D-128948 Spr. Marquis, A.

Question to the Accused:
"Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything but whatever you say or any evidence which you may give will be taken down in writing and may be used in evidence."

Answer by the Accused:

"I have nothing to say."

The accused declined to call any witnesses:

Marquis A.
D-128948 Spr. Marquis, A.
A-5, C.E.T.C., C.A.

I certify that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

Taken down by me in the presence of the accused at A-5, C.E.T.C., C.A., Petawawa Military Camp, Ontario, on this 28th day of February 1945.

R. Rochon Lt.
R. Rochon, Lt., R.C.E.
A-5, C.E.T.C., C.A.

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LIST OF WITNESSES
IN THE CASE
OF

D-128948 Sapper Auguste MARQUIS A-5, C.E.T.C.

Lt. R. Rochon, R.C.E.
Trained Soldier Company
A-5, C.E.T.C., C.A.

Lt. T.E. Newkirk, R.C.E.
No. 1 Training Company
A-5, C.E.T.C., C.A.

A-116846 Sgt. Cassidy, F.H.
Trained Soldier Company
A-5, C.E.T.C., C.A.

4

LIST OF EXHIBITS

IN THE CASE OF: D-128948 Sapper Auguste MARQUIS
A-5, C.E.T.C., C.A.

EXHIBIT "A" Certified true extract of A-5, C.E.T.C., C.A., Part II Orders No. 244 dated 9th Oct 1944 at Petawawa Military Camp, Ont., showing the accused D-128948 Spr. Marquis, A. of TS Coy. absent without leave from 0600 hours, 5th October 1944 (1st Notice).

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EXHIBIT "H" An original M.F.B. 1481 showing a total expenditure of $12.36 to cover transportation costs of D-128948 Spr. Marquis, A. and escorts B-100553 Cpl. Clark, A.R.W., A-5, C.E.T.C., C.A. and D-652080 Spr. Menard, J.P., A-5, C.E.T.C., C.A. Dated at Petawawa, Ontario, on the 26th day of February 1945.

EXHIBIT "I" An original Special Duty Warning Order dated 13 Sep 44 and signed by the accused D-128948 Spr. Marquis, A.

CONFIDENTIAL

M.F.S. 30B

CONFIDENTIAL

H.Q. C55-M-1616

CROSS REFERENCE

H.Q. C55-M-1616

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

SUBJECT STANDING COURT-MARTIAL

MATUCHA. RICHARD RENE D.145615 TPR.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					NEW FILE	C.R.	MAR 26 1945
APR 3 1945				J.A.G.	With Papers C.R. APR 20 1945	JK	
					To note, file	mth.	23-4-45
APR 24 1945							APR 25 1945
APR 25 1945					Per Resolution C.R. APR 30 1945		
APR 27 1945				Admin	Per Resolution C.R. MAY 2 1945		
MAY 1 1945							
MAY 3 1945					Per Resolution C.R. MAY 25 1945		
MAY 25 1945				I.C.M.	Per Resolution C.R. MAY 29 1945		
				JAG	With Papers C.R. APR 30 1946	JK	
MAY 6 1946				JAG	With Papers C.R. MAY 25 1946	JK	
JUN 6 1946	4/6/46				With Papers C.R. JUN 22 1946	JK	
JUN 26 1946	26/6/46			JAG	To note		24/6/46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to see copy.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All correspondence returns should bear the official file number.

PASS THIS FILE IN ENVELOPE

4/D-642812	A/DIS	M.1-M-11540	A/DIS
4/D-607872	"	M.1-M-15256	"
4/D-616958	"	M.1-P-9905	"
M.1-B-8106	"	M.1-P-9450	"
M.1-B-9055	"	M.1-P-2577	"
M.1-H-5796	"	M.1-R-6152	"
M.1-L-11015	"	M.1-S-7494	"
M.1-L-17267	"	M.1-V-1188	"
M.1-L-15909	"		
M.1-L-16942	"	4/D-611719	"

DEPARTMENT OF NATIONAL DEFENCE
/ A R M Y /

MONTREAL, Que., 19 June 46.

CENTRAL REGISTRY Army
CONF. SEC.
27986
JUN 21 1946
File 225-M-
Chgd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ont.

COMPLETED N.Ps M. 288

Att hereto completed Forms of Remission with respect to the undermentioned personnel.

D-642812	Pte	BEAUCHEMIN M	D-506093	Pte	MAILHOT J P
D-607872	"	BEAUDRY J L R	D-145615	"	MATUCHA R R
D-616958	"	BERNIER L	D-652349	"	PAQUETTE M
D-710066	"	BOISVERT R	D-655311	"	PELOQUIN J
D-456568	"	BOURASSA E	D-13122	"	PHANEUF B
D-654110	"	MAINEAULT A	D-647183	"	RANGER L
D-608728	"	LABARRE R	D-647206	"	ST' CYR W
D-651739	"	LABRANCHE J	D-710133	"	VAILLANCOURT R
D-651149	"	LAPOINTE J	D-611719	"	WILLIAMS A
D-145693	"	LAUZON G			

(W J HOME) Brig
D O C M D No 4.

Encl.

NATIONAL DEFENCE HEADQUARTERS
MAY 2 1946
CENTRAL REGISTRY

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-145615, Trooper Richard Rene MATUCHA
(Number, Rank, Name in full)

R. C. Armoured Corps, C. A., attached to No. 4 District Depot, C.A.
(Unit, Attachment (if any))

Sentenced to 180 days detention

on 25th of April, 1946. at Montreal-South, Quebec.

being served at No. 65 Military Detention Barracks.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 18 years, 6 months, 16th June, 1944.

Medical grade or category PULHEMS 1121111

FIRST TRIAL—PART II

To AG MDHQ
(Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~(not)~~ XXX committed to undergo his sentence, which I recommend should XXX) be XXXXXXX (put into execution) XXXXXXXX ..... date) for reasons given in paragraph X.

Place Montreal, Que.

Date

(Confirming Authority)
(W.J. HOME) Brig
DOC MD 4

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offences, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 288
(Army Form A-2194)
25M—4-45 (7177)
H.Q. 1777-30-2013

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

.....(and) be reviewed on .....

Place .....

.....
Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
	Sentence remitted wef 18 Jun 46.	W.J. Home (W.J. HOME) Brig DOC MD 4	
17 Jun 46	"RELEASED" wef 18 Jun 46	C. Potter Major (C. Potter) Major, Commandant, #65 Mil. Det. Bks.	Marks earned 440

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE Sec. 15 (1) Army Act. ABSENTING HIMSELF WITHOUT LEAVE, in that he, at Camp Borden, Ontario at 2200 hours on the 1st of July, 1945, absented himself without leave from his unit, No. 2 Canadian Armoured Corps Training Regiment, C. A., until he was apprehended by the Military Authorities at Montreal, Quebec, at 0355 hours on the 11th of April, 1946, dressed in civilian clothes.	1st of July 1945.	25th of April, 1946.

E. I. Auerback
Signature of officer making entry
(E. I. AUERBACK) Captain
General List, C. A., attached
to No. 4 District Depot, C. A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
20th of May, 1946	I do not recommend any remission of sentence in this soldier's case.	S. Echenberg (S. Echenberg) Colonel Commanding No. 4 District Depot, C. A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
	Sentence is fair and reasonable.	W.J. Home (W.J. HOME) Brig DOC MD 4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

[illegible] OF [illegible], CO[illegible]UTATION OR [illegible]TIG[illegible]TION OF SENT[illegible]CE

BY COURT - [illegible]ARTIAL

NDHQ File No. HQC 55-
District File No. [illegible].1- M-15236 ADIS

PART I

NO. D-145615 RANK PTE NA[illegible] MATUCHA R R

UNIT 4 DD

PART II

Date of Trial 25th April, 1946.
Charge (s) ABSENTING HIMSELF WITHOUT LEAVE
Sentence 180 days detention.
Confirmation -- (a) Authority:
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention as of 18 Jun 46.

Signed at Montreal 13 Jun 46

W. J. Home.

(W J HOME) Brig
DOC MD NO 4

PART IV
PROMULGATION

Remission (~~[illegible]~~) promulgated and extracts taken at Mtl. South, Quebec, this day 18th of June 1946 (1)

Ass't (Officer i/c Documents)
(R.P.W. Ryan) Lieut
R.C.A., C.A. Att'd to
No. 4 Dist Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

NO. D-145615 RANK Tpr Richard Rene MATUCHA,
The sentence of 180 days detention awarded by ~~[illegible]~~ standing Court-Martial on the 25th April 1946 has been remitted on the 18th June 1946 by D.O.C., M.D. No. 4
UNIT Military District No. 4, Montreal, Quebec.
Certified true Extract of Daily Orders Part II of No. 4 Dist Depot, C.A.
No. 142 Place Mtl South, Quebec. date 18th June 1946

P. Rivard Capt

Adjutant (P. Rivard) Capt.,
Gen List C.A., Att'd to
No. 4 Dist Depot, C.A.

HQC 55-M-1616(JAG/D-6)

Office of the Judge Advocate General

3 Jun 46

District Officer Commanding
Military District No.4
MONTREAL P.Q.

Standing
D-145615 Tpr Richard Rene MATUCHA
Court-Martial.

M.1-M-15236(J)

Receipt is acknowledged of your 23rd May 46 dated 194 , under cover of which you returned to this office for Standing the proceedings of the marginally noted Court-Martial.

EKM

for (R.J. Orde), Brigadier,

/kb

Judge Advocate-General.

8M-5-45(M-96)

In reply please quote No:

M.1-M-15236(J)

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

REGISTERED

Montreal, Que.,

23rd May, 1946.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
21008
MAY 25 1946
File
Chgd. to
Referred to

STANDING COURT MARTIAL

D-145615 Tpr. Richard Rene MATUCHA, RCAC, CA, att'd to No. 4 D.D., C.A.

Reference your HQC. 55-M-1616(JAG/D-2) dated 6 May 46.

2. Herewith proceedings of the marginally-noted Standing Court-Martial which are returned to you for custody, please.

AVL Mills Capt
for (W.J. HOME), Brigadier,
D.O.C., M.D. No. 4.

Enc.

MEDICAL OFFICER'S REPORT

I certify that No. D-145615 Trooper Richard Rene MATUCHA
R.C. Arm'd C., C.A.,
of att'd to No.4 D.D., CA. is in a Good state of health,
and fit to undergo Trial by Court martial.

S.S. Nash Lieut

S.S. Nash Lieut
Medical Officer
R.C.A.M.C., C.A.,
att'd to No.4 D.D., CA.

Station Montreal South, Quebec

Date 25th January, 1946.

J. C. F. Wilson Maj
President

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-30-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à u Dépôt du district no 4, A.C., Montréal Sud, P.Q.

le 25ème jour de d'avril 19 46 à 1130 heures,

pour le procès de D-145615, Troupier Richard René MATUCHA,
Matricule Grade Nom et prénoms

R.C. Armoured Corps, C.A., attaché au Dépôt du district no 4, A.C.
Unité Détachement, le cas échéant

PRÉSIDENT: Major J.A.G. Dubeau, E.D., Quartiers-Généraux, D.M. 4

PROCUREUR: Capitaine R. Mathieu
Grade Nom et prénoms

Quartiers-Généraux, District militaire 4
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Capitaine J.E. Richard,
~~OU AVOCAT~~ Grade Nom et prénoms

C.I.C., A.C., attaché au Dépôt du district no 4, A.C.
Unité Détachement, le cas échéant

VERDICT

La Cour déclare l'accusé, D-145615, Troupier Richard René MATUCHA, Royal Canadian Armoured Corps, C.A., attaché au Dépôt du district no 4, A.C., coupable à l'égard du chef d'accusation.

SENTENCE:

La Cour condamne l'accusé, D-145615, Troupier Richard René MATUCHA, Royal Canadian Armoured Corps, C.A., attaché au Dépôt du district no 4, A.C., à la détention pendant 180 jours.

Signé à Montréal Sud, P.Q., ce 25ème jour de d'avril 1946.

(J.A.G. Dubeau)
Major
Président de la cour martiale permanente

M.F.B. 1486A
10M-1-45 (64
H.Q. 1772-39-2
K.P. 26109

Extracts entered as No. 44460
Record of Courts-Martial kept in the office of the Judge Advocate-General this 2 day of May 1946

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~*Question à l'accusé.*~~ ~~Vous opposez-vous à ..... comme interprète?~~

~~*Réponse:*~~

Question à l'accusé. Vous opposez-vous à Mademoiselle Carmen Roberge comme sténographe?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant)~~ est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale ~~permanente ou une autre cour martiale~~ plutôt que d'être jugé sommairement par son officier commandant?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur ~~chacun des chefs mentionnés~~ le chef mentionné dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~(premier)~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture?

Réponse: Coupable, monsieur.

~~*Question à l'accusé.*~~ ~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture?~~

~~*Réponse:*~~

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

B2 5

J. C. R. Chubar major
J. Prudhon - s.c.m.

CHARGE SHEET

The Accused, D-145615, Trooper Richard Rene MATUCHA, R.C.Arm'd C., C.A., attached to No. 4 District Depot, C.A., a G.S. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1),
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Camp Borden, Ontario, at 2200 hours on the 1st of July, 1945, absented himself without leave from his unit, No. 2 Canadian Armoured Corps Training Regiment, C.A., until he was apprehended by the Military Authorities at Montreal, Quebec, at 0355 hours on the 11th of April, 1946, dressed in civilian clothes.

Signed at
Montreal South, Quebec,
22nd April, 1946.

J.S. Lulenberg Colonel,
Commanding No. 4 District Depot, C.A.

J.C.R.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

(voir la page CC-3 ci-jointe)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

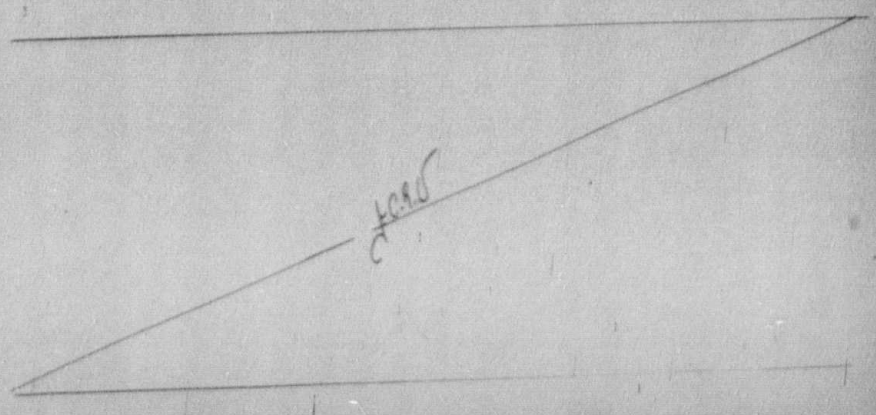
Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE PAR VOIE D'ATTENUATION DE PEINE.

Quand je me suis enrôlé j'ai été mal jugé. Je me suis enrôlé; j'ai passé devant un bureau de recrûtement. Je voyais les enseignes, toutes les images. J'ai rentré là. J'ai demandé des informations. On m'a chanté une belle chanson. On m'a dit que je serais dans la branche de l'Armée que je voulais. J'ai signé les papiers. J'ai été envoyé à Longueuil. J'ai dit que je voulais rentrer dans le corps d'ordonnance. On m'a dit qu'il n'y avait pas d'ouverture. Ils m'ont envoyé au basic. On m'a dit que j'aurais ce que je voulais sur le transfert qu'ils me donneraient. J'ai fait mon basic à New Market. Après mon basic j'ai été transféré au Camp Borden. On m'a dit "Demandez ça au Camp Borden". J'ai passé devant l'Army Examiner. Là on voulait me faire suivre un cours d'ingénieur. J'ai dit "Le cours d'ingénieur j'aime pas ça pantoute". J'avais travaillé comme apprenti électricien avant d'entrer dans l'Armée. Il me restait 6 mois pour finir mon appretissage. J'ai parti quelques jours; j'ai revenu. Après ça la dernière fois j'ai parti 58 jours. J'ai été envoyé en détention par une cour martiale. Là j'ai demandé la même chose. J'ai dit que je serais correct la dernière fois.

En sortant de détention, j'ai demandé une passe. Elle m'a été refusée. J'ai demandé pour être paradé. On m'a mis sur la garde. J'ai été sur la garde deux jours. J'ai retourné et j'ai demandé encore une passe. On m'a dit "Si vous vous en allez pas, on va y voir". Je me suis en allé.



E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon Officier Défenseur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

A.C.P. Wilkins major
for President SCR

DAILY ORDERS PART II

No. 134

BY

Place Camp Borden, Ont.

Lt-Col. C. E. PARISH

Commanding

Date 4 Jul 45

NO. 2 CANADIAN ARMOURED CORPS TRAINING REGIMENT

(Last Order issued No. 133 of 2 Jul 45

RATIONS
INC DEC

HOLDING ESTABLISHMENT

"B" OTHER RANKS

RECEIVED
APR 22 1946
GENERAL REGISTRY
No. 4 District
Depot

17. ABSENT WITHOUT LEAVE

17-a 1st Notice

D-145618 Tpr MATUCHA, R.R. "C" 2200 hrs 1 Jul 45

(Signed) L.B. Cordingley
(L.B. CORDINGLEY) Capt
A/Adjutant
No. 2C.A.C.T.R.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of
Regimental PART II ORDERS
kept by the Officer i/c.
Records N.D.H.Q.
DATE APR 16 1946

Prepared by:
and
Checked by:

J. O. G. Wilkins Major
President

C

AFTER ORDER

ISSUED BY DIRECTORATE OF RECORDS

SUPPLEMENT TO DAILY ORDER 8 DATED 14 MAR 46

NO. 2 CANADIAN ARMOURED CORPS TRAINING REGIMENT
(CAMP BORDEN, ONT.)

No. 3
17 Apr 46
Ottawa, Ont.

Last Part 11 Order, "After Order" No. 2 d/15 Apr 46

HOME WAR ESTABLISHMENT

NIL

HOLDING ESTABLISHMENT

"A" OFFICERS

NIL

"B" OTHER RANKS

1. ABSENCE WITHOUT LEAVE

AMENDMENTS

(a) Para 17 (a) of D.O. 134 d/4 Jul 45, para 18 (b) of D.O. 138 d/9 Jul 45, and para 13 (c) of D.O. 147 d/23 Jul 45 insofar as they ref to the u/m, regt particulars are am'd to read:
"D 145615 Tpr MATUCHA, R.R."

D 145618 Tpr MATUCHA, R.R.

RECEIVED
APR 22 1946
CENTRAL REGISTRY

2. STRENGTH DECREASE

AMENDMENTS

(a) Para 19 (d) of D.O. 149 d/26 Jul 45 insofar as it ref to the u/m, regt particulars are am'd to read:
"D 145615 Tpr MATUCHA, R.R.

D 145618 Tpr MATUCHA, R.E.

"C" ATTACHED OFFICERS

NIL

"D" ATTACHED OTHER RANKS

NIL

C.L. LAURIN, COLONEL,
DIRECTOR OF RECORDS,
NDHQ.

H

J. C. F. Wilson major
Grenadier Gds

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major J.E. Purcell (Number) OC (Rank) Composite Provost Companies M.D. 4 (Name) (Unit)

hereby certify that D-145615 (Number) Tpr. (Rank) MATUCHA Richard Rene (Name in full)

of the No. 2 C.A.C. T.R. (Unit and attachment, if any) Camp Borden, Ont.

Strike out words not applicable } was apprehended by (~~[illegible]~~) D-137084 (Number) L/Cpl. (Rank)

Rochon R. (Name) Composite Provost Companies M.D. 4 (Unit or appointment)

at Montreal, Que. (Place) at 0355 (Hour)

on the 11th day of April 19 46

Strike out words not applicable } ~~[illegible]~~ (or absentee without leave), and that at the time of his arrest he was ~~[illegible]~~ ~~[illegible]~~ (dressed in civilian clothes).

Dated at Montreal, Que. this 11th day of April 19 46

J. E. Purcell Major
(Signature, Number, Rank, Unit or appointment)

OC Composite Provost Companies M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 116
150M—2-44 (2736)
H.Q. 1772-39-1936

Soldier of the active army

J. C. G. Wallace major
President

M.F.R. 355
75M—4-43 (145)
H.Q. 1775-39-620
A.F.R. 295

4

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-145615,	Tpr.	R.R. MATUCHA,	R.C.Armd C. C.A., stt'd No. 4 D.D. C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets or Company ~~Conduct Sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~ A.W.L.	2 times
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted.~~

~~or,~~

Previous convictions of the accused by ~~a court-martial~~ or a civil court, of summary awards under Section 47 of the Army Act Air Force Act and dispensations with trial under A.A. 73 A.F.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for~~ ~~of~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 14 days in military Air Force custody, making a total of 14 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record ~~of service~~ attestation paper is 20 years, 4 months. (12th Dec. 1925)

6. The date of his ~~commission~~ attestation specified in his record ~~of service~~ attestation paper is 16th June, 1944.

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon~~ ~~service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force reward~~ military ~~(or is in possession of or entitled to). State any air force decoration or reward~~ military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~the regimental rank of~~ Air Force

~~11. (In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of ..... dated ....., and in his regiment (or corps) the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

In the rank of ..... years. ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the ~~paragraph must be struck~~ through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number D-14561 Rank Tpr.

Name R.R. MATUCHA of R.C.Arm'd C. C.A.

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
S.C.M.	S.C.M., 22 March, 1945, Camp Borden Ont.	A.W.L.	125 days detention.	27 days.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25 Apr 46 at

R.F.W. Ryan, Lieut.,
R.C.A., C.A., att'd
No. 4 D.D. C.A.,
Ass't Officer i/c Records,
No. 4 D.D. C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked 4 signed by the president, and annexed to the proceedings.

J.C.G. Wilson Major
President SCM

M.F.M. 6

Date of Birth 12 Dec. 1925.

Date of enlistment 16 June 1944.

Reg. No. D-145615 Name MATUCHA, Richard Rene Corps

Signature O.C. Company, etc. (Sgd).R.R.F.Moore Lt.

Sheet No. One. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order disposing with trial	By whom awarded	Remarks
				Original sheet destroyed 16 Dec. 1944, last entry 13 Dec. 1944.					
Camp Borden	5 Oct. 1944.	Tpr.		AA 15(1) AWL 2215 h. 3 Oct.44 til 0305 h. 18 Oct. 44 (Abs. 14 dys 14 hrs. 50 min.)	Documentary	1 day det. 10 days pay 14 days C.B.	21 Oct.44	Lt.Col. F.H.Collins.	Forf. 15 dys. pay FR&I
Camp Borden	16 Nov.44	Tpr.		AA 15(1) AWL 0545 h. 13 Nov.44 til 0200 h. 16 Nov. 44 Abs. 1 day 20 hrs. 15 min.	Documentary	10 day pay 14 days C.B.	17 Nov.44	Major G.M.Coutts.	Forf. 2 dys pay FR&I 149 (1)a.
Camp Borden	15 Jan. 45.	Tpr.		AA 15(1) AWL fr 0600 h. 15 Jan. 45 to 1630 h. 14 Mar. 1945.	Documentary	125 dys det.	22 Mar.45	S.C.M.	Forf. 59 dys p pay

Granted 27 days remission of sent. D.O. 132 d/2 Jul.45 (Sgd) Illegible, Capt. (P.T.O.)

M.F.M. 6—500M—5-44 (3846)
H.Q. 1773-39-1652

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY

R.P.W. Ryan, Lieut.,
R.C.A., C.A., att'd
No. 4 D.D. C.A.,
Ass't Officer i/c Records,
No. 4 D.D. C.A.

H.Q.C.55-M-1616 (JAG/D-2)
Your M. 1-M-15236 (J)

Office of the Judge Advocate-General

6 May 46

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 145615 Tpr. Richard Rene Matucha,
RCAC., C.A.,att. No. 4 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(D. L. Ormond) Brigadier
Judge Advocate-General.

LYV/MM

12M-11-45 [M-430]

THIS COPY FOR H.Q.C. 55-M-1616
M.D.M.1-M-15236

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

GS

No. D-145615 Name Richard Rene MATUCHA

Rank Tpr Unit RCAC CA att No.4 DD CA

Charge AA 15(1) AWL

Date of Crime 1-7-45

Date of Arrest 11-4-46 Charge Signed 22-4-46

Orders for D.C.M.

Place and Date of Trial No.4 DD CA 25-4-46

Sentence Det 180 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 44460

Date 2-5-46

Balance of sentence remitted by Conf. Auth. 11-4-46

MEMO

M.D. No.4
Absent
9½ mos

RCAC CA att No.4 DD CA
Sentence
Det 180 days

(R. L. Borovoy), Major
for Judge Advocate-General

10M-11-45 [M-425]

IN REPLY PLEASE QUOTE No. M. 1-M-15236 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Montreal, Que.,
April 27th, 1946.

CENTRAL REGISTRY Army
CONF. SEC.
20053
APR 30 1946
File C-55-M-1616
Chgd. to
Referred to JAG.

Judge-Advocate General,
National Defence Headquarters,
OTTAWA, Ont.

STANDING COURT-MARTIAL
D-145615, Trooper Richard René MATUCHA,
Royal Canadian Armoured Corps, C.A.,
attached to No. 4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court.

b) Medical Officer's Report dated 25th April, 1946.

2. Submitted for your information, consideration and approval, please.

J.A.G. Dubeau

(J.A.G. Dubeau), Major,
Headquarters, Military District No.4
President, Standing Courts-Martial.

Enc.

4460

NAT. DEF. B. AAG

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE HQC-9039-1, PD, 11, (IGM)

PLACE

DATE

VER V GIB NR 15

FROM CMHQ BORDEN 2617080

TO SECUTY OTTAWA

GR 112 QSR BT

CBA 565 RE TELEGRAM IGM 238 MAY 25 AND LETTER CB 1-4-1 (AJAG) 23 APR 45 STOP IT IS CONSIDERED ALL SOLDIERS MENTIONED IN PARAS 2 AND 7 OF THIS HEADQUARTERS LETTER 23 APR SHOULD COMPLETE THEIR SENTENCES EXCEPT THE FOLLOWING WHOSE SENTENCES IT IS RECOMMENDED BE SUSPENDED EFFECTIVE DATES SET OUT HEREUNDER

B133313 TPR BRADY A W 30 JULY 45

H10478 TPR HARFIELD B L 21 SEPT 45

B145827 PTE SOMTKA O J 4 JULY 45

BT 2619240 LE B

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN

COPY 4 - MILITARY SECRETARY INF'M COPY

M.S. M.S. M.S. M.S. M.S. M.S. M.S. M.S. M.S.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: H.S.9039-1,VD 11, (ICM)

PLACE	DATE
OTTAWA, Ontario.	25 MAY 45

Commander,
CAMP BORDEN, Ontario.

CONFIDENTIAL ICM 238

REF DATED 23 APR 45 YOUR OWN DATE MADE BASE ON BRAGGET AFAG BRAGGET AND ADJUTANT GENERAL TELEGRAM DATED 27 APR 45 (.) OWING TO RECENT DEVELOPMENTS OVERSEAS ALL SUSPENSIONS OF SENTENCE EFFECTIVE ONE DAY AFTER EMBARKATION ARE CUT THEREIN ARE CANCELLED (.) WITH RECOMMENDATION IN EACH OF SUCH CASES AS TO WHETHER (a) SOLDIER SHOULD COMPLETE SENTENCE IN INSTITUTION OR (b) SENTENCE SHOULD BE SUSPENDED IMMEDIATELY OR (c) AT SOME FUTURE DATE BRAGGET IS WHICH CASE BECOMES A DATE BRAGGET

ADJUTANT-GENERAL

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED Major-General, Adjutant-General		IMPORTANT	251100A

COPY 6 - FOR ORIGINATOR'S FILE ~~COPY 2 WILL BE RETURNED AS CONFIRMATION~~

405-777-45,111

IN REPLY PLEASE QUOTE

Our File: C.B. 40-M-5379
(AJAG)

NDHQ File: HQC 55-M-1616

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Camp Borden
Camp Borden, Ont., 26 APR 1945

A. G. Branch
APR 30 1945
Nat. Defence Hqr
Ottawa - Canada

The Secretary
Dept. of National Defence
OTTAWA, Ontario

D-145615 Tpr. MATUCHA, R.
No. 1 CACTR, CA

Reference this Headquarters' letter numbered as above and dated 13 APR 45.

2. Please be advised that Matucha was seen by the Army Examiner who recommended that he continue in CAC and that he be included in an early overseas draft upon completion of his present sentence. The O.C., No. 1 CACTR has been informed of this recommendation.

H.A.C. Spencer
Major-General
Commander - Camp Borden

35-75

N.D. 25
3 MD.-11-43 (2979)
H.Q. 1772-101-23

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE HQC9039-1, FD11, (ICM)

PLACE: OTTAWA, Ontario.

DATE: 27 APR 45.

Commander,
CAMP BORDEN, Ontario.

CONFIDENTIAL ICM 213

RELET DATED 23 APR 45 YOUR ONE DASH FOUR DASH ONE BRACKET AJAG BRACKET (.) AUTHORITY GRANTED FOR ALL SUSPENSIONS RECOMMENDED OR SUGGESTED THEREIN AS FOLLOWS (.) ALL SOLDIERS NAMED IN PARAS FOUR FIVE AND SIX EFFECTIVE 28 APR 45 (.) ALL SOLDIERS NAMED IN PARAS TWO AND SEVEN EFFECTIVE ONE DAY AFTER EMBARKATION (.) CONCUR IN TRANSFER OF TPR C J MERRITT FROM CAC TO CIC AND IN REALLOCATION OF PTE G L COMPTON TO AN INF TRG CENTRE (.) SOLDIERS FOR IMMEDIATE EMBARKATION WILL BE DESPATCHED TO TRANSIT CAMP AND NOT REPEAT NOT DIRECTLY TO THE SHIP

ADJUTANT-GENERAL

Copy

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED: Major-General, Adjutant-General		IMPORTANT	271045Q

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

COPY 1 FOR ARMY SIGNAL OFFICE

CA Family Allowances
No. O.B. 14-21 (1-44)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Camp Borden
Camp Borden, Ont., 23 APR 45.

The Secretary,
Dept. of National Defence,
OTTAWA, Ontario.

CIPHER

HQC 9039-1, FD1.

S.U.S. in Detention Awarded by Courts-Martial
Suspension of Sentences for Despatch Overseas

I Reference Ranks 6253 dated 9 APR 45 a survey, as requested, has been made in accordance with para 3 of your wire under reply.

2. It is recommended that the sentences of the under-mentioned soldiers, whose pulhems and state of training permit their despatch overseas, be suspended effective the first day after embarkation for overseas:

NDHQ File No.	Regt. No.	Rank & Name	Unit
HQC 55-B-940	B-113313	Tpr. Brady, A.J.	No.2 CAOTR
HQC 55-E-165	K-51250	" Ewanchuk, N.	No.2 CAOTR
HQC 55-H-762	H-10478	" Harfield, B.L.	No.2 CAOTR
HQC 55-M-1616	D-145615	" Matucha, L.R.	No.2 CAOTR
HQC 55-V-205	F-56538	" Voyez, H.B.	No.2 CAOTR
HQC 55-W-636	B-118193	" Waito, A.J.	No.1 CAOTR
HQC 55-R-430	B-146638	Pte. Raymond, R.	A-10 CMTC
HQC 55-V-180	D-146745	" Valcourt, J.	A-22 CAMCTC
HQC 55-P-624	D-141829	" Paquette, J.	A-22 CAMCTC

3. If you concur in the above recommendations may advice be received as soon as possible, please so that arrangements can be made to place these soldiers on overseas draft leaving this Command, whereupon effect will be given, in due course, to para 6(a)(b) of the above mentioned wire. As a draft will be leaving this Command to proceed directly to the ship, in the first part of May, it is suggested that if possible the above-mentioned personnel be placed on such draft.

4. It is recommended that the sentences of the under-mentioned soldiers, whose pulhems permit their despatch overseas, but who require further training before departure, be suspended immediately so as to permit them to be trained.

HQC 55-G-914	C-120104	Pte. Gollcher, W.A.	A-11 CMOTC
HQC 55-P-829	C-122793	" Prieur, G.	A-11 CMOTC
HQC 55-A-351	B-134616	Tpr. Arnold, R.M.	No.2 CAOTR
HQC 55-M-1502	H-8399	" McPherson, C.	No.2 CAOTR
HQC 55-B-1325	B-136115	" Beguin, R.J.	No.2 CAOTR
HQC 55-Z-58	H-204722	" Zierk, P.	No.1 CAOTR
HQC 55-D-994	B-78281	" Durhen, R.B.	No.1 CAOTR

5. B-143143 Tpr. Merritt, C.J. (NDHQ File No. HQC 55-M-1489) No. 3 CAOTR, who has completed his basic training only, has not been recommended by the O.C. No. 3 CAOTR for suspension of sentence so as to allow him to complete his training as he considers his record bad. However, the Commandant, No. 86 M.D.B. recommends suspension of this

II
ICM, for your action, please. It was agreed with D.Mov that such SUS would NOT be sent directly to the ship.

W.A. Stilwell, Major,
for D. Adm. 25-4-45.

..... 2

soldier's sentence upon his transfer to CIC for infantry training. It is suggested that consideration be given to the transfer of this soldier from CAC to CIC, and if this is done, it is recommended his sentence be suspended to permit him to complete his training.

6. The O.C., C.B.M.H. has recommended that in the case of F-607999 Pte. Compton, G.L., C.B.M.H., NDHQ file No. HQC 55-C-1175), be allocated to an infantry training centre for the purpose of completing his training, and that his sentence be suspended for this purpose. He is of overseas pulhems but has not had advanced training. This recommendation is concurred in by this Headquarters.

7. The undermentioned personnel are of overseas pulhems and have been fully trained but require, in the opinion of their respective Officers Commanding refresher training, normally before proceeding overseas. It is considered, however, that if these soldiers were released from detention under suspended sentence to allow them to receive such training they would probably absent themselves without leave before the completion of training as their past records are bad. In view of the fact that they are fully trained it is suggested that the following soldiers be placed on overseas draft without refresher training, and that their sentences be suspended effective one day after embarkation for overseas.

HQC 55-B-1422	B-117035	Pte.	Belanger, M.R.	A-10 CITC
HQC 55-L-818	C-120800	"	Lenctot, M.	A-10 CITC
HQC 55-S-1272	B-145827	"	Sodtka, C.J.	A-10 CITC
HQC 55-L-797	B-143549	"	Luffman, H.J.	A-10 CITC
HQC 55-T-512	B-116217	"	Tessier, T.	A-10 CITC
HQC 55-R-593	B-24479	"	Reles, L.B.	A-10 CITC
HQC 55-C-1151	B-118498	"	Clements, L.R.	A-10 CITC
HQC 55-B-1572	B-161119	"	Babin, A.	A-10 CITC
HQC 55-V-213	B-116224	"	Vank, J.	A-10 CITC
HQC 55-P-905	B-157223	"	Prudent, C.L.	A-10 CITC
HQC 55-G-367	C-31466	"	Guindon, M.	A-19 CASCTC
HQC 55-P-537	D-137468	"	Pilon, J.H.R.	A-19 CASCTC
HQC 55-S-1024	D-149930	"	Scholar, D.G.	A-19 CASCTC

J.D.Conover, Lt.Col.
for A.C. Spencer,
Major-General,
Commander - Camp Borden

III

D.A.G.(B)
I recommend all suspension as recommended and suggested in Minute I, also transfer suggested in para 6 and reallocation recommended in para 7.

L.H.Clayton, Lieut-Col.
Inspector of Courts-Martial.
Apr 26,1945

IV

APPROVED:
G.A.Ferguson,
Brigadier,
D.A.G.(B),
Apr 26,1945.

HQC.55-M-1616 (JAG/D)

23 Apr 45

The Commander, Camp Borden,
CAMP BORDEN, Ontario.

Standing Court-Martial
D.145615, Tpr. Richard Rene MATUCHA
No. 1 CACTSR, CA.

Receipt is acknowledged of your C.B.40-W-5379 (AJAG) dated 13th April, 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M. 288.

/AB

E & M
Capt.
for (R.J. Orsle) Brigadier,
Judge Advocate General.

Noted
OKS
for L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts Martial
APR 25 1945

Notes to
Mac Shaw
27/4/45

2M-6-44 (M-4177)

I.C.M. - L 41[illegible]

REVIEW OF SENTENCE

DATE APR 25 1945

H.Q.C. File: 55-17-1616

1. No. RANK AND NAME
2. UNIT AT DATE OF OFFENCE
3. AT PRESENT ON STRENGTH OF
4. SENTENCE OF COURT M.D.
5. CONFIRMED SENTENCE DATE
6. BEING SERVED AT DATE
7. OFFENCES

A.W.L from 15 Jan. 45 - 14 March 45 - will be amended 2 mos.

8. PREVIOUS CONDUCT

ENLISTED
~~ENROLLED~~ 16 June 44 AGE 19

3-10-44	Fol-25-112 1111	
13-11-44	A.W.L	15 days (10 forfeit 5 susp) 24th date on 21-10-44
30-12-44	A.W.L	3 days 10 days susp 14 days CO on 17-11-44
14-2-45	A.W.L	2 days 6 days susp 14 days CO on 2-1-45
	Losing by neg. stoppage	17.20 on 20-2-45

9. STATEMENT OF ACCUSED Asked Interview re Defence, promised as soon as finished B.T. saw 2 army chaplains, said could not do anything for me as left Electronics in civilian life. Classified as Mechanical Repair man, and assembly

10. RECOMMENDATION

File No. C.B. 40-M-5379 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

308230

Headquarters, Camp Borden,
Camp Borden, Ontario,
13 APR 45

CENTRAL REGISTRY (JAG)
COMM. ETC.
APR 20 1945
File 055-M-1616
Chgd. to
Referred to JAG

The Secretary,
Dept. of National Defence,
OTTAWA, Ont.

STANDING COURT-MARTIAL

D-145615 Tpr. Richard Rene MATUCHA
No. 1 CACTSR, CA

Reference HQC.55-M-1616 (JAG/D-6), dated 2 APR 45.

2. Returned herewith for custody the proceedings of the marginally-noted Standing Court-Martial, together with MFM 288 in which no review of sentence is recommended.

3. This soldier is to be seen by the Army Examiner with a view to re-allocation, if possible. No further administrative action appears necessary in this case.

(A.C. Spencer)
~~[illegible]~~
Major-General
Commander, Camp Borden.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-145615 Tpr. Richard Rene MATUCHA
(Number, Rank, Name in full)

No. 1 Canadian Armoured Corps Trained Soldiers Regiment, C.A.
(Unit, Attachment (if any))

Sentenced to Undergo detention for 125 days

on 22nd day of March, 1945 at Camp Borden, Ont.

being served at No. 86 Military Detention Barracks, Camp Borden, Ont.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment Age 18-D.of E. 16 Jun 44

Medical grade or category 25-112,11,11

FIRST TRIAL—PART II

To Adjutant-General
(Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~XXX~~ committed to undergo his sentence, which I recommend should (not) be (~~XXXXXXX~~ (~~XXXXXXXXXXX~~) (reviewed~~XX~~ .....) for reasons given in paragraph X.

Place Camp Borden, Ont.

Date 13 APR 45

J. D. Gorowen Lt.Col. Maj.Gen.
A. C. Gorowen
(Confirming Authority)
Commander - Camp Borden

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

.....
(Superior Military Authority)

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offence, see pars. VIII. For C.O.'s remarks, see pars. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

.....
(Confirming Authority)

Date .....

M.F.M. 288
(Army Form A-2104)
15M—6-43 (441)
H.Q. 1773-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Sec. 15(1) A.A. AWL from 0600 hrs 15 JAN 45 until surrendering to the military authorities at Montreal, Que. at 1630 hrs 14 MAR 45, wearing military uniform. Costs of apprehension and return to his Corps, $25.77 C E Page Maj Signature of Officer making entry	15 JAN 45	22 MAR 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
..... Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
6 APR 45	Character of Accused: fair Ability & Usefulness as Soldier: fair I recommend (no) review of sentence ~~on~~ ~~day of~~ ~~1945~~	C E Page Maj

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
13 APR 45	I recommend no review as it is considered full sentence should be served.	J L Ilsley Maj. Gen. (O.C. Troops) Commander - Camp Borden

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Camp Borden, Ontario,

on the 22nd day of March, 1945 at 1015 hours,

for the trial of: No. D-145615 Trooper Richard Rene MATUCHA,
Number Rank Full Name

No. 1 C.A.C.T.S.R., C.A.
Unit Attachment, if any

PRESIDENT: Major J.C.A. Campbell, R.C.A., C.A.,
Att. Headquarters, Camp Borden, C.A.

PROSECUTOR: Capt. J. A. Mullin,
Prosecutor Courts-Martial, Camp Borden, C.A.
Rank Full Name Unit Attachment, if any

DEFENDING OFFICER: Capt. G. C. L. Bates, No. 1 C.A.C.T.S.R., C.A.
Rank Full Name Unit Attachment, if any

FINDING:

The Court find that the accused is guilty of the charge.

SENTENCE:

The Court sentence the accused to undergo detention for one hundred twenty five days.

Signed at Camp Borden, Ont., this 22nd day of March, 1945.

J.C.A. Campbell, Major
(J.C.A. Campbell), President.
Standing Court-Martial

M.F.B. 1486
25M-6-44 (48287)
H.Q. 177-280-2208

Accounts entered as No. 36397 in the Register of Courts-Martial kept in the office of the Judge Advocate-General this 28th day of March 1945.
Capt.

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~*Question to the accused.* Do you object to as interpreter?~~

Answer: No. B-142054, Cpl.(C.S.M.)(A/W.O.II) A.R. Bartleman, Headquarters, Camp Borden, C.A.,

Question to the accused. Do you object to as shorthand writer?

Answer: No, sir.

The shorthand writer is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No, sir.

The accused is arraigned upon the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the charge against you, which you have heard read?

Answer: Guilty, sir.

~~*Question to the accused.* Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B 2

J.A. Campbell Major

CHARGE SHEET

The accused No. D-145615 Trooper Richard Rene MATUCHA, No. 1 C.A.C.T.S.R., C.A., a G.B. soldier of the Canadian Army placed on Active Service is charged with:

CHARGE: SEC 15 (1) ARMY ACT.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Camp Borden, Ontario, on the 15th January, 1945, absented himself without leave from No. 1 C.A.C.T.S.R., C.A., from 0600 hours on the 15th January, 1945, until surrendering to the Military Authorities at Montreal, Quebec, at 1630 hours on the 14th March, 1945, wearing Military Uniform.

Costs of apprehension and return to his Corps
$ 25.77

Camp Borden, Ontario.
20th March, 1945

(J.A. Tuxford) Major,
Officer Commanding,
No. 1 C.A.C.T.S.R.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge.

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. Yes, sir, I wish to give evidence on oath.

(Statement of the accused to be recorded on a separate page.)
(See overleaf)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

The accused No. D-145615 Trooper Richard Rene MATUCHA, No. 1 C.A.C.T.S.R., C.A., being duly sworn is examined by the Defending Officer:-

Q- How long have you been in the Army, Matucha?

A- Since the beginning of June, sir.

Q- How old are you now?

A- Nineteen, sir.

Q- When did you become of age?

A- Since the 12th of December, sir.

Q- Are you in the same regiment now, to which you belonged at that time?

A- Yes, sir.

Q- When you joined this Canadian Army what was your express purpose, or just what did you think you would like to have done?

A- Well, sir, when I first enlisted I asked to be in the Ordnance Corps, and they told me then that there was no opening. They told me after I had done my basic training with the Armoured Corps that they would see about a transfer when I finished basic training. And when I had my basic finished, I went to see the Army Examiner, and he told me he couldn't do anything about it, when I got to Camp Borden to see the Army Examiner here, and that he would see about a transfer for me. I got there and talked to him about it. He said he couldn't do anything for me here, but "We can put you in straight wheel." And he said, "You have a chance to go on track. Well, I said, "If that is

the case, I will do my best, sir." Then when I done my two weeks wheel, I put in for track, and they refused me. They had no opening, they said. So then I was sent to T.S.R., and stayed there two weeks, and I decided to go A.W.L., sir.

Q- What was your civilian occupation?

A- Electric, sir.

Q- How long were you working at that occupation?

A- Three years.

Q- What were you classified as?

A- Motor Repair Man, and assembly.

Q- What firm?

A- Cory Electric

Q- Have you seen any Army Examiners since you finished your advanced training in regards reallocation to Ordnance Corps?

A- No, sir.

----- The Prosecutor declines to cross-examine.

----- The accused resumes his seat.

JCJC

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir, through my Defending Officer.

----- The Defending Officer makes a Final Address.

(See document marked "F").

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"Y"

JCHamphreys

Revised

TSM—5-43 (145)
ALQ 1772-39-630
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-145615	Trooper	Richard Rene MATUCHA	No. 1 C.A.C.T.S.R., CA.

1. The following is a fair and true summary of the entries in the field ~~Squadron and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct Sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.W.L.	Three (3)	times	A.W.L.	Three (3) times
For Losing by Neglect	One (1)	times	Losing by Neglect	One (1) times
~~For~~		~~times~~		~~times~~
~~For~~		~~times~~		~~times~~

Number of instances of gallantry or distinguished conduct Nil

~~There are no entries in the conduct sheets of the accused.~~
~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act, A.F.A. 24, Section 47 of the Army Act, and dispensations from trial under A.A. 23 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for NO days in ~~Air Force~~ civil custody, and 8 days in military custody, making a total of 8 days in custody, of which NO days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19 years 3 months

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 16 Jun 44

7. ~~The service which the accused is entitled to reckon towards discharge is .....~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). ~~State the air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

~~I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.~~

Signed this 22nd day of March, 1945 H. [illegible] Lt & Adjt.,
No. 1 C.A.C.T.S.R., C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

Reg. No. D-145615 Name MATUCHA, Richard Rene Corps C.A.C. Date of enlistment or enrolment 16 July 44 Date of Birth 12 Dec 25 M.F.M. 4

Signature O.C. Company, etc. Z H.C. Campbell Maj Pres

Sheet Destroyed 16 Dec 44

Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Camp Borden, Ont	3 Oct 44	Tpr		Sec 15(1)AA. AWL from 2215 hrs 3 Oct 44 until apprehd by Mil Auth at Montreal Que at 0305 hrs 18 Oct 44.	Documentary	24 hrs detn 10 days pay Sec 46 A.A. 14 days C.B. Costs of apprehn $26.52	21 Oct 44	Lt.Col.F. H.Collins	Forf 15 days pay FRAI.
Camp Borden	13 Nov 44	Tpr		Sec 15(1)AA. AWL from 0545 hrs 13 Nov 44 until apprehd by Mil Auth at Toronto, Ont at 0200 hrs 15 Nov 44	Documentary	10 days pay Sec 46 A.A. 14 days C.B. Costs of Apprehn $9.60	17 Nov 44	Major G. M.Coutts	Forf 2 days pay FRAI.

M.F.M. 6—2015—9-44 (3550)
H.Q. 1773-20-1452

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Camp Borden	30 Dec 44	Tpr		Sec 15(1)AA. AWL from 1200 hrs 30 Dec 44 to 1930 hrs 1 Jan 45	Documentary	6 days pay Sec 46 A.A. 14 days C.B.	2 Jan 45	Major G. M. Coutts	Forf 3 days ~~pay~~ pay PR&I.
Camp Borden	19 Mar 45	Tpr		Sec 24 A.A. "Losing by Neglect"	Documentary	Stoppages to Cover $13.20	20 Mar 45	Major J. A. Tuxford.	
				"CERTIFIED TRUE COPY" H. T. Cummaney (H.T. Cummaney) Lt & Adjutant, No. 1 C.A.C.T.S.R., C.A.					

EXHIBIT "F"

FINAL ADDRESS BY THE DEFENDING OFFICER:

Tpr. Matucha seems to have the trouble that an awful lot of Canadian soldiers have in Canada. He feels he has been misplaced. Whether that be his fault or other people's fault is hard to say.

There is no excuse for him absenting himself because of lack of reallocation to the Ordnance Corps. He realizes his error, perhaps a little too late, and feels now that perhaps the best thing for him to do is to resign himself to his fate, and proceed overseas as a driver for the Armoured Corps, for which he is fully qualified, and of age and category.

I recommend to the Court that on completion of sentence, he be despatched overseas. That is all.

MEDICAL OFFICER'S REPORT

gotC

I certify that No. D145615 Tpr. Matucha, R.R.

of #1 T.S.R. C.A.C. is in a good state of health,

and fit to undergo Trial by Court martial.

W. B. Leach Capt

Medical Officer

W.B. Leach, Capt., RCAMC

A-22 C.A.M.C.T.C., C.A.

Station Camp Borden, Ont.

Date 22 Mar 45

M. F. B. 246

25M—6-41 (792)

H.Q. 1772-99 680

HQC.55-M-1616 (JAG/D-6)
Your File C.B.40-M-2144

2 Apr 45

The Commander, Camp Borden,
CAMP BORDEN, Ontario.

STANDING COURT-MARTIAL
~~D.149615~~, Tpr. R.R. MATUCHA,
No. 1 C.A.C.T.S.R., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

REA. Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

REA/AB

THIS COPY FOR: H.Q.D.55-M-1616
M.D.C.B.40-M-2144

G S

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D.145615 Name MATUCHA, Richard Rene

Rank Tpr Unit No. 1 C.A.C.T.S.R. CA

Charge A.A. 15 (1) - A.W.L.

Date of Crime 15-1-45

Date of Arrest 14-3-45 Charge Signed 20-3-45

Orders for D.C.M.

Place and Date of Trial Camp Borden Ont 22-3-45

Sentence Det 126 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36397

Date 28-3-45

MEMO

Borden - No. 1 CACTSR CA

Absent Sentence

2 mos. Det 125 days

A Elinglin Capt.

for Judge Advocate-General

10M-1-45 (M-4629)

C.B. 40-A-2144 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

Headquarters, Camp Borden,
Camp Borden, Ontario.
22 MAR 45.

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

6-55-M-1616

STANDING COURT-MARTIAL
D-145615, Tpr. R. R. MATUCHA,
No. 1 C.A.C.T.S.R., C.A.

Herewith proceedings of the m/n trial by Standing Court-Martial, for registration and custody, please.

J C A Campbell Major
(J. C. A. Campbell)
~~xxxxxxxxxxxxxx~~ Major,
President,
Standing Court-Martial.

3697

COUNTER NUMBER 11271

HOUR 11:25

OPERATOR'S INITIALS AWL

RELIEVING OPERATOR HG.

H.Q.C. 55-M-1617 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

MAYRAND. RENE D.642077 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
MAR 28 1945	26				All purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute" NEW FILE	C.R.	MAR 26 1945
					Write Payne C.R. APR 4 1945		
APR 5 1945 APR 9 1945	6			J.C.M.	To note, plo.	mm	5-4-45

CONFIDENTIAL
H.Q.C. 55-M-1617

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1617 (JAG/D)

April 5th, 1945.

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING Court-Martial

D.642077 Pte. Rene Mayrand,
General List, C.A., att.A-13 C.I.T.C., C.A.

Receipt is acknowledged of your Q.39-~~M-4296~~(JA)
dated 2nd April 194 5 under cover of which you
returned to this office for custody the proceedings
of the marginally noted Standing Court-Martial.

E.L.M.
Capt
for (R.J.Orde) Brigadier
Judge Advocate General.

Noted
J.K.C. Capt

L. M. CLAYTON
Lieut.-Colonel
Inspector of Courts Martial
APR 7 1945

IN REPLY PLEASE QUOTE No. Q. 39-M-4296 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

304365

QUEBEC, P.Q., 2nd April 1945.

THE SECRETARY,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
APR 4 1945
File G 53-M-1617
Chgd. to
Referred to JAG

STANDING COURT-MARTIAL
D-542077, Pte. René MAYHAND,
General List, CA, (Att. A-13 CITC, CA)

1. Reference your HQC. 55-M-1617 (JAG/D-9) dated 29th March, 1945.

2. In view of the light sentence awarded by the Court, it is not considered advisable to recommend a revision of this sentence.

3. The proceedings of the marginally noted Standing Court-Martial are returned herewith for custody.

JAC/C.

(Edmond BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

NAT. DEF. B. 449

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à A-13 CITC, A.C., Camp Valcartier, P. Q.,

le dix-neuvième - jour de mars, - - - - - - - - 1945, à 1335 - - - - - heures,

pour le procès de D-642077, - Soldat René MAYRAND,
Matricule Grade Nom et prénoms

Liste Générale, A.C., att. à A-13 CITC, A.C.
Unité Détachement, le cas échéant

PRÉSIDENT: Major Armand SYLVESTRE,
Président Permanent, C.M.P., Q. G., R. M. No. 5.

PROCUREUR: Capt. Pierre GELLY, Procureur Permanent, Q. G., R. M. No. 5. -
Grade Nom et prénoms Unité Détachement, le cas échéant

~~XXXXXX~~
XXX OFFICIER DÉFENSEUR: Lieut. Albiny DUBOIS, Liste Gén., A.C., att. A-13 CITC, A.C.
Grade Nom et prénoms Unité Détachement, le cas échéant

VERDICT: " LA COUR déclare le prévenu :

Mat. D-642077, - Soldat René MAYRAND,
Liste Générale, A.C., attaché à A-13,
C.I.T.C., A.C.,

innocent de l'accusation de désertion, mais coupable d'absence sans permission sous le premier chef d'accusation, et coupable sous le deuxième chef d'accusation".

SENTENCE: " LA COUR CONDAMNE le prévenu :

Mat. D-642077, - Soldat René MAYRAND,
Liste Gén., A.C., att. A-13, CITC, A. C.,

à la détention pendant vingt-et-un (21) jours, et à une suppression de solde jusqu'à ce qu'il ait remboursé les frais de son appréhension et de retour à l'unité, savoir: $15.17, ainsi que la valeur des effets perdus, savoir :- $34.48 ".

-o-o-o-

Signé à CAMP VALCARTIER, P. Q., - ce 19ème - - - jour de mars, - - - - - - 1945.

Major,
Président de la cour martiale permanente
Q. G., R. M. No. 5.

M.F.R. 1486A
5M-6-44
H.Q. 177-2-1-1
Accounts entered as No. 36398 in the Courts Martial kept in the office of the Judge Advocate-General this 28 day of March 1945

Formules de serments et de déclarations

Serments

Sténographe

Jurez-vous par le Dieu tout-puissant que vous inscrirez fidèlement, du mieux que vous pourrez, les témoignages rendus devant la présente cour martiale, ainsi que toutes les autres matières qu'il faudra, et que, quand on vous le demandera, vous en fournirez à la cour une transcription fidèle?

Réponse: Je le jure.

Interprète

Jurez-vous par le Dieu tout-puissant que vous donnerez, selon toute votre habileté, une interprétation et une traduction fidèles, qu'on pourra exiger de vous, concernant la question dont est saisie la présente cour martiale?

Réponse: Je le jure.

Témoin

Jurez-vous par le Dieu tout-puissant que le témoignage que vous rendrez devant cette cour sera la vérité, toute la vérité et rien que la vérité?

Réponse: Je le jure.

Déclarations solennelles

La formule de la déclaration est la même que celle des serments, sauf qu'aux mots: "Jurez-vous par le Dieu tout-puissant" se substituent les mots: "(Nom et prénoms), promettez-vous et déclarez-vous solennellement", et que les mots: "promettez-vous et déclarez-vous solennellement" se substituent aux mots: "jurez-vous", partout où ces derniers se présentent.

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. Vous opposez-vous à E-21035, S.M. A/M.O. I, Gaston VIDAL, 5ème Détachement C.M.S.C., comme sténographe ?

Réponse: Non, monsieur. (Le mat. E-21035, S.M.A/M.O.I, Gaston Vidal, 5ème Détachement C.C.M.E.M., A.C., 5ème Région Militaire, A.C., est

Le sténographe dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: " NON COUPABLE. "

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: " NON COUPABLE. "

~~*Question à l'accusé.* Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef ~~d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.~~

" B-2 "

CHARGE SHEET

in the case of

The accused, No. D-642077, Private René MAYRAND, General List, C.A., attached to A-13 C.I.T.C., C.A., an N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with

FIRST CHARGE: Sec.12(1)(a) Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he

at Valcartier Camp, P.Q., at 0100 hours, on the 29th of January 1945, absented himself without leave from A-13 C.I.T.C., C.A., until apprehended by Civil Authorities at Montreal, Que. on the 1st day of March 1945, at 1515 hours, dressed in civilian clothes. Cost of apprehension and return to his unit: $15.17.

SECOND CHARGE: Sec.24(2) Army Act.

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND NECESSARIES,

in that he

at Valcartier Camp, P.Q., on the 11th of March 1945, was deficient of the following articles, viz:

(Equipment and clothing)

CLO. DIV."A"	CARO 1862	Less 25% CARO 3464	
1 Gloves woollen pr	0.66	0.49	
1 Greatcoat drab pr	15.54	11.65	
1 Cap winter melton cloth	1.05	0.79	12.93
CLO. DIV. "B"			
1 Battle dress blouse	6.50	4.87	
1 Boots ankle pr	5.82	4.36	
1 Drawers woollen pr	1.40	1.05	
1 Shirt flannel khaki	1.63	1.22	
3 Socks woollen prs	1.38	1.03	
1 Battle dress trousers pr	6.55	4.91	
1 Shirt khaki cotton	1.54	1.15	18.59
CLO. DIV. "C"			
1 Brass button	0.02	0.02	
1 Brush cloth	0.17	0.13	
1 Brush shaving	0.42	0.31	
1 Brush shoe polishing	0.21	0.16	
1 Brush tooth	0.09	0.07	
1 Cap comforter	0.41	0.31	
1 Comb hair	0.04	0.03	
1 Holdall	0.22	0.16	
1 Housewife	0.35	0.26	
1 Knife clasp	0.99	0.74	
1 Lanyard knife	0.02	0.02	
1 Razor safety set	0.42	0.31	
1 Towel hand	0.31	0.23	
1 Necktie black	0.19	0.14	2.89

CLO. DIV. "D"	CARO 1862	Less 25% CARO 3464	
1 Badge cap	0.09	0.07	0.07

TOTAL NET.....$34.48

Valcartier Camp, P.Q., this
15th day of March 1945.

D. Menard

(D. MENARD) Colonel,
O.C. A-13 C.I.T.C., C.A.

Procédure sur une dénégation de culpabilité

Question à l'accusé. Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

Le procureur procède à l'appel des témoins.

Premier témoin à charge.

étant dûment assermenté, est interrogé par le procureur.

~~Question~~

- LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE : -

1o. M.F.E. 375, déclaration d'une Cour d'Enquête tenue au Camp Valcartier, P. Q., le 26 février, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " F ", signé par le Président et versé au dossier.)

2o. M.F.M. 215, certificat d'appréhension par les autorités civiles, signé le premier mars, 1945, à Montréal, par J. A. F. Plouffe, No. 13959, R.C.M.P., se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " G ", signé par le Président et versé au dossier.)

3o. M.F.B. 1481, certificat du coût de transport au montant de $11.04, signé au Camp Valcartier, le 7 mars, 1945, par le Capt. H. J. Thériault, C.S. & T.O., Camp Valcartier, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " H ", signé par le Président et versé au dossier.)

4o. M.F.B. 1482, certificat des dépenses incidentes au montant de $4.13, signé à Valcartier, le 10 mars, 1945, par E-601645, Sdt. H. Cantin, escorte, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " I ", signé par le Président et versé au dossier.)

C - 3

5o. Extrait certifié des Ordres du Jour, Partie II, No. 26, émis par A-13 CITC, A.C., à Valcartier, P. Q., le 31 janvier, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " J ", signé par le Président et versé au dossier.)

-o-o-o-o-o-o-o-o-o-o-o-o-o-o-o-

- LE PROCUREUR PROCEDE A L'APPEL DES TEMOINS. -

Témoin de la Poursuite:- E-6039, - C.Q.M.S. J. Roméo ROSE, Royal 22e Régiment, A.C., attaché à A-13 CITC, A.C.,

étant dûment assermenté,

EST INTERROGE PAR LE PROCUREUR : -

Q. Voulez-vous dire à la Cour quelles sont les fonctions que vous remplissez dans l'armée ?

R. Sergent-Quartier-Maître de Compagnie, à la 2ème Compagnie d'Infanterie, A-13, monsieur.

Q. Connaissez-vous l'accusé ?

R. Oui, monsieur.

Q. Pouvez-vous l'identifier devant la Cour ?

R. Ici (indiquant l'accusé), entre les deux escortes.

Q. En votre qualité de Quartier-Maître, avez-vous eu l'occasion de faire l'inspection du kit de l'accusé ?

R. Oui, monsieur.

C - 5

Q. A quelle date ?

R. Le 11 mars, 1945.

Q. Quelles sont les constatations que vous avez faites lors de cette inspection ?

R. J'ai constaté que l'accusé avait en sa possession les articles suivants :

1 Drawers Woollen,
1 Jacket Sweater.

Mais il lui manquait, d'après la formule 375, les articles suivants :

1	Battledress Blouse	$ 6.50
1	Boots Ankle, pr.	5.82
1	Drawers Woollen	1.40
1	Gloves Woollen, pr.	0.66
1	Greatcoat Drab,	15.54
1	Cap Winter Melton	1.05
1	Shirt Flannel Khaki	1.63
3	Socks Woollen, prs.	1.38
1	Battledress Trousers	6.55
1	Shirt Khaki Cotton	1.54
1	Brass Button	0.02
1	Brush Cloth	0.17
1	Brush Shaving	0.42
1	Brush Boot Polishing	0.21
1	Brush Tooth	0.09
1	Cap Comforter	0.41
1	Comb Hair	0.04
1	Holdall	0.22
1	Housewife	0.35
1	Knife Clasp	0.99
1	Lanyard Knife	0.02
1	Razor Safety Set	0.42
1	Towel Hand	0.31
1	Necktie Black	0.19
1	Badge Cap	0.09

CARO 1862, - - Total . . . . $ 46.02
CARO 3464, moins 25% enlevé sur chaque article séparément . . $ 34.48

Q. Sur quoi vous êtes-vous basé pour faire ces constatations ?

R. Sur la formule 375, monsieur.

- L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER CONTRADICTOIREMENT. -

C - 7

- De l'avis de la Cour, il n'est pas nécessaire de se conformer à R. P. 83 (b). -

- LE TEMOIN SE RETIRE. -

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: L'accusé désire rendre témoignage sous serment, monsieur.

(Voir page D-3 et suivantes.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense ?

Réponse: Non, monsieur.

~~*Question à l'accusé.*~~ ~~Etes-vous prêt à citer des témoins à l'appui de votre réputation?~~

~~*Réponse:*~~

D - 3

Témoin de la Défense:-

L'accusé, mat. D-642077, - Soldat René MAYRAND, Liste Générale, A.C., attaché à A-13, C.I.T.C., A.C.,

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR :-

Q. Mayrand, que faisiez-vous au camp Valcartier ?

R. J'étais sur mon entraînement, monsieur.

Q. Dans quelle Compagnie ?

R. La 2ème Infanterie.

Q. Etes-vous marié, ou célibataire ?

R. Marié, monsieur.

Q. Avez-vous des enfants ?

R. Non, monsieur.

Q. Comment se fait-il que vous n'étiez pas au camp le 29 janvier ?

R. A cause de la maladie. Ma femme était malade et j'ai été obligé de rester auprès d'elle. Quand j'ai vu que le Gouvernement ne me remboursait pas mon Bon, quand on paye $7.00 de remèdes d'un coup, ..

Q. Qu'est-ce que vous avez fait ?

R. J'ai travaillée chez "Théril Latour".

Q. Est-ce que vous étiez en passe quand vous êtes parti, ou bien si .. ?

R. Oui, monsieur. J'avais une passe.

Q. Vous dites que vous avez travaillé ?

R. Oui, monsieur.

D - 5

Q. Avez-vous travaillé longtemps à cette place là ?

R. Non, monsieur, seulement trois semaines.

Q. Dans quelles dispositions se trouvait votre femme ?

R. Dans le moment encore, elle souffre de faiblesse générale et est supposée avoir un enfant.

Q. Quelles étaient vos intentions quand vous étiez en dehors du camp ?

R. C'était de rétablir ma femme et de m'en revenir au camp après.

Q. Où demeurez-vous ?

R. A Montréal, monsieur.

Q. La compagnie pour laquelle vous travailliez, où était-ce ?

R. A Montréal, monsieur.

Q. A propos de votre équipement, qu'est-ce que vous en avez fait ?

R. Tout mon équipement, c'est chez nous. Tout ce qui me manque est un "corps de sous-vêtements".

- INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR : -

Q. Quand expirait la passe que vous aviez ?

R. Le 29, au soir, à 1.00 heure.

Q. Vous n'êtes pas revenu au camp ?

R. Non, monsieur.

Q. Vous n'êtes pas revenu au camp avant d'avoir été arrêté le 1er mars ?

R. Non, monsieur.

D - 7

Q. Pendant combien de temps avez-vous travaillé ?

R. Trois semaines, monsieur.

Q. Tous les effets mentionnés tout à l'heure sont chez vous ?

R. Oui, monsieur.

- L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU. -

- De l'avis de la Cour, il n'est pas nécessaire de se conformer à R. P. 83 (b). -

- L'ACCUSE REPREND SON SIEGE. -

-o-o-o-o-o-o-

- LE PROCUREUR ET L'OFFICIER DEFENSEUR SOUMETTENT LA CAUSE TELLE QUE PROUVEE. -

-o-o-o-o-o-o-o-o-o-

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Non, monsieur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

RECORD of the Declaration of a Court of Inquiry assembled at Valcartier Camp, P.Q. on the 26th day of February 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-642077 Pte Mayrand R., N.R.M.A., Att. to A.I.T.C. A-13.

DECLARATION

The Court declare that No. D-642077 (Regt'l No.) Private (Rank) Mayrand R. (Full Name) N.R.M.A., Att. to A.I.T.C. A-13 (Unit) illegally absented himself without leave from A.I.T.C. A-13 at Valcartier Camp (Place) at 0100 hours on the 29th day of January 1945, that he is still so absent, and that on the 29th January 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
1 Battle dress blouse	6 50	1 Comb hair	0 04
1 Boots ankle pr	5 82	1 Holdall	0 22
2 Drawers woollen prs	2 80	1 Housewife	0 35
1 Glove woollen khaki pr	0 66	1 Knife clasp	0 99
1 Greatcoat drab	15 54	1 Lanyard knife	0 02
1 Jacket sweater	1 38	1 Razor safety	0 42
1 Shirt flannel khaki	1 63	1 Towel hand	0 31
3 Woollen socks prs	1 38	1 Cap winter M.C.	1 05
1 Battle dress trousers pr	6 55	1 Necktie black	0 19
1 Badge cap	0 09	1 Shirt khaki cotton	1 54
1 Brass button	0 02	C.A.R.O. 1862	$48.80
1 Brush cloth	0 17	C.A.R.O. 3464 less 25%	
1 Brush shaving	0 42	being applied on each	
~~1 Brush shoe polishing~~	~~0 21~~	~~article separately~~	~~$36.55~~
1 Brush tooth	0 09		
1 Cap comforter	0 41		

P. Boudreau, Major, RdeMais., President
(Name) (Rank) (Unit)
Att. to A.I.T.C. A-13.

P.E. Mallette, Capt., RdeMais, Member
(Name) (Rank) (Unit)
Att. to A.I.T.C. A-13.

L. Giguère, Lieut., Gen.List, Member
(Name) (Rank) (Unit)
Att. to A.I.T.C. A-13.

Signed at Valcartier Camp, P.Q.

this 26th day of February 19 45.

Signature of Commanding Officer D. Menard, Colonel, O.C. A.I.T.C. A-13.
(Name) (Rank) (Unit)

Certified true copy J. L'Rameau Lieutenant, General List, CA,
(Name) (Rank) (Unit)
Officer i/c Records, (Signature of Officer having custody of original record)
A-13 C.I.T.C., C.A.

M.F.B. 373
A.F.B. 115
200M—1-46 (3576)
H Q 1772-39-257

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO CIVIL AUTHORITIES)

Strike out words not applicable

I certify that the person whose description is given below was arrested by (~~surrendered to~~)

J.A.F. PLOUFFE R.C.M.P.
(Name of Peace Officer or Constable)

at Montreal, Que. (Place) at approx. 3.15 p.m. (Hour)

on the 1st day of March 1945

Strike out words not applicable

and at the time of arrest (~~surrender~~) he was ~~wearing military (air force) uniform.~~ (dressed in civilian clothes).

Regimental particulars of officer or Soldier referred to above.	No.	D 642077
	Rank	Private
	Name	MAYRAND Rene
	Unit	2nd Infantry Valcartier, Que.
Description	Age	20 April 26th, 1924
	Height	5' 5"
	Complexion	Ruddy
	Hair	Dark
	Eyes	Grey
	Marks	Scar Burns on left arm

Signature of peace officer or constable by whom arrest or to whom surrender was made, or of officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.

(Peace Officer) (Constable) (or Officer in Charge of Police Station)

Strike out words not applicable

J.A.F. PLOUFFE # 13959. R.C.M.P.

M.F.M. 215
25M—4-42 (4330)
H.Q. 1772-39-1935

No. 369

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 58/4015
DATED JUNE 5th, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE
ORDER 1877, 1942
(TRANSPORTATION ONLY)

I.....Capt Theriault H.J. ..... No. 5 Dist Coy R.C.A.S.C. A. CA.

Hereby certify that I (issued) the hereinafter itemized transportation for escort to proceed from Valcartier Camp (place) to Montreal, P.Q. (place) and return to Valcartier Camp, P.Q. for the purpose of escorting

D-642077 (Number) Pte (Rank) Mayrand (Name in Full) (Abs)

A-13 C.I.T.C. CA. (UNIT) (Attachment, if any)

alleged to be a deserter or an absentee without leave, the facts date and particulars of (the transport warrants issued) and the cost therof for said soldier and escort being as follows:-

PARTICULARS.	C 3T
T.W.	Autobus. C-863575
Half Cost.	$ 1.63
Transport Warrant C-863576 issued on March 7th, 1945 covering transportation of Three Escorts: Escorts from Valcartier Camp, P.Q to Montreal, P.Q. and return to Valcartier Camp, P.Q.	
Half Cost.	8.19
" " Tax.	1.22
Transport Warrant C-863576 issued on March 7th, 1945 covering transportation of Three Escorts bringing back to Unit Pte Mayrand who had his own transportation.	
Total	11.04

Dated at Valcartier Camp, this 7th day of March A.D. 1945

(H.J. Theriault) Capt. C.S. & T.C. Valcartier Camp, P.Q.
Signature, Rank, Unit, Headquarters (if any) and appointment of officer issuing the certificate

Received original copy No. 369

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(INCIDENTAL EXPENSES)

J. B. Martin
President

Complete description — I, Myself (No.) B-620640 (Rank) Pte (Name) Cantin H. & D-138610 Pte Poulin J.M.H, & (Unit)

Strike out words not applicable — as (~~escort~~) (commander of escort) consisting of D-145365 Pte Daigle R.

Members of escort — All. Atttached to C.I.T.C. A- 13 Valcartier Camp P.Q.

detailed to proceed from Valcartier Camp P.Q. (Place) to Montreal P.Q.

Name and description of soldier escorted — to return D-170274 Pte St-Onge & D-642077 Pte Mayrand (Place).

alleged to be a deserter or absentee without leave, to Valcartier Camp P.Q. (Place),

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
8 March 1945.	
3 Lunches for Escorts @$0.75	$ 2.25
3 Lunches For Escorts @ $0.75	$ 2.25
9 March 1945.	
5 Lunches @ $0.75 For Escorts & 2 Prisoners.	$3.75
TOTAL	$8.25
To be divided between 2 Prisoners.	
D-170274 Pte St/Onge 1/2 $4.12	
D-642077 Pte Mayrand 1/2 $4.13	
Total	$ 4.13

Dated at Valcartier P.Q. this 10 th day of March A.D. 1945.

FL01645 Cantin H

Signature and rank (of commander of escort)

Strike out ~~escort~~ if description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1463
75M—3-45 (8826)
H.Q. 1773-39-1030

DAILY ORDERS PART II
by
COLONEL DOLLARD MENARD, D.S.O.,
commanding

A-13 CANADIAN INFANTRY TRAINING CENTRE

Order No 26
31 Jan 45
Valcartier, Que.

- - - - - - - - - - - - - - (Last Orders issued No 25 d/30 Jan 45) - - - - - - -

"B" OTHER RANKS

15. ABSENT WITHOUT LEAVE.

a) Absent without leave from 0100hrs. 29 Jan 45

D-642077 Pte. MAYRAND, R.

(SIGNED) J. Tremblay, Capt.,
For :(R. PLANTE) Capt., Adjutant,
A-13 CANADIAN INFANTRY TRAINING CENTRE,
VALCARTIER CAMP, P.Q.

Certified true extract of Daily
Orders Part II No.26 dated
31 January 1945.

J.L. Rameau Lieut.& Off.i/c Records,
General List, C.A., att. A-13 CITC, CA.

M.F.R. 358
50M—9-42 (5802)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-642077	Private	René MAYRAND	General List, C.A., attached to A-13 C.I.T.C., C.A.

1. The following is a fair and true summary of the entries in the Field ~~Conduct sheets~~ ~~Regimental and Equity Ledgers~~ ~~xxxxxxxxxxxx~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~xxxxxxxxx~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AWL	1	times	AWL	2 times
For		times		times
For		times		times
For		times		times

~~xxxxxxxxxxx

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....
Permanent Force
unit
..... dated....., and in his regiment (or corps), the rank of
..... dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force / Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Name.....of.....Unit / Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of March 1945. G L Ramsay Lt.
Officer i/c Records

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

No. D-642077 | Name MAYRAND Rene | Sqn., Battery, or Company 52nd A.A. Bty., RCA CA Corps | Date of enlistment 30-11-42 | G.C. Badges | Tradesmen's Rates of Pay

No. and date of last drunk N11 | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. Illisible | Character

M.F.M. 6 (A.F.B. 122) 500M—11-41 (2408) H.Q. 1773-39-1652

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier				Previous sheet destroyed 30-5-43 after six months service					
Valcartier	4-10-43	Pte		A.A.Sec.15(1) AWL from 0700hrs, 4-10-43 to 0700hrs, 7-10-43. Total 3 days	Cpl L. Proulx	Admonished	8-10-43	Capt.J.E. Hardy PB	Forf. 3 days pay
Valcartier	28 Dec 44	Pte		Off. under A.A.Sec.15(1) AWL from 0800hrs 28 Dec 44 until 0745hrs 9 Jan 45 (Total Abs: 11 Days 23 Hrs 45 Mins.	Documentary Evidence	14 days C.B.	10 Jan45	C. Dufour Lt.Col	Forf.12 days pay under FR&I.

CERTIFIED TRUE COPY

L.L. Remeau Lieut.& Off.i/c Records,
General List, CA, att. A-13 CITC, CA.

(P.T.O.)

PRECIS OF EVIDENCE

in the case of

No. D-642077, Private René MAYRAND, General List, C.A., attached to A-13 C.I.T.C., C.A.

CHARGES: - (1) WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

(2) LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND NECESSARIES.

To prove the first charge, the following evidence is available:

Documentary: - M.F.B. 375,
M.F.M. 215,
M.F.B. 1481,
M.F.B. 1482,
Extract from Part II Order of A-13 C.I.T.C., No. 26 dated 31 Jan 45, respecting the absence of the accused.

To prove the second charge, the following evidence is available:

Documentary: - M.F.B. 375.

Verbal: - E-6039, C.Q.M.S. J. Roméo ROSE, Royal 22e Regiment, C.A., who will give evidence as to recoveries and deficiencies at kit inspection

MEDICAL OFFICER'S REPORT

I certify that No. D-642679 Pte. Maynard, R.
of 2nd Inf. coy is in a good state of health,
and fit to undergo Trial by Court martial.

J. Gouleau Capt
Medical Officer
(R.C.A.M.C.) M.O. A.I.T.C. A-13 VALCARTIER

Station A.13 C.I.T.C. Valcartier, Que.

Date 19 Mars. 1945.

M. F. B. 246
50M—5-43 (334)
H.Q. 1773-30-490

H.Q.C.55-M-1617 (JAG/D-9)
Your File - Q.39-M-4296

March 29, 1945.

District Officer Commanding,
Military District No. 5,
Quebec, Que.

STANDING COURT-MARTIAL
D-542077, Pte. Rene MAYRAND,
General List, C.A.,
(Att. to A-13, C.I.T.C., C.A.)

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LVV/ET

THIS COPY FOR H.Q.C.55-M-1617
M.D. 5-39-M-4296

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D.642077 Name MAYRAND, Rene

Rank Pte Unit Gen List C.A. att A. 13 C.I.T.C. CA

Charge (1st) A.A. 12 (1) (a) - Desertion

(2nd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 29-1-45; (2) 11-3-45

Date of Arrest (1) 1-3-45 Charge Signed 15-3-45

Orders for D.C.M.

Place and Date of Trial A 13 C.I.T.C. C.A. Camp Valcartier Que 19-3-45

Sentence Det 21 days; stoppages $49.65

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 26398

Date 28-3-45

MEMO Guilty A.W.L.

M.D. 5 - A 13 CITC CA

Absent	Sentence
32 days	Det 21 days

for Judge Advocate General

10M-1-45 (M-4629)

IN REPLY PLEASE QUOTE
NO. Q:39-M-4296

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Quebec, P.Q., March 22nd. 1945.

THE JUDGE ADVOCATE GENERAL,
Dept. of National Defence,
Ottawa, Ont.

L 55-M-167

STANDING COURT-MARTIAL
D/642077, Pte. Rene MAYRAND,
General List, C.A.,
(Att. to A-13, C.I.T.C., C.A.)

Enclosed herewith please find the proceedings of the m/n Standing Court-Martial, which are forwarded to you pursuant to C.A.R.O. 4565 (11)(a).

(ARMAND SYLVESTRE) - Major,
Permanent President S.C.M.

26398

N.D. 23
1.5005M—7-42 (5219)
H.Q. 1773-161-22

H.Q.C. 55-M-1618 CONFIDENTIAL

N.F.B. 1570
1334—(-43 (9620)
H.Q. 801-4-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT FIELD GENERAL COURT-MARTIAL

MCCOY. J.P. B.72931 SPR.

CONFIDENTIAL
H.Q.C. 55-M-1618

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				J.A.G.	NEW FILE C.R.		MAR 26 1945
MAR 27 1945	6-4-45	P.A.		Admin	Pa note	CLM	27-3-45
APR 18 1945	18-4-45	P.A.	WB	Admin	Per Regulation C.R. APR 12 1945		
JUN 11 1946	11-6-46			LOR B	Per Regulation C.R. MAY 10 1946		
NOV - 8 1947	7/11/47	P.A.		W & R	PER RE... MAR 10 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

B-72931 Pte MCCOY, James, Patrick,
48th Highlanders of Canada,
4th Cdn Infantry Reinforcement Unit.

FF-10

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twenty-second day of May, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ J.C.L.

*Omit where Convening Officer is a Commanding Officer of is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint~~ :—

~~*(1. Three Officers to form the Court.~~

~~*(2. A Field Officer as President.)~~ J.C.L.

~~for the following reasons, namely:—]~~

Proceedings Designed

Reviewing Officer

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A. S. Pettapiece	C.H. of O.

Members.

Rank.	Name.	Regiment.
A Captain	from	5 C.I.R.U.
A Lieutenant	from	5 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed, J.C. McCrae, Colonel.
a/Commanding "D" Group, Cdn Rft Units.
Convening Officer.

Alton S. Pettapiece, Maj'r

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-72931 Pte. MCCOY, James, Patrick. 48th Highrs, 4 C.I.R.U.	First Charge A.A. Sec.15(1) See Charge Sheet Attached	Guilty	Guilty Sentenced to undergo detention for a period of one hundred and twenty (120) days and to be put under stoppage of pay until he has made good the sum of 18s 2d in respect of the cost of his apprehension and return. 22 May 43 AHP	Confirmed 24 May 43 E W Haedenty Brig

I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of inquiry respecting the matters forming the subject of the charge(s) before this Court Martial.

Arthur S. Pettapiece Major
PRESIDENT.

~~Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—~~
~~"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"~~
~~(Answer to be recorded on separate sheet if necessary).—~~

(Signed) J. G. McTavish Colonel. (Signed) Arthur S. Pettapiece Major

Commanding "D" Group, C.R.U.
Convening Officer (a) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22nd day of May 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court AHP
~~2. The witnesses~~ AHP
~~*(3. The Interpreter)~~ AHP
~~*(4. The officers under instruction)~~ AHP

were duly sworn.

Signed this 22nd day of May 1943.

Arthur S. Pettapiece, Major
President of the Court Martial.

C. Certificate in case of death sentences. AHP

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~ AHP

~~Signed this day of 19~~ AHP

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further order.~~) EWH

Signed this 24 day of May 1943.

E W Haedenty Brig
Confirming Officer.

Promulgated and extracts taken in the case of B7-931 Pte. McCoy James Patrick

(a) (Dated) 25 May 43 (Signed) Robertson Major
Officer Commanding
4 Cdn Inf Rein Unit.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(25579) W1.46178/850 50,000 2/45 A.& E.W.Ltd Gp 698

CHARGE SHEET

The Accused, B-72931 Pte JAMES PATRICK McCOY, of the 48th Highlanders of Canada, on the strength of 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
(A.A. 24(1))

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he

At Aldershot, Hants., absented himself without leave from 1315 hours, 3 Mar 43, whilst undergoing Field Punishment, until surrendering himself to Civilian Police at SOUTHAMPTON at 1230 hours, 22 Apr. 43, thereby incurring expenses for himself and escort in the amount of Eighteen Shillings and Two Pence (18/2).

(Time absent:- 49 days, 23 hours, 15 Min.)

IN THE FIELD
20 May 1943

(J. H. Christie) A/Col.,
COMMANDER
4 Cdn. Infantry Reinf. Unit,
C.A.(O.)

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

IN THE FIELD
22 May 1943.

(J.A. McIntosh) Colonel.,
Commander
"D" Group, Cdn Rft Units.

Arthur J. Pettapiece Major
President

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. B-72913

Pte. McCoy, J.P. of #4. C.I.R.U.

and in my opinion, he is. Fit to undergo trial by Court Martial.

Station.

Date. 22 May 43 (Sgd.) W.B. Phair Capt
(Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42)

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT Tonnay Boutonne, Faubourg, Kent.
ON THE 22nd DAY OF May 1943

The accused B-72931 Pte McCoy J.S. Unit 4 C.I.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Maj. A. S. Pettapiece ....Unit. H.Q. C.R.U.
Members. Capt. G. W. Lewis ....Unit. 5 C.I.R.U.
Lieut. W. S. Leyden ....Unit. 5 C.I.R.U.
~~The officers under instruction are duly sworn.~~ AHP
.....~~Unit.~~..... AHP
.....~~Unit.~~..... AHP

Prosecutor. Lieut. G. E. F. Essery ....Unit. 4 C.I.R.U.
Defending Officer. Lieut. W.B. Ord ....Unit. 4 C.I.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge~~(s)~~ and R.P. 35(B) is complied with. AHP
The accused does not desire to make a statement in reference to the charge~~(s)~~. R.P. 37(B). AHP
The Summary of Evidence is read.
The Prosecutor produces MFB 355 and MFK 6. AHP
The Court complies with R.P. 46(B). ~~AFB 296~~

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) Makes a statement in mitigation of punishment.~~ AHP
~~(b) Calls witnesses as to character.~~ AHP
~~(c) Calls witnesses in mitigation of punishment.~~ AHP
(d) Addresses the Court by his Defending Officer.

The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and~~ ADDRESS OF ~~ACCUSED OR~~ HIS DEFENDING OFFICER AHP AHP

Attached hereto.

Arthur S. Pettapiece
Major

No. B.72931. Pte. J. P. McCoy 22 May 43.

Statement in Mitigation of Sentence.

It is submitted that cause of McCoy's bad conduct in the army lies deep-rooted in the background to his first crime. So deep-rooted is it, that only today can a solution other than detention be offered, detention or an examination at Basingstoke Neurological Hospital. This is the history of the background. For almost a year McCoy soldiered, but like all soldiers he desired a little leave. Four times he made his request and four times was refused, this, while other members of his platoon were regularly receiving leave. He went A.W.L., was severely punished and since then has never been out of debt to the army. Because he was not given that first chance he has not since then been able to secure sufficient funds to entitle him to a privilege leave and his leaves have been cancelled. Misguidedly taking the law into his own hands he went A.W.L. again and so on. His recent breakout was a recurrence of this.

trouble. His leave fell due, but for his nine days leave the Paymaster could only give him the usual ten shillings. Ten shillings for nine days! The suggestion was made that his pass would be cancelled, and again he took his own leave. He was awarded F.P. on his return, broke his F.P. and it is for going A.W.L. while undergoing F.P. that he is now charged.

It is submitted that McCoy never got out from under the burden of his first charge - and that the so-called chances given to him, subsequently, were not really chances at all for they never alleviated the underlying cause.

McCoy was sent to Basingstoke in March 1941, and his category was set down as "E". Subsequently his category was raised to "A". Twice, since then, it has been recommended by courts martial that accused be sent to Basingstoke. But no action has been taken on that recommendation.

To-day the accused is a nervous, longer-tied man. That he should be sent to the hospital is clear - and that he is by no means Category A, is also apparent. But this man has had more to contend with than his own nerves. His mother has been very ill for some time. Last December she had a stroke, yet the accused

because he had no money could not take her. He had no way of knowing how she was. The worry from this and his obvious unhappiness in the service, plus his nervousness and his inability to make himself understood due to difficulty of speech, was the cause, it is submitted, of his breaking out this last time.

There is, it is submitted a solution. He has two brothers with the R.C.E. In 1941 Mc Coy made his first attempt to transfer to the R.C.E.. Just what a steadying influence this might have had it is impossible to measure accurately. But it is probable that it would have done him a great deal of good. Yet tho' he asked for a transfer for time and time again he was always abruptly refused. At last two years later thro' his mother, some action has been taken.

See two letters attached.

And so at last, perhaps slowly as the army sometimes works, the accused has the opportunity so long sought, of joining his brothers.

Surely if a lenient sentence would make a soldier out of a man who had not soldiered because he had never been treated fairly, in his lights,

it should be given. And, it is submitted that this would be giving him his first real chance. But before so doing it is submitted that he should be sent to Basingstoke, and that a recommendation to that effect should be made and carried out, altho' formerly ignored. This man is a case of shattered nerves and it will need a building up period before he is whole again. The army owes a duty to him, as well as he to the army.

H. Bl[illegible] Lt.
Royal Reg. of Can.
4 C. I. R. U.

HB

COPY COPY COPY

HQ
"D" Gp

434/ENQRS/1/2
19 May 43

B 72931 Pte. McCoy, J.P.
4 C.I.R.U.

1. Ref the attached correspondence.

2. May the m/n be interviewed please, with respect to his feelings towards a transfer to 1 Bn. R.C.E.

3. In the event that he does not wish to transfer, it is recommended that strong representations be made, with a view to influencing him to change his mind.

4. It is felt that in the interest of the service this man would be better off in company with his two brothers.

5. For your necessary action please.

Certified true copy.
for Captain
4 CRU Ind Bde Unit.

(Signed) H. Harrison, Major
Staff Capt "A"
CANADIAN REINFORCEMENT UNITS.

AEB/DG

COPY COPY COPY

Toronto, Ont. Apr 21st Apr 43

Dear Sir:

Just received a letter about my son Jim about A.W.L. against going on over two years. It has upset me terrible. I have just got over a stroke too. My son Bob was getting him transferred into RCE a long with his two brothers and I think if thats done that it would make a difference with him. I do wish they would put him with the two boys Bob and Alex McCoy. I know it would make a difference. I know he will come soon back and though it would make a difference in him. So please try and get with the other two boys. I am worried. Now this is J.P. McCoy, Reg. B 12391 49th Highlanders of Canada 1st Battalion, C.A.S.F. I would be so glad if he was transferred. The boy Bob McCoy Re is R.32600 R.C.E. Reg. Alex McCoy No is 1 Battalion C.A.S.F. Alex B 456 R.C.E. 1st Battalion Canadian Overseas C.A.S.F. I am very sorry he has done that again.

From Mrs. C. Townsend.

AP

EXHIBIT A

RECORD of the Declaration of a Court of Inquiry assembled at Waterloo Bks. Aldershot, Hants. on the 25th day of March 1943 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B-72931 Pte. McCoy, J.P.

DECLARATION

The Court declare, B-72931 Pte. McCoy, J.P. 4 C.I.R.U. illegally absented himself without leave at Aldershot on 3rd Mar.43, that he is still so absent and that on the 25th March he was deficient and that he is still deficient the articles set outtin exhibit "A"

ARTICLES		VOCABULARY PRICE £	S	D	APPRAISED VALUE £	S	D
Anklets, web	1		3	5½		2	7
Bonnet, tam O'shanter	1		4	2		3	3½
Blouse, serge	1	1	7	8	1	0	9
Trousers, serge		1	7	11	1	0	11½
Boot laces				½			½
Braces			1	3½			11½
Brushes, blacking				8			6
Brushes, polishing				9			7
Brushes, cloth			1	1			10
Brushes, shaving			1	4		1	0
Brushes, tooth				4½			3½
Greatcoat		3	17	½	2	17	9
Gloves			2	7½		1	11½
Holdall				9			7
Jacket, sweater			8	6		6	4½
Knife, lanyard			5	3½		4	10
Razor			1	10½		1	5
Shirts, angola			9	2		6	10½
Haversack, VII			6	6		4	10½
Shorts, gym			1	11		1	5½
Vests, cotton gym			1	6		1	1½
Tins, mess			3	1		2	4
Mugs, drinking				5			5
Boots, ankle		1	1	6		15	1½
Dressing F.F.			1	1			10
		£			£ 9-19-10		

Names of President and Members:

PRESIDENT:- Capt. J.W.K. Shortread
MEMBERS:- Lieut. D.R. Baillie
Lieut. C.F.S. Tidy

Signature of Commanding Officer (J.H. Christie) A/Col.,
4 Cdn Inf Reinforcement Unit, C.A.O.

Certified true copy Captain Adjutant,
Signature of Officer having custody of original record. 4 Cdn Inf Rein Unit

EXHIBIT "B"

R.T. Martin

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C. Gordon

at Southampton at (hour) 12:30 pm on the 22nd day of April, 1943 as being No. B 72931

(Rank and Name) James Patrick McCoy

a ~~deserter or~~ absentee without leave) from 48th Highlanders of Canada

and it appears to me from his confession that he is a ~~deserter or~~ absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 24 Height 5 Feet 9 Inches

Complexion Fresh Hair Brown Eyes Hazel;

Marks Operation scars on abdomen.

In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	9th September, 1939. Toronto, Ont.
Probable Date of [illegible]tion or beginning [illegible]ce, and from what	14th April 1943. No. 4. C.I.R.U. Waterloo Barracks, Aldershot.
Signature of Officer of Police in charge of	Jack Andrews Police Headquarters Station. Southampton
	22-4-43. Date of Signature.

[illegible] POLICE STATION 22 APR [illegible] STATION

EXHIBIT "C"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539 N.L. Marks

Reg. No. 57293 Rank Pte. Name McCoy, J.P. Unit 4 CIRU

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London from Southampton

Date	Particulars	Amount		
24 Apr. 43	Escorts return fare from LONDON To Southampton		12	1
	Prisoners single fare to LONDON From Southampton		6	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		18	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[illegible]

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1600:55
40/P & S/483

SUMMARY OF EVIDENCE

SUMMARY OF EVIDENCE in the case of B 72931 Pte JAMES PATRICK McCOY, 48th Highs. of Canada, on the strength of 4 C.I.R.U. a soldier of the Canadian Army Overseas.

By Direction of the Commanding Officer this Summary of Evidence is taken on oath.

FIRST WITNESS for the Prosecution — LIEUT. H.W. CALDWELL, R.R.of C. on the strength of 4 CIRU an officer of the Canadian Army Overseas, having been duly sworn states:

I produce the following documents:
(a) Certified copy of Declaration of Court of enquiry with reference to the accused, purported to be signed by Capt. D.J. Fusedale, Adj. 4 CIRU whose signature I recognize. (attached marked EXHIBIT "A")
(b) AFO 1617 Certificate of Surrender to Civil Police purported to be signed by JACK ANDREWS of SOUTHAMPTON. (attached marked EXHIBIT "B")
(c) CMHQ 1000:55 Cost of Apprehension Certificate, purported to be signed by Capt. W. Fern of Corps of Military Police, London (Cdn.)(Attached marked EXHIBIT "C")
All these documents refer to the accused, whom I now recognize.

H.W. Caldwell Lieut
(H. W. Caldwell) Lt.

The Accused Declines to cross-examine this witness.

SECOND WITNESS for the Prosecution — B67121 A/CQMS HOLLAMAN, R.G.(R.R.of C)on strength of 4 C.I.R.U. a soldier of the Canadian Army Overseas, having been duly sworn states:

I am Acting Coy. Quartermaster Sergeant of "A" Coy. 4 C.I.R.U., of which coy. the accused, whom I now recognize,is a member. On 18 May 43 I checked his kit and found he had no deficiencies.

R.G. Holloman
(R.G. Holloman)A/QQMS

The Accused declines to cross-examine this witness.

THIRD WITNESS FOR THE Prosecution — B86283 Cpl. Slater, J.M. (RHLI) on strength of 4 C.I.R.U. a soldier of the Canadian Army Overseas, having been duly sworn states:

I am Coy. orderly cpl. "C" Coy. 4 CIRU, of which the accused was a member on 25 Mar 43. I did not see the accused whom I now recognize, from 3 Mar 43 at C.O.'s orders, H.Q. 4 CIRU, until the date of this summary of evidence. He did not answer any roll call from 25 Mar 43.

J.M. Slater Cpl
(J.M. Slater) CPL.

The accused declines to cross-examine this witness.

The accused was cautioned as follows:
Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath.

(over)

1

No. B72931 Name McCoy, J.P. | Sqn., Battery, or Company | Corps C.I.C. | Period not reckoning towards freedom from extra fine | Date of enlistment 9 Sep. 39 | Sheet No. 1 | O.C. Badges | Signature O.C. Company, etc. | Service or Proficiency Pay | Character

M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

Date of last entry in Company Conduct Sheet | No. and date of last drunk

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barossa Bks	4 Jun 40	Pte		A.W.L. from 2230 hrs. 4 Jun 40 to 1700 hrs. 16 Jun 40-AA 15 (1)	Lt.I.S. Wallace, CSM Church	27 day detn.	17 Jun 40	Lt.-Col. Keene	Forf.12 days pay under FR&I 149,1a
						RELEASED FROM DETN.BKS. ALDERSHOT ON 13 Jul 40 on SENTENCE HAVING EXPIRED. REMISSION OF SENTENCE EARNED UNDER "RULES FOR DETN. BKS.& MIL. PRISONS" 1 DAY : (Cmdt.Initials : JRR)			
Field	17 Jul. 40	Pte		WOAS - A.W.L. from 1500 hrs. 17 Jul 40 to 1800 hrs. 31 Jul.40 AA 15 (1).	CSM Chunch Cpl.Peddle	42 days detn.	2 Sep.40	F.G.C.M.	Forf.15 days Pay under FR& I 149 1(A)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
WHITLEY	9 Sep. 40	Pte		(1) AWL from 9/10 Sep.40 until 22 Nov.40 - AA Sec.15 (1) (2) Trying to escape -AA Sec.22 (3) AWL from 1200 hrs 5 Jan41 until 1120 hrs. 26 Jan 41, whilst in arrest-AA Sec.15(1) (4) Cond.to Prej. etc.-AA Sec.40		120 days.Detn.	12 Mar41	F.G.C.M.	Forf.95 days Pay under FR& I 149 1 (a) For.88 days Pay under FR&I 149-1(c) (Total Forf.303 day)
					RELEASED FROM DETN.BKS, WITLEY JUNE 15/43 SENTENCE HAVING EXPIRED. REMISSION EARNED UNDER RULESFOR DETN. BARRACKS & MIL. PRISONS - 35 DAYS (Cmdts. Initials GB)				
WITLEY	17 Jun 41	Pte		AWL from 2200 hrs. 17 Jun 41 until apprehended by MP at 2345 hrs. 19 Aug.41 (63 days,1hr.15 min) AA-Sec.15 (1).		90 days Detn.	5 NOV 41	F.G.C.M.	Forf. 168 days pay under FR&I 149 1 (a)
					RELEASED FROM DETN. BKS, WITLEY, 3 Jan.42 SENTENCE HAVING EXPIRED. REMISSION EARNED UNDER RULES FOR DETN. BKS. & MIL. PRISONS - 30 DAYS (Cmdts. Initials GB)				

No. B72931 Name McCoy, J.P. Sqn., Battery, or Company | Corps CIC | Date of enlistment 9 Sep.39 | R.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ALGONQUIN	8 Jan. 42	Pte		A.W.L. from 2359 hrs. 8 Jan.43 until 1145 hrs. 19 Jan.42 ((10 days.11 hrs.45 min)-AA 15(1)	Doc.	Forf. 28 days Ord. pay & Pay Cost of Apprehn. £ 1.17. 7	26 Jan 42	Lt.Col. W.W Slack	Forf.11 days pay under FR& I 149 1(a)
ALGONQUIN	10 Feb. 42	Pte		WOAS - An Act to Prej.-etc. ref-using to obey an order given by a superior offr.- AA sec.40	CSM Toussaint, H.A.	14 days C.B. 14 days Pay	12 Feb.42	LT.-Col. W.W. Slack	
ALGONQUIN	2 Mar 42	Pte		AWL - from 2200hrs. 2 Mar 42 until 2130 hrs. 5 Mar. 42- AA. Sec.15 (1)	Documentry Cpl. Butt Cpl.Simmons	14 days C.B. 14 days Pay	23 Apr.42	Lt.Col. W.W. Slack	For.3 days Pay under FR& I 149-1 (a)

(P.T.O.) ctd

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Rowlands Castle	18 May 42	Pte		AWL from 2359 hrs. 18 May 42 until apprehn. at 0205 hrs. 2 Jun 42 (14 days 2 hrs. 5 min)		6 days DETN and Stopp.Pay to cover cost of Apprehn. £ 3. 4. 3	10 Jul 42	F.G.C.M.	For. 14 days. Pay under FRI-149(1)(a) Forf.39 days pay under FR&I 149 (1)(c)(ii)
Bordon	20 Sep.42	Pte		A.W.L. from 1000 hrs. 20 Sep.42 until his return at 0900 hrs. 21 Sep.42 (23 hrs.) AA 15 (1)	Documentary	7 days C.B.	25 Sep.42	Majr.S. Robertson	forf.1 days pay under FR& I 149 (1)(a)
Field	20 Nov.42	Pte		A.W.L. from 2359 hrs. 20 Nov.42 until Apprehn. at 1530 hrs. 2 Dec.42 (11 day.15 hrs.30 Min) AA Sec.15 (1)	Documentary	45 days Detn. & Pay cost of Apprehn. of £ 3.12. 3	10 Dec.42	F.G.C.M.	Forf. 12 days Pay under FR& I 149 (1)(a) Forf.7 days pay under FR& I 149 (1)(c)(i) & Cost of Apprehn.

No. B72931 Name McCoy, J.P. | Sqn., Battery, or Company | Corps CIC | Date of enlistment 9 Sep.39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.H. 1227) 40/P & S/130 (2637)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
					RELEASED FROM THE DETN. BKS H.Down on 11 Jan.43 SENTENCE HAVING EXPIRED. REMISSION EARNED UNDER RULES FOR DETN. BKS. & MIL. PRISONS-12 days. (Cmdts. Initials J.A.)				
Field	24 Feb.43	Pte		WOAS - A.W.L. from 2359 hrs. 24 Feb.43 to 0630 hrs. 1 Mar.43 (4 days, 5 hrs.30 Min) AA 15 (1)	Cpl.J.M. Slater	15 days F.P. 15 days Pay	3 Mar.43	LT.-Col. H.Cook	Forf. 5 days pay under FR&I 149 (1)(a) and cost of Apprh of £ 1.13. 0

CERTFIIED TRUE COPY(CONSISTING OF THREE PAGES) FROM THE REGIMENTAL BOOKS IN MY CUSTODY:

M.W.Long Captain
Admin. Officer, Holding Wing,
4 Cdn. Inf. Reinf. Unit.

Arthur S. Pettapiece, Major

(P.T.O.)

M.F.B. 355
40/F & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-72931	PRIVATE	McCOY, J.P.	(48th Highs.) 4 C.I.R.U.

1. The following is a fair and true summary of the entries in the Regimental Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	A.A. Sec.15 (1)	TWO times	A.A. Sec.15 (1)	FIVE times
For		times	AA. Sec. 40	ONE times

2. Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused at the present time is under sentence for 15 days FP beginning on the 3 Mar 43

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 30 days in military custody, making a total of 30 days in custody, of which 20 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 24

6. The date of his attestation specified in his attestation paper 9 Sep.39

~~Dix the accused is a soldier, the rank in the Royal Canadian Air Force the rank of~~
~~Reserve Force~~
~~XXXX

#4 CANADIAN INFANTRY REINFORCEMENT UNIT, C.E.F. (O). 4C/24

.....194....

I, No. B 74931 ....PTE..... MCCOY ....J. P.....,
(Rank) (Name)
wish to have an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of ..LIEUT. PICKUP ....S.O.R.....
if he is available.

(Sgd.) J. P. McCoy

RECORDED AT CMHQ ~~H~~ AB 160 41-85

RECEIVED 22 JAN 1945 C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40/P & B/1696 (6144) 4/38B

Convened by Order of Maj-Gen JH Roberts DSO MC Comd CRU dated 8 Jan 1945

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Pmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B72931		Sapper	James Patrick	McCOY	1 Cdn NETD

PROCEEDINGS REVIEWED BY REVIEWING OFFICER, AND BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 11 JAN/45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 10.00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to~~ ~~as interpreter~~ ? Ans ~~–~~

~~The Interpreter is sworn.(1)~~ Do you object to C-96630, Sgt Shanley, WE as shorthand writer ? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO-SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt.Col	D.L. Redman VD	HQ CRU
Member	Capt	J.M. Scott	1 CERU
Member	Lt	G.H. Madger	1 CERU
~~Judge Advocate~~			
Prosecutor	Lieut	K.W. MacKenzie	1 Cdn NETD
Defending Offr	Lieut	K.S. Dickson	1 Cdn NETD

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate reavd per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)*

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO-SIR .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ..... initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 60(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (b), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO-SIR .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. By my offr: NOTHING .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 69(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B72931 Sapper James Patrick McCOY - 1 Cdn NETD

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 127 days, of which 90 days were spent in hospital. (2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo imprisonment for a period of ninety (90) days and to be discharged with ignominy from His Majesty's service and to be imprisoned in the meantime in such place as may be directed by the President of this court and to be kept under close custody and to be returned to his unit.

(Sgd) ..... Judge Advocate. (Sgd) ..... Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Orders as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) J. H. Roberts

Date 15 Jan 45. Commanding J. H. ROBERTS, Maj-Gen., Comd. Can. Rfr. Unit. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
J. P. McCoy	16-1-45.	[illegible]
Sapr. B72931		

Published in DO 11A d/15 Jan 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused No. B.72931 Sapper James Patrick McCoy, on the transit strength of No. 1 Canadian Non-Effective Transit Depot, a soldier of the Canadian Army Overseas, is charged with:-

First Charge.
Sect 15 (1)
ARMY Act.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Superior Camp, Hants., absented himself without leave from 1800 hours, 14 June 44 until apprehended by the Military Police at Nottingham at approximately 0300 hours, 6 Sept. 44, thereby incurring expenses to the public for the cost of his apprehension in the amount of £1-17-10. (One pound, seventeen shillings and ten pence).

Time absent: 83 days 9 hours.
(eighty three days and nine hours)

Louis Keene

(Louis Keene) Colonel,
Officer Commanding
1 Cdn. N.E.T.D.
Lorne Scots

Superior Camp, Hants.,
2nd. January 1945

To be tried by Field General Court Martial.

J.H. Roberts

(J.H. Roberts) Maj-Gen
Comd
Cdn Rft Units

Farnborough, Hants
8 January 1945

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B72931	Sapper		James Patrick	McCOY	1 Cdn NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 8 Jan 1945 endorsed by me, (~~or by an officer of my staff or corps~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) a Judge Advocate to act for the Court, (b) a Fd Offr as President, for the reasons I have stated above.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~XX I hereby appoint as Judge Advocate thereof the Offr mentioned hereunder.XX~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by CO	1 CERU
Lt	To be detailed by CO	1 CERU

~~XX WAITING MEMBER XX~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~XX JUDGE ADVOCATE XX~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.)
(J.H. Roberts) Maj-Gen (Rank.)

Date 8 Jan 1945

Commanding Canadian Reinforcement Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA86 (In lieu of AFA5) 40/P & S/1601 (4001)

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE

11 Jan 45

I certify that I have examined B.72931 Pte McCOY, J.P.

and found him fit to undergo trial by F.G.C.M.

E.C. Grundy Capt.
(E.C. GRUNDY) Capt.
RCAMC
Medical Officer
1 Cdn NETD (2 INCR)

PLEA OF MITIGATION BY DEFENDING OFFICER

I would point out to the Court that the accused has been 127 days awaiting trial of which 90 days were spent in hospital. It would appear that he automatically lost his pay for 90 days while in hospital and I respectfully suggest that higher authority be asked to remit the automatic forfeiture of that 90 days. I have nothing further to add. His category is S.5

My

O.P.D.
22 CDN. GEN. HOSP.

No. .....

MEDICAL UNIT
DEPARTMENT OF Neuro-psychiatry

No. 372981 Rank Spr. Name McCay J. P. Unit #1 N.E.T.D.
enlisted Sept 19/39 — O.S. Dec 1939

REPORT: — age — Pathology DATE 27 Dec 44

Referred by his defending officer.
This soldier is a Glasgow crime case in the C.A.C. and is now up for his 7th F.P.C.M. He was a patient at B.N.V. & P.S. hospital in Dec 1944 and while there states he was awarded to Cat E, awaited arrival N.E.T.D. to go home but became after restriction on liquor etc and he absented — England. Went A.W.L. for 52 days and again up for F.P.C.M.

Opinion: Lack of documents bar on this patient so there no previous opinion to go on and his story cannot be confirmed to-day.

Very examination to-day indicates he is not insane. Random his quite intelligent and answers appear to be very unstable. He likely falls into the psychopathic group. Obviously punishment has much done this soldier to least bit of good.

He is fit to stand trial — but he knows the difference between right and wrong. Average intelligence. Long detention might be harmful but this can be decided on at later date.

G. W. Telfer Way

remit 90 days

Specialist, RCAMC

2/378 AMD 35 M.D. 7 A.G.L. 1514 (5000)

SUMMARY OF EVIDENCE

In the case of B.72931 Sapper McCoy, James Patrick, R.C.E. on the Transit strength of 1 Canadian Non-Effective Transit Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

First Witness for the Prosecution

Lieut. F.R. Holmes, Acting Adjutant 1 Cdn Non-Effective Transit Depot, having been duly s worn states:

I a m Lieut. F.R. Holmes, Acting Adjutant 1 Cdn Non-Effective Transit Depot. On 14 June 44 the accused B.72931 Sapper McCoy J.P. was on the Transit strength of this Unit.

In accordance with A.A. Sec. 163 I submit as evidence the following documents.
1. Certified true copy of declaration of a Court of Inquiry showing the illegal absence of the accused from 1800hrs, 14 June 44 and to be still so absent 5 July 44.
2. Certificate of apprehension showing the arrest of the accused at Nottingham at 0300 hrs., 6 Sept. 44 by the Military Police.
3. Expense voucher showing the cost of train fare for the accused and escort £1-17-10.
These vouchers came into my hands through ordinary channels.

F.R.H.
Lieut. F.R. Holmes

The accused declines to cross-examine this witness.

The copy of Declaration of a Court of Inquiry, Certificate of Apprehension, the Expense voucher marked exhibit "A", "B", "C" respectively. Read over, shown to the accused and attac hed to the Summary of Evidence.

K.A.W. MacKenzie
Lieut. K.A.W. MacKenzie
Officer taking Summary of Evidence.

The accused was warned in accordance with R.P. 4(E) as follows:-

"Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused reserves his defence.

I certify that the foregoing Summary of Evidence was taken down in the hearing and presence of the accused and that R.P.4(c),(d),(e),(f) and(g)have been complied with.

EXA K.A.W. MacKenzie
Lieut. K.A.W. MacKenzie
Officer taking Summary of Evidence.

"A" Proceedings

RECORD of the Declaration of a Court of Inquiry assembled at Carburton Camp, Notts. on the 6 day of July 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.72931 Spr. J.P. Mc Coy

DECLARATION

The Court declare that No. B.72931 Spr. J.P. Mc Coy

illegally absented himself without leave from Carburton Camp, Notts., 1 N.E.T.D.

at 1800 hours on the 14 day of June 1944,

that he is still so absent, and that on the 5 July 1944 he was deficient, and

that he is still deficient of the following articles :—

APPENDIX "A"

List of Kit deficiencies of B.72931 Spr. McCoy, J.P. as of 4 Jul 44.

4 Jul 44

Article	No.	Vocab Price £	s	d	Expended Value Less 25% £	s	d
Blouses Battle dress	1	1	3	6		17	7½
Boots ankle prs	2	2	8	10	1	16	8
Caps field service	1		2	6		1	10½
Shirts angola drab	1		9	1		6	10
Shoes canvas	1		2	11		2	2
Socks woollen prs	2		3	4		2	6
Trousers battle dress	1	1	4	1½		18	0½
Badges Cap	1			4½			3½
Braces prs	1		1	4		1	0
Comb hair	1			2			1½
Housewife	1			9			6½
Knife clasp	1		3	10		2	10½
Shorts gym	2		3	10		2	10½
Towels hand	1		1	5		1	0½
Braces W.E. left	1		1	4		1	0
Haversack	1		8	0		6	0
Cape anti gas	1		12	4		9	3
TOTAL		7	7	6	5	10	8½

Lieut. J.D. Simpson, RIC

Lieut. C.H. Perkin (RCT)

Signature of Commanding Officer

Certified true copy

Signature of Officer having custody of original record

3/60/b MFB 375-AFB 115 40/P&S/392 (6610)

"A" Tecumseh

RECORD of the Declaration of a Court of Inquiry assembled at ~~Superior Camp, Hants.~~ Carburton Camp, Notts.

on the 6 day of July 19 44, for the purpose of investigating and recording the absence without leave from his duty and delinquency, of one No. Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.72051 Spr. J.P. Mc Gay

The Court declare that No. B.72051 Spr. J.P. Mc Gay

from Carburton Camp, Notts. R.C.A.

absent without leave on the 14 day of June 1944

to absent, and that on the 5 July 1944 he was arrested

delivered of the following articles:—

President
Lieut. J.G. Mimms (CIC)

Member
Lieut. C.H. Parker (RCA)

Member

Signed at Superior Camp, Hants.

this 6 day of July 19 44

Signature of Commanding Officer Louis Keene, Col. ~~(A.V.Z. Hornby) Major~~

Certified true copy

Signature of Officer having custody of original record

3/60B MFB 375–AFB 115 40/P&S/392 (6610)

"B" Charge

Certificate in accordance with Army Act Sect. 163(1)(ii)(and A.C.I. 1780 of 1941)

I certify that No. B 729.1 Rank Pte Name Mc Coy - T.

Unit No. 3 N.E.T.D. Canadian Army

was arrested at Nottingham at 0200 hrs. 6 Sept. 1944 Date.
and at the time of his arrest he was wearing military uniform.

Signature of Provost Marshal, A.P.M., D.A.P.M., or other officer into whose custody the above-named person was taken on arrest.

Hobson Capt.

GARRISON ADJUTANT, NOTTINGHAM.

PLACE Nottingham

DATE 6 September 1944

Out Here

EXHIBIT "C"

Expense Voucher Re—: Re K.R. & O. (Can) 539

Reg. No. B72931 Rank Spr. Name McCoy J Unit 1 MED

The following expenses were incurred in apprehending and returning the A/N Soldier to his ~~Unit From~~ London from Lincoln

Date	Particulars		Amount		
18 Sept 44	Escorts return fare from LONDON To	Lincoln	1	0	0
	Prisoners single fare to LONDON From	Lincoln		10	0
	Prisoners fare from	To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			7	10
		Total £	1	17	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R. E. Birch CAPT.
Capt.
R. E. BIRCH,
A/D Transport OFFICER—D.P.M's BR.
C.M.H.Q.

Officer Issuing Railway Warrant and Expense Voucher
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 100255
40(F & S)(453)(287)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
B.72931	Spr	McCOY, J.P.	1 Cdn N.E.T.D.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15(1) 5 times.

For A.A. Sec 40 1 time.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 17 Jun 40

Date of last entry in Field Conduct Sheet 23 Oct 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~*3. The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been awaiting trial on the present charges for no days in civil custody; and for ~~101~~ 127 days in military custody, *i.e.*, no days in open arrest, 127 days in close arrest; of which 90 days were spent in hospital.

5. The present age of the accused is (1 Oct 1918) 32 8

6. The date of his attestation is 9 Sep 39

7. The service which the accused is allowed to reckon is 1 yr 360 days

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ CVSM & Clasp

~~9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously,~~ without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of	.....
~~In the acting rank of .....~~	

EXB

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) Wt.50721/2201 22,000 9/44 A.&E.W.Ltd. Gp.696

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	2Sep 4 0 Field	A.A. Sec 15(1)	42 Days Detention	
FGCM	12 Mar 41 Field	A.A. Sec 15(1) A.A. Sec 22 A.A. Sec 40	120 Days Det.	35 days Remission
FGCM	5 Nov 41 Field	A.A. Sec 15(1)	90 days Det.	30 Days Remission
FGCM	10 Jul 42 Field	A.A. Sec 15(1)	6 days Det.& Stoppages of pay	
FGCM	10 Dec 4 2	A.A. Sec 15(1)	45 Days Det.	12 days Remission
FGCM	22 May 43 Field	A.A. Sec 15(1)	120 days Det.	40 days Remission
FGCM	23 Oct 43 Field	A.A. Sec 15(1)	9 Months Det.	76 days Remission

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 15th 11 day of ~~December 1944~~ January 45

(F.R. HOLMES) A/Adjt 1 CDN NRTD (21 NCR)

No. 872981 Name McCoy J.P. ~~Type Battery~~ or Company | Corps C.I.C. | Date of enlistment | 9 Sep 39 | GC Badges | Service or Proficiency Pay | N.A. | MFM 6 (AFB 122) 10/P&S/130 (3430)

Date of last entry in Company Conduct Sheet | N.A. | No and date of last drunk | N.A. | Period not reckoning towards freedom from extra fine | N.A. | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4/6/40	Pte.		A.W.L. from 2230 hrs 4/6/40 to 1700 hrs 16/6/40. Total 11 days 15 ½ hrs.	Lieut.I.S. Wallace. CSM Church	27 days detn.	17 Jun 40	Lt-Col. Keene	Forf 12 days pay
						Released from the detention Barrack Aldershot on 13/7/40 on sentence having expired. Remission earned under "Rules for Mil Prisons and detn Bks. 1 day. Commandants initials JRB			
						1 Day remitted under Rule 129 "Rules for Detn Bks and Mil Prisons.			

FYC
M.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17 Jul 40	Pte.		W.O.A.S. absent without leave from roll call at 1500 hrs 17 Jul 40 to 1800 hrs 31 Jul 40 (339) hrs AA 15(1)	C.S.M.Church Cpl.Peddle	42 days detn & forf 42 days pay Auth.FR&I 149(1) (b) & 15 days pay auth FR&I 149(1) (a) Total forf 57 days pay.	2 Sep 44	Field General Court Martial	Released from Detention Barrack Witley 15 Jun 1941, sentence having expired. Remission earned under Rules for Detn Bks and Mil Prisons 35 days. Commandants Initials - G.B.
Field	9/9/40	Pte.		(1) AWL from 9/10 Sep 41 until 22 Nov 40 AA Sec 15(1). (2) Trying to escape AA Sec 22. (3) A.W.L. from 1200 hrs 5 Jan 41 until 1120 hrs. AA Sec 15(1) 26 Jan 41 while in arrest. (4) Conduct to the prejudice AA Sec 40	120 days detn.	1/3/41 F.G.C.M. Forf's 88 days pay FR&I Forf 95 days pay FR&I Forf 120 days pay FR&I Total forf 303 days pay DJ			

No | Name | Date of last entry in Company Conduct Sheet | Sqn, Battery, or Company | No and date of last drunk | Corps | Period not reckoning towards freedom from extra fine | Date of enlistment | Sheet No | GC Badges | Signature OC Company, etc | Service or Proficiency Pay | Character

MFM 6
(AFB 122)
40/P&S/136, (3439)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17/8/41	Pte.	*	Before a FGCM WOAS - AWL 2200 hrs 17/8/41 until apprehended by MP at 2345 hrs 19/8/41 (65 days 1 hr 15 mins) AA Sec 15(1)	-	90 days detn	5-11-41	FGCM	Forf 165 days pay Lieut.E.J.Riden
						Released from the Detn Bk Witley on 3 Jan 1942, sentence having expired. Remission earned under "Rules for Mil Prisons & detn bks - 30 days. Commandants Initials G.B.			
Field	8/1/42	Pte.	*	AWL from 2359 hrs 8/1/42 till 1145 hrs 19/1/42. TOTAL 10 days 11 hrs 45 mins. A.A. Sec. 15(1).	Documentary Evidence	Forf 28 days Ord Pay Cost of app. £1/17/7.	26-1-42	W.W. Slack Lt. Col.	Forf 11days pay FR&I 149(1)(a) BOR

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10-2-42	Pte.		WOAS an act to the prej etc - refusing to obey an order given by a superior officer - A.A. Sec 40.	CSM Toussaint H.A.	14 days C.B. & forf 14 days pay		L.W.W. Slack Lt-Col.	
Field	2/8/42	Pte.	+	WOAS AWL from2200 hrs 2-3-42 until 2150 hrs 5-3-42. A.A. Sec 15(1)	Documentary Cpl. Butt, G. Cpl. Simmons	14 days C.B. 14 days pay	23-4-42	L.W.W. Slack Lt-Col.	3 days pay reg 14 days F.U. pay.

CERTIFIED TRUE COPY

(E.C. Peckham) Capt., Linc. & Well'd R.
Adjutant, Canadian Training School

No | Name | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/150 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18-5-42	Pte.	X	Sec. 15(1) AA AWL from 2359 hrs 18 May 42 until apprehended at 0205 hrs 2 Jun 42. (14 days 2 hrs 5 mins).		6 days detn and F.G.C.M. stoppages of pay to cover cost of appr. of £3-4-3.		F.G.C.M.	Forf 6 days pay under FR&I 149 149(1)(b) forf 39 days pay under FR&I 149(1)(c)(ii). Forf 14 days pay FR&I 149 (1)(a) Total forf 59 days pay
Field	[illegible] 42	Pte	X	Sec 15(1) A.A. AWL from 1000 hrs 20-9-42 until his return at 0900 hrs 21-9-42 (23 hrs)	Documentary	Forf 1 days pay 7 days C.B.		Stuart Robertson, Major	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20-11-42	Pte.		AWL 2359 hrs 20 Nov 42 to app. at 1530 hrs 2 Dec 42. (11 days 15 hrs 30 mins) A.A. Sec 15(1).	Documentary	45 days detn and to pay cost of app.	10 Dec 42 Confirmed	F.G.C.M.	Forf 12 days pay FR&I 149(1)(a) Forf 7 days pay FR&I 149(1)(c)(1) Cost of app £3/12/3
					Released from the Detention Barrack Headley Down on 11 Jan 43, sentence having expired. Remission granted under Rules for Detn Bks and Mil Prisons - 12 days. Commandants Initials ---				
Field	24Feb 43	Pte.		WUAS/AWL from 2359 hrs 24 Feb 43 to 0630 hrs 1 Mar 43 (absent 4 days 5 hrs 30 mins. A.A. Sec 15(1)		15 days F.P. 15 days pay	3 Mar 43		Forf 5 days pa FR&I 149(1)(a Cost of app £1/15/0
							Released from Detn Bks Field on 9 Mar 1943, sentence having expired Remission earned under Rules for Detn Bks & Mil Prisons 4[illegible] days. Commandants Initials		

MFM 6
(AFB 122)
40/PAS/136 (3488)

No | Name | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3 Mar 43			AWL from 1315 hrs 3 Mar 43 to surrender to civilian police Southampton 1230 hrs 22 Apr 43.		120 days detn & forf 200 days pay of which 15 days are concurrent with punishment Net forf of 185 days pay.	22 May 43	F.G.C.M.	Released from Cdn Detention Bks 9 Aug 43. Remission 40 days.

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 Sep 43	Spr.		AA 15(1) AWL from 2359 hrs 5 Sep 43 to 2255 hrs 6 Oct 43. Absent 30 days 22 hrs 56 mins.		9 months detn.	23 Oct 43	F.G.C.M.	F'fts £1-4-4 cost of apprehension and return. Frts 31 days pay FR&I 149(1)(a).
					Released from the Detention Bks Headley Down on 6 May 44 sentence having expired. Remission granted under Rules for Detn Bks and Mil Prisons 76 days. Commandants Initials. -------				

CERTIFIED TRUE COPY

(F.R. Holmes) Lieut.
Officer having custody of Original Documents.

LIST OF WITNESSES

Lieut. F.R. Holmes

LIST OF EXHIBITS

Exhibit (A) Copy of declaration of Court of Inquiry

Exhibit (B) Certificate of Apprehension.

Exhibit (C) Expense Voucher.

The accused requests that an officer to conduct his defence be appointed by the Convening Officer.

J. R. McCoy

B.72931 Spr. McCoy, J.P.

The accused requests that an officer to conduct his defence be appointed by the Convening Officer.

J.P. McCoy

B.72951 Spr. McCoy, J.P.

LIST OF WITNESSES

Lieut. F.R. Holmes

LIST OF EXHIBITS

Exhibit (A) Copy of declaration of Court of Inquiry

Exhibit (B) Certificate of Apprehension.

Exhibit (C) Expense Voucher.

JAG BRANCH - REVIEW RECORD

Accused

B. 72931 Spr. McCoy J. P.
1 CERU.

Remarks	Date
rial in (Country) Eng	23 Oct
harges 15(1)	
ontence 9 mos.	23 Oct
ec'd from CR at JAG Branch	17 Nov.
o WHW for (~~pre~~)(post) rev	17 Nov.
ecommendations by JAG Rev	
(1) Pass and record.	
~~(2) Ltr on irregularities.~~	
~~(3) Quash charge(s).~~	
(4)	
et'd to JAG Rev 1 by JAG Rev	17 Nov 43
assed to	
assed to	
o AG 5 for Review.	18 Nov 43
et'd from AG 5 to JAG Rev 1	
nstrs by JAG Rev 1 on disposal	
Instrs completed by	

TT-147

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1698 (2884)

Convened by Order of Col HR Tymer A/Comd "B" Gp dated 20 Oct 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt P.	(b) Appmt, A/R or A/Appmt	Full Christian Names	Surname	Unit
B72931	Spr		James Patrick	McCoy	1 CERU

17 Nov 43
H W Baugh Lt

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 23 Oct 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Members, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 10.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	D.L. Redman	HQ CRU
Member	Capt	L Sykes	1 CSRU
Member	Lt	JR. Gundy	1 CERU
~~Judge Advocate~~			
Prosecutor	Lt	GR Warner	1 CERU
Defending Offr	Lt	E Brucci	1 CERU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~the~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO SIR (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

R ~~B3. The Court considers the accused's statement(1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) R change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

R B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

R

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

R

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. no Sir
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Only by my Defending Officer (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to bring on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.) NOTE - ATT.

R

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

K ~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo detention for a period of nine (9) months and to forfeit under stoppages of pay until he has made good £1-4-4 the expenses of his arrest and return

(Sgd) ..... Judge-Advocate, if any. 23 Oct 1943 Date awarded. (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) H R Tyner Gen

Date 26 Oct 43 Commanding B Fd Coy R E

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B-72931 Spr McCoy S.A.	28 Oct 43	[illegible]

ENTERED PART II ORDERS

DATE 18 Dec 43 ORDER No. 298

OFFICER i/c RECORDS

No. 1 Corps Engineers' Holding Unit, C.E.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused B-~~27331~~ 72331 Spr McCOY, James Patrick, Royal Canadian Engineers, No.1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:-

A.A 15 (1) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 2359 hrs 5 Sep 43 until surrendering himself to the Civil Police at Coventry at 2255 hrs 6 Oct 43.

(Absent 30 days 22 hrs 56 mins)
(Cost of apprehension £ 1-4-4)

In the field
11 Oct 43.

(G.H. WHYTE) COLONEL.
COMMANDING OFFICER,
NO I CDN ENGR RFT UNIT,
CANADIAN ARMY (OVERSEAS).

To be tried by Field General Court Martial.

16 Oct 1943

(H.R. Tyner) Colonel
A/Comd "B" Gp
Cdn Rft Units.

MEDICAL OFFICER'S CERTIFICATE

E.R. (C.M.) FORM 357

I certify that I have this morning examined

No. B 27931 Spr. McCoy J.P.

of No. 1 C.E.R.U. and in my opinion he

is [redacted] to undergo Trial by Court Martial.

Station Cove.

Date 23/10/43.

Medical Officer.

FIELD GENERAL COURT-MARTIAL

CFA101 (In lieu of AFA81)
40/PAM/1697 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cds Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.72931	Spr		James Patrick	McCOY	1 CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*)..... endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt. Coll	D.L. Redman	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by	1 CSRU
Captain	to be detailed by	1 CERU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.) — H.R. Tyner (Signed personally. RP 108 fn 2.) — Col (Rank.)

Date 20 Oct 43 — A/Commanding HQ "B" Gp, C.R.U. (H.R. Tyner) Col. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

NY

STATEMENT IN MITIGATION OF PUNISHMENT

B-72931, Spr. McCoy, J.P., Royal Canadian Engineers, No.1 C.E.R.V., has made some effort in the past to become a good soldier, but has lost considerable enthusiasm for army life. Due to a nervous depression, which he claims was the result of shock received during the bombing of Coventry on 14 Nov. 1940, which he witnessed, he has felt a strong urge to "get away from it all." This could only be done by absenting himself without leave as he could not obtain an official leave. With proper attention, he could become an efficient soldier when his nerves are restored to normal. He voluntarily surrendered himself to the Civil Police in Coventry on 6 oct. 43. He leaves his decision of sentence open to the mercy of the court.

E. Bracci, Lieut. R.C.E.
No. 1 C.E.R.V.
Defending Officer.

NOTE E3.
A

File

Exhibit A.

RECORD of the Declaration of a Court of Inquiry assembled at 1 CERU on the 29th day of September 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-72931 Spr Mc Coy, J.P.

DECLARATION

The Court declare that No. B-72931 Spr Mc Coy, J.P. Rank Name Unit No. 1 C.E.R.U. CCH

illegally absented himself without leave from No. 1. C.E.R.U.

at 2359 hours on the 5th day of Sep 1943,

that he is still so absent, and that on the 6th Sep 1943 he was deficient, and

that he is still deficient of the following articles:— See list on reverse of this sheet.

ARTICLES	VALUE	ARTICLES	VALUE
	(See overleaf)		

C.S. Taylor Lieut RCE No.1.C.E.R.U President

Allan H. Dixon Lieut RCE No.1.C.E.R.U. Member

R.M. Davison Lieut RCE No.1.C.E.R.U. Member

Signed at No.1.C E R U

this 29th day of Sep 19 43

Signature of Commanding Officer G.N. Whyte Colonel

Certified true copy CC Hunter Maj

Signature of Officer having custody of original record

M.F.D. 375
A.F.D. 115
SEM—4-41 (750)
H.Q. 1772-59-257

My

KIT DEFICIENCIES OF B-72931 Spr Mc Coy,J.F.

			$	$
Badges, cap RCE		1	0.09	0.06
Badges, shoulder	prs	3	0.15	0.09
B.D.Blouse, serge		1	6.18	4.64
B.D.Trousers, "	prs	1	6.24	4.68
Boots, ankle	prs	2	9.62	7.22
Braces	prs	1	0.29	0.22
Brushes, cloth		1	0.24	0.18
Brushes, shaving		1	0.30	0.20
Brushes, tooth		1	0.08	0.05
Caps, Field Service		1	0.82	0.61
Discs, Identity		2	0.02	0.02
Drawers, woolen	prs	2	2.34	1.76
Holdalls		1	0.17	0.11
Knife, clasp		1	1.16	0.85
Razors		1	0.42	0.33
Shirts, angola		1	2.05	1.54
Shorts, gym	prs	1	0.43	0.35
Vests, Gym		1	0.34	0.25
Vests, woolen		1	1.14	0.86
Combs, hair		1	0.04	0.03
Braces, W.E. left		1	0.49	0.36
Haversacks,W.E.		1	2.14	1.61
Tins, mess		1	0.57	0.43
			35.24	26.43
		100%		75%

Exhibit B

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

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* Stations of Units and Depôts are shown in the Monthly Army and Air Force Lists.

(18371) Wt.16874/180 15,000 6/41 A.& E.W.Ltd. Gp.699 Forms/O.1617/12

I CERTIFY that the man whose personal description is given below surrendered himself to* Sgt 222 Harris

at Coventry at (hour) 10.55 hrs on the 6th day of Oct 1943 as being No. B/42931

(Rank and Name) Gr James Patrick McCoy

a deserter (or absentee without leave) from Royal Canadian Engineers

and it appears to me from ~~his confession~~ that he is a deserter or absentee without leave.

CITY POLICE OFFICE 7 OCT 1943 COVENTRY

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 25 Height 5 Feet 9 Inches

Complexion fresh Hair Dk brn Eyes Hazel

Marks

In uniform or plain clothes uniform

Probable Date and Place of Attestation	9th Sept 1939. Toronto. ONT.
Probable Date of Desertion or beginning of absence, and from what place	On or about 5th Sept 1943. ?

Signature of Officer of Police in charge of: Det Insp. Sgt. Coventry City Police Station.

6th October 1943 Date of Signature.

Army Form O.1617.
R.A.F. Form 1617.

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds

incurred by the ..... Police in the case of

No. .....

who surrendered to the Police at ..... on .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

..... Date of Signature.

Exhibit "C"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No B 72931 Rank Gfr Name McCoy, J.P. Unit 1CERU

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Coventry

Date	Particulars	Amount		
7 Oct 41	Escorts return fare from LONDON To Coventry		14	5
	Prisoners single fare to LONDON From Coventry		7	3
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed,~~ Meals, Bus fares		2	8
	Total £	1	4	4

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/453(4287)

Description of Court by which tried	Date & Place of trial	Charged upon which convicted	Sentence of The Court	Punishment Remitted
F.G.C.M.	10 Jul 42	A.A.15(1) AWL 14 days 2 hrs 5 mins	6 days Detention & stoppages of pay to cover cost od app of £3-4-3 Forf 6 days Pay under FR&I 149(1)(b) 39 days Pay FR&I 149(1)(c)(ii) 14 days Pay under FR&I 149(1)(a) Total Forfeiture 59 days pay	
F.G.C.M.	10 Dec 42	A.A.15(1) AWL 11 days 15 hrs 30 mins.	45 days Detention & pay cost of appre Forfeits 12 pay under FR&I 149(1)(a) Forfeits 7 days pay under FR&I 149(1)(c)(i) Cost of appre. £3-12-3	12 days Detention
F.G.C.M.	22 May 43	A.A.15(1) AWL 49 days 23 hrs 15 mins	120 days Detn. & Forfeits 200 days pay of which 15 days are concurrent with Punishment. Net Forfeiture 185 days Pay	40 days Detention.

Records Officer.
1 C. Eng. R.U.

EX B
K

Summary of Evidence in the case of B-72931 Spr. McCoy, James Patrick, Royal Canadian Engineers, on the strength of No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

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

1st WITNESS for the prosecution — Documentary - Records of the Declaration of a Court of Inquiry assembled at No. 1 C.E.R.U. on the 29th day of September, 1943 for the purpose of investigating and recording the absence without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries or Clothing of B-72931 Spr. McCoy, J.P.
Marked Exhibit "A"

2nd WITNESS for the prosecution — Documentary - Certificate of surrender of an absentee to the civil police, Army Form O 1617
Marked Exhibit "B" and expense voucher marked Exhibit "C"

The accused was cautioned as follows:- Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement, or to give evidence.

I certify that the foregoing summary of evidence, consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

W.F. McEwen Lieut R.C.E.
(W.F. McEwen), Lieut., RCE,
Officer taking Summary of Evidence.

Field
11 Oct. 43
WFM/hws

EXA

Summary of evidence in the case of B-72931 Spr. McCoy, James Patrick, Royal Canadian Engineers, on the strength of No 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

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

First Witness for the prosecution

Documentary – Record of the Declaration of a Court of Inquiry assembled at No 1 CERU on the 29th day of September 1943 for the purpose of investigating and recording the absence without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No B72931 Spr. McCoy, J. P.

Marked Exhibit "A"

Second Witness for the prosecution

Documentary – Certificate of surrender of an absentee to the civil police. Army form O 1617

Marked Exhibit "B"

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement, or to give evidence.

I certify that the foregoing summary of evidence, consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with.

Wm McEwen Lieut R.C.E.
Officer detailed to take the summary of evidence

In the Field
11 Oct 43

LIST OF WITNESSES

List of witnesses in the case of B-~~[illegible]~~722 31 Spr. McCoy., J.P. Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

FOR THE PROSECUTION

1. Documentary - Declaration of Court of Inquiry
2. Documentary - A.F.O. 1617 Certificate of Surrender to Civil Police, marked Exhibit "B"

FOR THE ACCUSED

Nil

LIST OF EXHIBITS

Exhibit "A" - Declaration of Court of Inquiry.

Exhibit "B" - A.F.O. 1617, Certificate of Surrender to Civil Police.

~~The~~ In the event of a trial the accused states he wishes an officer to be assigned by the convening officer to represent him at the trial.

J. S. McCoy

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No. B72931 Name McCoy, J.P. Sqn., Battery, or Company Corps C.I.C. (48th) Date of enlistment 9 Sep 39 G.C. Badges Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 3 Signature O.C. Company, etc. E.C. Peckham, Capt. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18.5 42	Pte.		Sec. 15 (1) A. A. A.W.L. from 2359 hrs. 16 May 42 until apprehended at 0205 hrs. 2 Jun 42. (14 days 2 hrs. 5 mins).		6 days detn and stoppages of pay to cover cost of appr. of £3/4/3.	F.G.C.M. 10 Jul 42	F.G.C.M.	Forf. 6 days pay under FR&I 149 (1)(b) forf. 39 days pay under FR&I 149(1)(c)(ii). Forf. 14 days pay under FR&I 149 (1)(a). Total Forf. - 59 days pay.
Field	20-9 42	Pte.		Sec. 15 (1) A.A. A.W.L. from 1000 hrs. 20-9-42 until his return at 0900 hrs. 21-9-42. (23 hrs).	Documentary	7 days C.B. Forfeits 1 days pay.		Stuart Robertson. Maj.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20-11-42	Pte		A.W.L. 2359 hrs 20 Nov 42 to app at 1530 hrs, 2 Dec 42 (11 days, 15 hrs, 30 mins) Sec 15(1) A.A.	Documentary	45 days Det'n & pay cost of app.	10 Dec 42 Confirmed 10 Dec 42	FGCM	Forf 12 days pay(FR&I 149(1)(a) Forf 7 days pay (FR&I 149(1)(c) (1) Cost of App. £3-12-3
					Released from the Detention Barrack H. Down on Jan 11 1943. Sentence having expired. Remission earned under Rules for Detention Barracks and Military Prisons 12 days. Comd initials J.A.				
Field	24 Feb 43	Pte		WOAS AWL from 2359 hrs 24 Feb 43 to 0630 hrs 1 Mar 43 (Absent 4 days 5 hrs 30 mins) A.A. 15(1)	Cpl JM. Slater	15 days F.P. 15 days Pay	3 Mar 43	Lt.Col. H Cook.	Forf 5 days Pay FR&I 149(1)(a) cost of appre £1-13-0
					Released from the Detention Bks FIELD Aug 9 1943 Sentence having expired Remission Earned under Rules for Detn Bks and Mil. Prisons 40 days Comd. Initials J.A.				

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No. B-72931 Name McCoy, J.P. | Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment 9 Sep 39 | R.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 4 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3 Mar 43			AWL From 1315 hrs 3 Mar 43 to surrender to civilian Police Southampton 1230 hrs 22 Apr 43		120 days Detention & Forfeits 200 days Pay of which 15 days are concurrent with punishment Net Forfeiture 185 days Pay	22 May 43	F.C.C.M.	Released from Cdn Detention Bks 9 Aug 43. Remission 40 days.

W.J. McEwen Lieut.

CERTIFIED TRUE COPY OF THE ORIGINAL DOCUMENT

13 Oct. 43 Officer ~~having custody of the original~~ document

(P.T.O.)

M.F.M. 6
(A.F. B.122)
40/P & /8138 (2965)

No. B72931 Name Mc.Coy, J.P. | Sqn., Battery, or Company | Corps C.I.C. (48th H) | Date of enlistment 9 Sep 39 | G.C. Badges | Service or Proficiency Pay N/A | Character

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4/6/40	Pte.		AWL from 2230 hrs 4/6/40 - 1700 hrs 16/6/30 Total 11 days 15½ hrs	Lieut. I.S. Wallace CSM Church	27 days detention Released from the detention Barrack Aldershot on 13/7/40 on Sentence having Expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 1 day Commandants Initials JRR 1 Day remitted under Rule 129 Rules for Military detention Barrack & Military Prisons JRR	17 Jun 40	Lt/Col Keene	Forfeits 12 days pay

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	17 Jul 40	Pte		W.O.A.S. absent without leave from roll call at 1500 hrs. 17 Jul 40 to 1800 hrs 31 Jul 40 (339) hrs A A 15(1)	C.S.M. Church Cpl. Paddle	42 days detention & forfeits 42 days pay authy FR&I 149.1(b) & 15 days pay authy, FR&I 149,1(a) Total forfeiture- 57 days pay	2 Sep 40	Field Gen Court Martial	Released from Detention Barrack Witley Jun 15 1941 Sentence having expired. Remission earned under Rules for Detention Barracks and Milita Prison 35 days Commandants Initials G.B.
Field	9/9/40	"		(1) A.W.L. from 9/10 Sept.40 until 22 Nov.40 A.A.Sec15(1) (ii) Trying to escape A.A.Sec22 (iii) A.W.L. from 1200 hrs 5 Jan 41 until 1120(A.A.Sec15-1) 26 Jan 41 while in arrest (iv) Conduct to the prej A.A. Sec-40		120 days detn 12/3/41 Forfs. 88 days pay FR&I Forfs 55 days pay FR'I 1 Forfs 120 days pay FR&I 1 Total forf 303 days pay DJ	FGCM		

M.F.M. 6
(A.F. B.122)
40/F & /8136 (2065)

No. B72931 Name McCoy, J.P. | Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment 9 Sep 39 | G.C. Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 2 | Signature O.C. Company, etc. E.C. Peckham Capt. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17/6/41	Pte		Before a FGCM WOAS - AWL 2200 hrs 17-6-41 until apprehended by MP at 2345 hrs 19-8-41 (63 days 1 hr 15 mins) A.A. Sec 15-1		90 days det Released from the Detention Barrack Witley on Jan 3 1942 19 Sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 30 days Commendants Initials GB	5-11-41	FGCM	Forf 163 day pay E.J.Riden Lieut.
Field	8-1-42			AWL from 2359 hrs 8-1-42 till 1145 hrs 19-1-42 Total 10 days 11 hrs 45 min A.A. Sec 15(1)	Documentary Evidence	Forf 28 day ord Pay Costley appreonhension 11 - 17 - 7	26-1-42	W W Slack Lt.Col.	Forfeit 11days pay FR&I 149 1 (a) EGR

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10-2-42	Pte.		WOAS an act to the prej eto - refusing to obey an order given by a superior offr - A.A.Sec.40	CSM Toussaint H.A.	14 days CB & Forfeits 14 days pay	12-2-42	L.W.W.Slack Lt.Col.	
Field	2-3-42	Pte.		WOAS AWL from 2200 hrs 2-3-42 until 2130 hrs 5-3-42 A.A.Sec 15(1)	Documentary Cpl. Butt Cpl. Simmons	14 days C.B. G24 days pay	23-4-42	L.W.W. Slack	3 days pay reg 14 days F.C. pay

CERTIFIED TRUE COPY

(E.C.Peckham) Capt., Linc. & Well'd. R.,
Adjutant, Canadian Training School.

M.F.D. 355
22M—5-41 (572-3)
H.Q. 1773-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-72931	Spr	McCOY, James, Patrick,	RCE

1. The following is a fair and true summary of the entries in the ~~Service and General~~ ~~Regimental and Squadron, Battery~~ ~~Conduct sheets~~ ~~or~~ Company Conduct sheets of the accused, ~~exclusive of convictions by a Court-Martial or a Civil Court,~~ of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A. 15(1)	3	times	A.A. 15(1)	11 times
For A.A. 22	1	times	A.A. 40	1 times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial ~~or a civil court~~, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 70~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ---------- beginning on the ---------- day of~~ .....

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 17 days in ~~Air Force~~ military custody, making a total of 17 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ is 25

6. The date of his ~~commission~~ attestation specified in his record of service ~~attestation paper~~ is 9 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 4 1/12 yrs

8. The accused is entitled to reckon 4 1/12 yrs service for the purpose of determining his pension, etc.

~~9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ ~~military~~ ~~military~~ ~~military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer had held the regimental rank of ----------~~ ~~Air Force~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank of
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number B-72931 Rank Spr

Name McCOY, J.P. of No. 1 C.E.R.U. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	2 Sep 40	A.A.15(1) AWL 339 Hrs.	42 days Detention and Forfeits 42 days pay under FR&I 149(1)(b) and 15 days pay under FR&I 149(1)(a) Tot. Forfeiture 57 days Pay	
F.G.C.M.	12 Mar 41	A.A. Sec 15(1) A.A. Sec 22 A.A.15(1) A.A. Sec 40	120 days Detention, Forfeits 88 days pay FR&I 149 Forfeits 95 days pay FR&I Forf 120 days Pay FR&I Total Forfeiture 303 days pay.	35 days Detention
F.G.C.M.	5 Nov 41	A.A.15(1) AWL 63 days 1 Hr. 15 Mins.	90 days Detention, Forfeits 163 days pay	30 days Detention

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of October 1943

Records Officer
1 C. Eng. R.U.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Ex B
A

FIELD GENERAL COURT-MARTIAL

Convened by Order of Col H R Tyner A/Comd "B" Gp dated 20 Oct 43

Trial held 23 Oct 43

Case of B72931 Spr James Patrick McCoy, 1 CERU

OFFICERS UNDER INSTRUCTION

Lt G.M. Chaplin 1 CSRU

Lt RW Wiber 1 CASCRU

Lt HD MacHattie 1 CERU

Lt C.S. Byers 1 CASCRU

RM

Original

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 10th day of March, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*[I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~*(3. Three Officers having more than one year's service.)~~

~~for the following reasons, namely:—]~~

President.

Rank.	Name.	Regiment.*
Major	R. S. Hallett	No. 1 Cdn Arty Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	C. N.R. Wonham	No. 2 Cdn Arty Hldg Unit
Lieutenant	W. Foster	No. 3 Cdn Inf. Hldg Unit
Lieutenant	F. G. Kay	No. 1 Cdn (M.G.) Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

Signed L. T. Rep. Brigadier

Commanding Canadian Base Units, Cdn Army

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	*Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B 72931 PTE. McCOY, J.P. (48th Highlanders of Canada Regt. Fd. Unit) No. 1 Cdn Infantry Holding Unit	First Charge A.A. Sect. 15(1) As per charge sheet	GUILTY	GUILTY	I confirm the finding & sentence of the Court but mitigate the sentence to one of 120 days detention L
	Second Charge A.A. Sect. 22 As per charge sheet	GUILTY	GUILTY	
	Third Charge A.A. Sect. 15(1) As per charge sheet	GUILTY	GUILTY	
	Fourth Charge A.A. Sect. 40 As per charge sheet	GUILTY	GUILTY	
			TO UNDERGO DETENTION FOR A PERIOD OF EIGHT MONTHS. THE COURT RECOMMENDS THAT THIS MAN BE EXAMINED BY A MEDICAL BOARD FOR MENTAL DEFICIENCY.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) L. F. Page, Brigadier — *Commanding* Canadian Base Units — *Convening Officer (a)*

(Signed) R. Stallett Maj — # 1. C.A.H.U. — *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 12th day of March, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The ~~interpreter~~) Court Stenographer
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 12th day of March 1941.

R. Stallett Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~) L

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 27th day of March 1941.

L. F. Page. Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of B72931 Pte. McCoy, J.P

(a) (Dated) Pt II D.O. 74, 2 Apr.41 (Signed) Lorne Glace Lieut-Colonel
Officer Commanding, No. 1 Cdn. Inf. Holding Unit.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] Wt. 40119—[illegible] [illegible] 12/40 [illegible] G. [illegible]

CHARGE-SHEET

The accused, B-72931 Pte. McCoy, J.P., (48th Highlanders of Canada Regiment), on strength of No. 1 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas), is charged with:-

First charge Sec 15(1) Army Act

When on active service, absenting himself without leave--

In that he

when in arrest, at Newdigate, Surrey, on the night of 9th/10th September 1940, absented himself without leave until apprehended at Leeds, on the 22nd November 1940 at about 2325 hours, by the Military Police.

Second charge Sec 22 Army Act

Being in arrest, attempting to escape--

in that he

at Leeds, on 22nd November 1940 at about 2325 hours, when proceeding under escort to Gibraltar Barracks, Leeds, broke away from his escort and attempted to escape.

Third charge Sec 15(1) Army Act

When on active service, absenting himself without leave--

in that he

while in arrest, at Camp 101, Witley, Surrey, did absent himself without leave from 1200 hrs., 5th January 1941, until apprehended by the Military Police in Lister Gate, Nottingham, at about 1120 hours on the 26th January 1941.

Fourth charge Sec 40 Army Act

Conduct to the prejudice of good order and military discipline--

in that he

at Witley, Surrey, on 23rd February 1941, when told by A-3660 Pte. Barnett of No. 1 Canadian Infantry Holding Unit Military Police, who was acting in the execution of his provost duties and complying with the Provost Officer's orders, to give up his hat, refused saying, "To hell with the officer's orders."

Bordon, Hants., 10 Mar 41.

To be tried by Field General Court-Martial.

.....Brigadier
Commanding Cdn Base Units

.....Major
(D. Fletcher) a/Officer Cmdg.
No. 1 Cdn. Inf. Holding Unit

Witley, Surrey,
27th Feb. 41.

MEDICAL OFFICER'S CERTIFICATE

I certify that this day I have examined No. B-72931 Pte. McCoy, J.P. , and find him fit to stand trial by Court-Martial.

J. A. Jeland Capt RCAMC
.....
Medical Officer,
No. 1 Cdn. Inf. Holding Unit

Witley, Surrey,
12th March, 1941.

P.S.H.

B-7[illegible], Pte. McCoy, J.P., (Hqth H of C Fd. Unit) No. 1 Cdn. Inf. Holding Unit, tried by Field General Court-Martial at Witley, Surrey, on the 12th day of March, 1941.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

Prosecutor - Lieut. H.M. Howell,
Defending Officer - Lieut. J.B. Holladay.

At 1000 hours the Trial commences.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Before the accused was arraigned it was observed by the President that Lieut. W.W. Foster, No. 1 Cdn. Inf. Holding Unit, was unable to serve on the Court by reason of illness. A certificate of his medical officer had been produced. The Court was of the opinion that in the interests of justice and for the good of the service it was not expedient to adjourn and, not being reduced in numbers below the legal minimum, decided to proceed.

Q1 - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1 - No, sir.

The president and members are duly sworn.

Q2 - Do you object to M-15577 Sgt. Stanley Fidler, The Edmonton Regiment, C.M.H.Q., acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?
A3 - Guilty, sir.
Q4 - Are you guilty or not guilty of the second charge against you, which you have heard read?
A4 - Guilty, sir.
Q5 - Are you guilty or not guilty of the third charge against you, which you have heard read?
A5 - Guilty, sir.
Q6 - Are you guilty or not guilty of the fourth charge against you, which you have heard read?
A6 - Guilty, sir.

R.P. 35(B) is complied with by the Court.

Q7 - Do you wish to make any statement in mitigation of punishment?
A7 - No, sir.
Q8 - Do you wish to give evidence yourself or to call any witnesses as to character?
A8 - No, sir.

The Court is closed for the consideration of the finding.

Lieut. D. Ivor, Records Officer, No. 1 Cdn. Inf. Holding Unit, is duly sworn.

Q9 - Have you any evidence to produce as to the character and particulars of service of the accused?
A9 - A.F.B. 296 and M.F.M. 6, sir.
Q10 - Is the accused the person named in the statement which you have heard read?
A10 - Yes, sir.

R.O.A.

Q11 - Have you compared the contents of the above statement with the regimental books?
A11 - Yes, sir.
Q12 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A12 - Yes, sir.

The accused declines to cross-examine.

Q13 - Do you wish to address the Court?
A13 - (Defending Officer) I don't know whether you notice that McCoy can't make a statement for himself. He hasn't been re-boarded, but he was in Coventry when the big bombing took place and since then he hasn't been able to speak very well.
President - He was alright before that?
Defending Officer - To a certain extent he had an impediment but since then his nerves have been shot and every time he gets nervous he loses his voice. To the first and third charges he pleads guilty and has no excuse but he felt he was getting a raw deal from the ruling of the court-martial before when he was away fifteen days and was given 42 days detention besides the days spent awaiting court-martial. He felt he had been given too much and on the first opportunity he escaped. He felt that 77 days for 15 days a.w.l. was too much on the last charge. In the case of the fourth chargethe provost private had come in to collect the hats and up until then they had been allowed to have their own hats and then it came through that they were only allowed to have steel helmets. I think the words of the provost were "Give me those damn hats" and McCoy got hot under the collar and then there were words back and forth and then the private casually remarked that they were officer's orders and McCoy thought that he said it to get the hats easier and McCoy was very hot under the collar and the private was very surly.

The Court is closed for the consideration of the sentence.

RDA

SUMMARY OF EVIDENCE

In the case of B-72931 Pte. McCoy, J.P., No. 1 Canadian Infantry Holding Unit.

The Commanding Officer directs that the evidence shall be taken on oath.

First Witness- Lieut. David Ivor, No. 1 Canadian Infantry Holding Unit, being duly sworn, states:

I am Officer in charge of Records of No. 1 Canadian Infantry Holding Unit, and as such I produce the following documents in evidence:

(a) Record of the Declaration of a Court of Inquiry assembled at Kingswood, Surrey, on the 14th day of October 1940, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B-72931 Pte. McCoy, J.P., of the 48th Highlanders of Canada, Cdn. Army (Overseas).

(b) Certificate of Arrest in the case of No. B-72931 Pte. McCoy, J.P., 48th Highlanders of Canada Regiment, dated at Leeds on the 22nd November 1940, signed by L/Cpl. E. Swain and corroborated by L/Cpl. D. Waring, Canadian Military Police.

(c) Statement of B-73098 L/Cpl. Docherty, J.T., of the 48th Highlanders of Canada, concerning the escape of B-72931 Pte. McCoy, J.P., from detention camp of the 48th Highlanders of Canada.

(d) Certificate of Arrest in the case of B-72931 Pte. McCoy, J.P., dated at Nottingham on the 27th of January 1941, signed by Cpl. H. Maloney and Cpl. S.C. Norton of the C.M.P.

ALL OF THESE REFER TO No. B-72931 Pte. McCoy, J.P., whom I now recognize.

.....David Ivor.... Lieut.

(The accused declines to cross-examine this witness)

RCH

SUMMARY OF EVIDENCE

In the case of B-72931 Pte. McCoy, J.B.,
No. 1 Canadian Infantry Holding Unit.

The Commanding Officer directs that the evidence shall be taken on oath.

Second witness - A-3660 Pte. Barnett, G., No. 1 Canadian Infantry Holding Unit, being duly sworn, states:

I am a member of the regimental police of No. 1 Canadian Infantry Holding Unit. On 23rd February 1941, I, in carrying out my instructions received from the Provost Officer, Lieut. Maxted, ordered B-72931 Pte. McCoy, J.B., to give up his hat. I told him these were the Provost Officer's orders. Pte. McCoy refused to give up his hat and replied in my presence, "To hell with the officer's orders."

G. M. Barnett Pte.

(The accused declines to cross-examine this witness)

Third witness - A-6138 Pte. Frenette, L., Regimental Police, No. 1 Cdn. Inf. Holding Unit, being duly sworn states:

At 1200 hours on the 5th January 1941, I was acting as escort for Pte. McCoy and three other prisoners. The prisoners were on a fatigue party loading their own blankets into a truck. At this time I was in charge of these four prisoners in one of the disinfesting huts at Bordon Camp. The steam valve in the room was opened by someone other than the prisoners and I did not know the valve was going to be opened. The room immediately filled with steam and I was unable to see. When the room cleared, I found Pte. McCoy and one of the other prisoners were missing. They were nowhere in the room. I searched in the vicinity of the disinfesting hut and found no trace of Pte. McCoy or the other missing prisoner. I then reported the escape of Pte. McCoy to L/Cpl. Brown who was in charge of the whole fatigue. I further searched the whole barrack vicinity and found no trace of the missing men.

L. Frenette Pte.

(The accused declines to cross-examine this witness)

The accused is duly cautioned (M.M.L., R.P. 4 (e),) and declines to make any statement.

Certified that Rules of Procedure No. 4 (c), (d) and (e), have been complied with.

H.M. Howell Lieut.
H.M. Howell, Lieut.,
Officer taking down Summary

Witley, Surrey,
1st March 1941.

RSM

LIST OF WITNESSES

For the Prosecution:

1. Lieut. David Ivor,
   No. 1 Cdn. Inf. Holding Unit.

2. A-3660 Pte. Barnett, G.,
   No. 1 Cdn. Inf. Holding Unit.

3. A-6138 Pte. Fremette, L.
   No. 1 Cdn. Inf. Holding Unit.

For the Defence:

Nil.

LIST OF EXHIBITS

Exhibit "A"

Record of the Declaration of a Court of Inquiry assembled at Kingswood, Surrey, on the 14th day of October 1940, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B-72931 Pte. McCoy, J.P., of the 48th Highlanders of Canada.

Exhibit "B"

Certificate of Arrest in the case of No. B-72931 Pte. McCoy, J.P., 48th Highlanders of Canada Regiment, dated at Leeds on the 22nd November 1940, signed by L/Cpl. E. Swain and corroborated by L/Cpl. D. Waring, Canadian Military Police.

Exhibit "C"

Statement of B-73098 L/Cpl. Docherty, J.T., of the 48th Highlanders of Canada, concerning the escape of B-72931 Pte. McCoy, J.P., from detention camp of 48th Highlanders of Canada.

Exhibit "D"

Certificate of Arrest in the case of B-72931 Pte. McCoy, J.P., dated at Nottingham on the 27th of January 1941, signed by Cpl. H. Maloney and Cpl. S.C. Norton of the C.M.P.

0204

Exhibit "D"

Statement of EVIDENCE in the case of:
No.B72931 Pte.J.P.Mc.Coy.
No.1.Inf.Trng.Unit.
48 CANADIAN HIGHLANDERS.REGT.
WITLEY.Surrey.

Sir,

At Nottingham on the 26th.Jan.1941 at about 1130 hours, I was on duty in Lister Gate, Nottingham where I saw the above named soldier. I stopped him and asked to see his pass, he stated he did not have one, and was absent from his Unit. I then asked him for his A.B.64, and he told me that the Regimental Paymaster had it.

I arrested and conducted him to the Castle Guardroom to be detained by the N.C.O. i/c Guard.

Nottingham.
27/1/41.

H.A. Malone Cpl.
C.M.Police.

Sir,

I have read over and corroborate the above statement.

Nottingham.
27/1/41.

B.C. Nolan Cpl.
C.M.Police.

I hereby certify that the herein signed witnesses cannot be readily procured (R.P. 4(g)).

REMARKS

...[illegible] Lieut.
Officer taking Summary.

RSA

CHARGE

Army Form B 252

48 CANADIAN HIGHLANDERS King's Regulations

Regiment

No. 1.INF.TNG.Unit.

Battery
Squadron
Troop or
Company

CHARGE against No. B.72931 Rank Pte.

Name McCoy.J.P.

Place WITLEY.Surrey Date of Offence ?

OFFENCE W.O.A.S. 41

1. ~~Absent~~ Absent from ~~S.A~~ Gan. until apprehended by the Military Police in Lister Gate,Nottingha at about 1120 hours on the 26/1/41. (A.A.15(1))

2. Not being in possession of his A.B.64. A.A. 40

D/ASSISTANT PROVOST MARSHAL,
NORTHERN COMMAND,
No. 2 PROVOST COMPANY.

Names of Witnesses :—

H.Maloney Cpl. C.M.Police.
S.C.Norton Cpl. do do

Remarks Det to Co

Signature of O.C., Battery, Squadron, Troop or Company — J.R. Barty Capt

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Q4753 Wt.W19035/261 2,000,000 7/40 K. & B. Ltd. G657/47.

Exhibit "C"

Statement of B.73098 L/Cpl. DOCHERTY, J.T. of the 48th Highlanders of Canada, concerning the escape of B.72931 Pte. McCOY, J.P. from detention camp of 48th Highlanders of Canada, C.A.S.F.

"I was Guard Commander over the Detention Enclosure at Battalion Headquarters, near NEWDIGATE from 0900 hrs 9 Sept 40 till 0900 hrs 10 Sept 40. I checked to see if all the prisoners were present at approximately 2230 hrs 9 Sept 40 and then turned in. All the prisoners were present at that time. In the morning, at about 0800 hrs 10 Sept 40, I again checked the prisoners, as is the custom of the guard commander, and found Pte McCoy, J.P., and Pte. J.J. Wilson missing. They could not be located in the vicinity of the enclosure."

J.T. Docherty L/Cpl.
(B.73098 L/Cpl. J.T.Docherty)

Witness: H.D. Helliker, Cpl.
(B.72709 Cpl. H.Helliker)

CERTIFICATION

I Hereby certify that the attendance of B-73098 L/Cpl. Docherty, J.T. of the 48th Highlanders of Canada cannot be readily procured owing to the expense and loss of time involved. R.P. 4(3) D.I.

H.M. Howell Lieut
Officer taking Summary

~~27 Dec 40~~
D.I. 1 Mar. 41

.....David Ivor.....Lieut.
(David Ivor) Investigation Officer.

RSM

Exhibit "A"

RECORD of the Declaration of a Court of Inquiry assembled at KINGSWOOD, Surrey on the Fourteenth day of October 1940.

for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B.72931 Pte. McCOY, J.P. of the 48th Highlanders of Canada, C.A.S.F.

DECLARATION

The Court declare, that B.72931 Pte. J.P. McCOY, of the 48th Highlanders of Canada, illegally absented himself without leave while in detention at NEWDIGATE, Surrey, on the night of 9/10 September, 1940 and that he is still so absent, and that on the 14th October, 1940 he was deficient, and that he is still deficient the articles of equipment and clothing as listed in Appendix "A". (in duplicate).

Names of President and Members:

Major R. L. Merry	President
Capt. D.A.MacKenzie	Member
Lieut. J.C.Clarke	Member

W.W. Southam

Signature of Commanding Officer.....Lieut.-Col.
Cmdg.48th Highlanders of Canada.

Certified true copy.....T. Lawson.....Capt. & Adjt.
Signature of Officer having custody of original record.
48th Highlanders of Canada.

M.F.S. 375
2M 10-39 (2498)
H.Q. 1772-39-257

RSA

CHARGE

Army Form B 252
(See King's Regulations)

1st BRIGADE - THE 48TH HIGHLANDERS OF CANADA — Regiment

A (Bordon) — Battery / Squadron / Troop or Company

CHARGE against No. B 72931 Rank PRIVATE

Name Mc COY J. P.

Place LEEDS Date of Offence

OFFENCE WHEN ON ACTIVE SERVICE

1) I Absent from? until apprehended by the Military Police in BRIGGATE on the 22ND NOVEMBER, 1940 at about 23.00 hrs

2) II Breaking arrest from the custody of an N.C.O. of the Military Police

3) III Not being in possession of a pass

Names of Witnesses :—

L/CPL. E. SWARBRICK C.M. POLICE

L/CPL. D. WARING C.M. POLICE

Signature of O.C. Battery, Squadron, Troop or Company — Remanded to CO

CAPT.
O.C. No. 6 COMPANY.
CANADIAN PROVOST CORPS.

Punishment Awarded

By whom Awarded

Adjutant.

Q805. Wt.W4364S/656. 2,000,000. 1/40. K. & H., Ltd. G.677/47. Forms B 252/53.

P.T.O.

Exhibit "B"

Statement of **EVIDENCE** in the case of

No. B-72931. PTE. J.P. McCOY.

1st BRIGADE. THE 48th HIGHLANDERS OF CANADA.

A COMPANY.

REDHILL,

SURREY.

Sir

At LEEDS on the 22nd November 1940 at about 22.25 hrs I was on duty in BRIGGATE, accompanied by W/Cpl. D. WARING C.M. POLICE when I saw the above named soldier. I asked him to produce his pass which he failed to do. I asked him for his A.B.64 and he failed to produce this saying that it was at his barracks. I accosted him and whilst conducting him to GIBRALTER BARRACKS LEEDS, he broke away but was captured after going a short distance. I handed him over to the N.C.O. i/c. GUARD to be detained.

LEEDS.

22nd NOVEMBER, 1940.

T. Swain W/Cpl.
C.M. POLICE

Sir,

I have read over and corroborate the above statement.

REMARKS

LEEDS
22nd NOVEMBER, 1940

D. Waring. L/Cpl.
C.M. Police

The above signed witnesses cannot be readily procured.

A.B.64 - identification slip attached under R.P. [illegible]

I hereby certify that it is not practical to call W/Cpl Swain as a witness for the summary of evidence.

A.F.R.P. 4(9) David Blunt Lt Col

No. 1 Neurological HOSPITAL Basingstoke, Hants, STATION

N O. B.72931 RANK. Pte. NAME. James P. McCOY AGE. 22

UNIT. 71 Inf. H.U. Admitt. Disch.

DIAGNOSIS:-

COMPLAINT:- 1. Conduct disorders since June 1940.
2. Blood tinged sputum past 8 months.

OCCUPATION:- Glass cutter.

PREV. ADMISSION:- 1. 1919 - Kingston Ont. - Influenza.
2. 1926 - Childrens Toronto - T.&A.
3. 1930 " " " - Bilateral herniorraphy
4. 1931 - " " - Head injury.
5. 1940 March - Cambridge Aldershot - Appendectomy.

H.P.I.:- This patient states that he felt perfectly well up until about June 1940 and had no charges against him since enlistment in Sept. 1939. He also states that he had had no trouble with his N.C.O.'s or officers or other members of his unit and had enjoyed the army life.

In June he felt that he was not being given the leave that was due him and that others in the unit were getting it so he should. Although he states that others in the unit hadn't had leave either. He says that when he went to see his major about it he would become nervous and stutter and felt that because of this he wasn't given fair consideration. This speech difficulty has been present since childhood but only during the past 4-5 months has it really gotten worse. Because he had the feeling that he hadn't been given proper consideration he decided to go A.W.L., and on June fourth he went A.W.L. to Birmingham for 12 days where"he went to dances and enjoyed himself". He then returned to his unit on June 16th. and was given 27 days detention in the "glass house", and he felt because others before him with similar charges and with previous charges had been given lighter sentences that his sentence was excessive and he was being "picked on" and that no one tried to help him. He says that he had no trouble in the "glass house" because "it wouldn't get him anywhere". On his return from his detention he asked for leave and this was refused. He felt that he was entitled to leave because others were getting leave and although he had had twelve days leave when he was A.W.L. he had paid for it by his detention and was therefore still entitled to leave.

On July 17th., four days after discharge from detention, he went A.W.L. with "nearly 70 others in the company" and was gone for 14 days whereas "the others stayed away between 7 and 18 days." He returned himself and was given 42 days sentence by a court-martial after waiting

HISTORY OF PRESENT ILLNESS CONT'D.

35 days in detention. And he states that he was the only one given court-martial and again felt that he was being discriminated against because of this. While awaiting being sent to the "glass house" he "foolishly broke detention, and was gone for 74 days because he was discouraged and had lost interest feeling that he was not given a fair deal. During this 74 days he spent his time in Manchester and Leeds living with friends part of the time and making some money gambling and being taken around by friends. He was apprehended by Military Police on November 22nd. being returned to detention in Bordon. While awainting court-martial he again broke detention on Dec. 6th., and was gone for 22 days because "nothing was happening as far as his trial was concerned and he didn't care any more." He was again picked up by the Military Police and returned to detention being tried by court-martial on evaluation of his mental state and ability to stand detention.

His chest condition has already been evaluated by the 15th. Cdn. General.

PAST HISTORY:- Born in Ontario.

Illness:- Mumps, measles, chicken pox, influenza, pneumonia, diphtheria, pertussis in childhood.

Operations:-T.&A. age 7, appendectomy 1940, herniorraphy age 11.

Injury:- Head injury age 11.

FAMILY HISTORY:-

Mother 53 - heart trouble.

Father - died age 40 - accident.

5 siblings - A. &. W; 3 in Army doing well

3 siblings dead in infancy.

No. Tbc., cancer, diabetes, nervous or mental disease.

FUNCTIONAL INQUIRY:-

Eyes:- Normal

Ears:- Fill with wax

Resp.:- Frequent colds in head and chest, worked for six months cutting glass with revolving stone without mask, occasional streaking of sputum with blood the past 8-9 months (see negative report from the 15th. Cdn. General)

C.V.:- Negative.

G.I.:- Negative.

G.U.:- Gonorrhea Nov. 1940, no sequelae.

Skin:- Negative. Skeletal:- Negative.

NEUROLOGICAL INQUIRY:-

Head: Head injury at age 12, with about 48 hour loss of memory (unconsciousness?) and about 3 minute retrograde amnesia, question of fractured skull on left parietal, no real sequelae, rare headaches although severe when present, no syncope or seizures.

Cranial Nerves:- Normal, left handed.

Motor:- Normal.

Sensory:- Normal.

Mental:- Has been troubled with stammering from age of five but was improving until recently when it has gotten worse particularly under strain or excitement; shool 4-14, average student, memory always good, no amnesia or disorientation.

Mood:- Has always been rather "nervous," rather apprehensive and and inclined to worry about things, talks in sleep often, no nightmares, fears, or phobias; no hallucinations or delusions.

Past:- No family difficulties, pleasant surroundings; left shool at 14 working on a farm for a year and a half, continued working on farms for another year, then worked at odd jobs living at home, then as a glass cutter until enlistment, joined army because of patriotic motives; has always liked amusements and reading, collects stamps and coins; normal sex interests.

Habits:- Smokes 20 cigarettes a day; drinks little usually beer; no habitual medication.

PHYSICAL EXAMINATION:-

apprehensive, stammers, cooperative.

Head:- No scarring, boney abnormality or tenderness.

Eyes:- Normal.

Ears:- Old perforations both drums, hearing appears normal, A.C. > B.C.

Mouth:- Dental caries, pharynx normal.

Glands:- Normal.

Chest:- Normal.

C.-V.:- Normal, B.P. 130/84.

Abd.:- Normal except for appendectomy and bilateral inguinal scars.

G.-U.:- Normal.

Skin:- Normal.

Skeletal:-N ormal.

NEUROLOGICAL EXAMINATION:-

NEUROLOGICAL EXAMINATION.

Head:- Normal.

Cranial Nerves:- Normal.

Fundi:- Right normal, left disc normal, old streaking along veins.

Motor:- N ormal

Sensory:- Normal.

Reflexes	Right	Left
B iceps	2 plus	2 plus
Triceps	2 plus	2 plus
Radial	plus	plus
K.J.	3 plus	3 plus
A.J.	2 plus	2 plus
Abdomenal	2 plus	2 plus
Cremasteric	plus	plus
Plantar	down	down
Hoffmann	0	0

Mental:- Oriented, normal knowledge of current events and common facts; repeats 7 digits forward and 5 backward correctly; 100-7 test 100-93-86-79-72-65-58 etc. correctly and easily; repeats 375 Oxford Ave after 5 minutes correctly; differentiates "mistake and lie" "dwarf and child" correctly; no aphasia; test phrases normal except for stammering.

Mood:- Apprehensive, restless, worries, stammers when excited.

IMPRESSION

1. Normal adult stammering.
2. Dental caries.

SUGGEST

1. Observation for a few days.

PROGRESS NOTES.

During his stay in here he has been quiet and cooperative and has caused no trouble. He has stammered whenever he is under stress or excitement but when he is interested and at ease this becomes less apparent although it does not disappear completely and I believe it is genuine.

I do not believe that there is any organic or functional neurological disease to account for his behaviour difficulties or to prevent his serving a sentence although he is a rather sensitive type of individual. He says that he believes that he certainly has some punishment coming to him and that he intends to do his best to serve it and then to try and become a good soldier. And I believe that he is sincere in this sentiment.

I would like to suggest that most of his difficulty arose out of a feeling that he was being discriminated against in the question of leave, because of his tendency to stammer when he tried to request leave. Subsequent events tended to perpetuate this belief in his mind. In spite of this, his fair attitude towards his sentence and desire to soldier afterwards suggest that the tempering of justice with mercy may make the difference between returning a useful soldier and one who is of no use to the army.

F.R. Hannan Capt.

48TH HIGHLANDERS OF CANADA

No. 72[illegible]1 Name Mc.Coy, J.P. Regt. Battalion or Company "A" Corps. Date of enlistment 9/9/39 G.C. Badges Service or Proficiency Pay Character

M.F.M. 6 (A.F.S. 133) 300M.—4-39 (1710) H.Q. 1777-41-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barossa Bks.	4/6/40	Pte.		A.W.L. from 2230 hrs 4/6/40 - 1700 hrs 16/6/30 Total 11 days 18½ hrs.	Lieut.I.S.Wallace C.S.M. Church	27 days detention RELEASED from the DETENTION BARRACK ..... Aldershot on 13-7-40 ..... SENTENCE HAVING EXPIRED. Remission earned under Rules for Detention Barracks and Military Prisons 1 day COMMANDANT'S Initials "J.R.R." 1 DAY REMITTED UNDER RULE 129 - RULES FOR MILITARY DETENTION BARRACKS & MILITARY PRISONS "J.R.R"	17 Jun 40	Lt-Col. Keene	Forfeits 12 days pay

CERTIFIED TRUE COPY:-

David Ivor, Lt.

David Ivor, Lt., Off. i/c Records
No. 1 Cdn. Infantry Holding Unit.

(P.T.O.)

STATEMENT as to CHARACTER & PARTICULARS of SERVICE of ACCUSED

B-72931 Pte. McCoy, J.P., No.1 Canadian Infantry Holding Unit

1. The following is a fair and true summary of the entries in the regimental conduct sheet of the accused, exclusive of convictions by a court-martial or a civil court, and of cases in which trial has been dispensed with:

	Within last 12 months	Since Enlistment
Absence without leave	once	once

Number of instances of gallantry or distinguished conduct: Nil.

2. The accused is not under sentence at the present time.
3. The accused has ~~xxx~~ been previously convicted by a Court-Martial. ~~xxxxxxxxxxxxxx~~. He has not been convicted by a civil court.
4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and 46 days in military custody, making a total of 46 days in custody, of which no days were spent in hospital.
5. The present age of the accused according to his attestation paper is 22 years.
6. The date of his attestation specified in his attestation paper is 9th September 1939.
7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 18 months.
8. The accused is entitled to deferred pay or gratuity in respect of 18months' service.
9. The accused is entitled to reckon 18 months' service for the purpose of determining his pension, etc.
10. The accused is in possession of or entitled to no military decoration or military reward.

SCHEDULE

of convictions by a court-martial or a civil court and of cases in which trial has been dispensed with of the accused.

On 2nd September 1940 at 48th Highlanders of Canada Field Unit, awarded 42 days' detention by F.G.C.M. Forfeited 57 days' pay. Charged with 14 days' absence without leave.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

David Ivor, Lieut.

David Ivor, Lieut.,
Officer i/c Records,
No. 1 Cdn. Infantry Holding Unit.

RSH

Witley, Surrey,
12th March, 1941.

CIPHER MESSAGE

ARMY MESSAGE

(INCOMING)

CLASSIFIED

SECRET

PLACE FROM — DATE & TIME

HALIFAX N.S. 151838P/APR/45

C.G.S. M.S. D.M.O. & P. A.G. (ACTION)

PRO 6126 SECRET

SECTY NDHQ

YOUR RANKS 6617 MY PRO 5558

B.72931 SPR MCCOY JP RETURNED FOR DISCHARGE WITH IGNOMINY. DUE TO TYPOGRAPHICAL ERROR IN COPYING NAMES OF MCCOY JP AND G.2382 RFM OLDFIELD WI TRANSPOSED. ERROR REGRETTED.

COMMANDING 6

32415/JC/1518300/APR/45

OFFICE OF THE ADJUTANT - GENERAL

TO _____ For Action (Information)

DATE APR 16 1945

Copy To: _____ For Action

_____ For Information

NOTE: THIS MESSAGE HAS BEEN DISPATCHED IN CIPHER AND MUST NOT BE PUBLISHED OR DISTRIBUTED OUTSIDE GOVERNMENT DEPARTMENTS, OR HEADQUARTERS OR RETRANSMITTED WITHOUT BEING PARAPHRASED.

M.F.M. 339 22M-3-44 (4000) H.Q. 1772-56-2005 K.P. 4669

COPY 3 ACTION

CRAIG PRINTERS LIMITED

CLEAR

ARMY MESSAGE

(OUTGOING)

FILE: [illegible]

PLACE: OTTAWA, Ont.

DATE: 15 Apr 45

District Officer Commanding,
Military District No 6,
HALIFAX, N.S.

DAMES 6817

REFER PRC 8858 DATED 11 APR 45 AND FURTHER TO DAMES 6804 (.) REFERRING B.72631 SPR RECOR J P (.) INFORMATION HERE CAN INDICATE THIS MAN RETURNED FOR DISCHARGE FOR TORONTO HAVING COMPLETED ON 10 MAR 45 SENTENCE OF 90 DAYS IMPRISONMENT AWARDED BY FCCM 11 JAN 45 (.) REQUIRE DOCUMENTS AND ADVISE EARLIEST PARTICULARS OF SENTENCE EXPIRING 3 JAN 46 AS SHOWN IN YOUR ADVICE REFERENCE

ADJUTANT-GENERAL

MCP 140

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT, INCLUDING WIRELESS	DEGREE OF PRIORITY	TIME OF ORIGIN
Major-General Adjutant-General		

SIGNED

SINGLE COPY FORM FOR CLEAR MESSAGE

(THIS FORM IS TO BE USED FOR ADDITIONAL DISTRIBUTION)

HQ 405-M-22348
Adm 2(a)3

Ottawa, Ont. 3 Apr 5

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

B.72933 - Spr. McCOY J.P.

Ref Circular R.801 d/12 Mar 45 under HQ 54-27-47-1 FD 101 Adm 2.

2. Att are two copies of letter from CMHQ recommending the discharge of this soldier under RO 1029 (9), which are fwd for your action as outlined in the above mentioned circular. If possible you will be warned of this soldier's arrival in advance by wire.

(A.E. WALFORD)
Major-General,
Adjutant-General.

encl.

JP

MEMORANDUM

TO:

Adm 2(a)3

Department of National Defence
(Army)

H.Q.C 55-M-1618 Adm 3(b)2

OTTAWA, Ont. 2 Apr 45

B.72931 Spr McCOY, J P

This S.U.S. is returning ex W836.

2. Sentence expired 10 Mar 45. It will be noted that he is to be discharged with ignominy.

3. For your disposal, pls.

W.O. Parlee

(W O Parlee)
Captain
Adm 3(b)2

WOP:da

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/McCoy, JP/1

CANADIAN MILITARY HEADQUARTERS

LONDON 10 Mar 45.

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

L-55-M-1618

B.72931 Spr McCoy, JP.

1. The marginally named soldier is now serving a sentence of 90 days imprisonment and discharge with ignominy from His Majesty's Service awarded 11 Jan 45 by FGCM for an absence without leave from which he was apprehended after 83 days. He has so far earned full remissions for good conduct while serving his sentence and accordingly his sentence of imprisonment will expire 10 Mar 45.

2. This soldier enlisted 9 Sep 39 at Toronto, Ontario, and he is now 26 years of age. Since enlistment he has been found guilty of 14 offences under AA Sec 15(1), of 2 offences under AA Sec 40 and of 1 offence under AA Sec 22. In addition to the court-martial set forth in paragraph 1 above he has been convicted by 6 previous courts-martial. On 2 Sep 40 he was awarded 42 days detention for 13 days absence without leave. On 12 Mar 41 he was awarded 8 months detention for a total of 96 days absence without leave and a charge under each of AA Secs 22 and 40. On 5 Nov 41 he was awarded 90 days detention for 63 days absence without leave. On 10 Jul 42 he was awarded 6 days detention for 15 days absence without leave. On 10 Dec 42 he was awarded 45 days detention for 11 days absence without leave. On 22 May 43 he was awarded 120 days detention for 42 days absence without leave, and on 23 Oct 43 he was awarded 9 months detention for 30 days absence without leave.

3. This soldier was reboarded 25 Nov 44 and placed in Pulhems Grade S5 on a diagnosis of psychopathic personality, inadequate type with anxiety hysteria. The Medical Board states that he is fit to undergo detention.

4. The Neuropsychiatrist and Selection of Personnel Officer who have examined this soldier state that he is of dull normal intelligence; that he refuses to admit responsibility for any of his offences; and that he states that all his absences without leave were caused by the injustices of his superiors and that he is full of self-pity. It appears that this soldier has had VDG once and VDS once.

5. Taking into consideration these reports and this soldier's 7 FGC'sM it is considered that the sentence awarded is just and appropriate and that on the termination of his sentence of imprisonment he should be discharged with ignominy from His Majesty's Service in accordance with paragraph 9 of Appendix to C.A.R.O. 1029, and it is so recommended. It is considered that this soldier has not misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C.67/9555/44, that this soldier be returned to Canada in custody under sentence. Herewith original A.F. A3104 in respect of the FGCM held 11 Jan 45, so endorsed. Also enclosed is a copy of the direction made under said P.C.67/9555/44.

Ernest Weeks

(E.G. WEEKS) Major-General
i/c Administration
Canadian Military Headquarters.

Enc. 2.

1/39B CMHQ 1000/77
40/P & S/803 (6740)

DIRECTION

1. I hereby direct that B.72931 Spr McCoy, J.P. of 1 Cdn Repat. Depot having been sentenced by court martial on 11 Jan 45 to be discharged with ignominy from His Majesty's Service, and 90 days imprisonment shall be returned to Canada for disposal by the Adjutant General.

2. I further direct pursuant to P.C. 60/6567 of 18 Aug 43, as amended by P.C. 67/9555 of 28 Dec 44 that the said B.72931 Spr McCoy, JP. shall be held in military custody pending and during his return to Canada and until released from such custody by appropriate military authority.

3. And I further direct, pursuant to F.R. & I 683(2) that the said B.72931 Spr McCoy, J.P. shall forfeit pay for each day, commencing 10 Mar 45 until the date upon which he is struck off strength of the Canadian Army Overseas.

Sig. "Ernest G. Weeks"

(E. G. Weeks) Major-General
In Charge of Administration
Canadian Military Headquarters.

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B.72931 Spr McCoy, J.P. Unit Transit Strength 1 Cdn NETD

Sentenced to 90 days' imprisonment and to be discharged with ignominy from H.M. Service. on

Age on, and date of, enlistment 21 yrs. 9 Sep 39 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VII.)

SECOND TRIAL.

For details of offences, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude

(*22942) Wt.36636/311 60,000 (1)/42 A & E.W.Ltd. Gp.698 Forms/A.3104/11.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	No remission. Return to Canada in Custody under sentence.	C.O. Officer Commanding Canadian Military Headquarters 15 FEB 1945	

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. A.A. Sec 15(1) - WOAS - AWL until apprehended after 83 days 9 hours.	14 Jun 44	11 Jan 45
Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature

6/McCoy, J.P./O
B.72931 Pte McCoy, J.P.
48th Highrs. Att C.T.S.

126 J

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighth day of July, 1942.

Whereas it appears to me, the undersigned, an officer in Command of H.Q. "F" Group, Canadian Reinforcement Units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to convene a Field General Court Martial composed wholly of officers of superior or equal rank.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*I hereby appoint officers to form the Court as follows:~~

~~*Those officers having more than one year's service.~~

~~for the following reasons, namely~~

PROCEEDINGS REVIEWED.

K.G. Winter Lieut
Remaining officer C.A.D.C.H.Q.
22 Jul. 42

President.

Rank.	Name.	Regiment.
Major	R.G. Storms	1 Cdn. B.O.W., R.C.O.C.

Members.

Rank.	Name.	Regiment.
Capt	K. Winter	1 Cdn. Ord. R.U. R.C.O.C.
Lieut.	W.G. Carson	1 Cdn. Ord. R.U. R.C.O.C.
	WAITING MEMBER	
Lieut.	D.L. Angus	10 Non Div Ord W/S RCOC

*Signed (J.P. ARCHAMBAULT) Brigadier
Commanding H.Q. "F" Group, C.R.U.
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B.72931 Pte. McCoy, J.P. (48th Highrs) Att Cdn. Trng School	FIRST CHARGE A.A. Sec. 15(1) See charge sheet attached.	Guilty Not Pro	Guilty To undergo detention for period of six days and undergo stoppage of pay in the amount of three pounds four shillings and three pence £3/4/3 to cover cost of apprehension Pro	Confirmed

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) (J.P.ARCHAMBAULT) Brigadier.
Commanding "F" Gp, C.R.U.
Convening Officer (e)

(Signed) Major
1st Cdn B.O.W. RCOC
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 10th day of July 42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 10th day of July 1942

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 13th day of July 1942

J. P. ARCHAMBAULT, Brigadier.
Confirming Officer
Commanding "F" Group, Cdn. Reinforcement Units.

Promulgated and extracts taken in the case of

(a) (Dated) 14 July 1942 (Signed) Frank Barber Lt Col.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(32756) Wt. 40115—493 500 m 1/40 P. St. G. 540

W. J. Thorn Major
President

CHARGE SHEET

The accused No, B72931 Pte. McCoy, James Patrick 48th Highrs of C, attached to No. 5 (Battle) Wing, Canadian Training School, a soldier of the Canadian Army Overseas, is charged with, when on active Service

Army Act
Sec. 15 (1)

Absenting himself without leave

in that he

at Rowlands Castle, Hants, absented himself without leave at 2359 hrs. on 18 May 42 until he was apprehended at Manchester, Lancs by the Manchester City Police at 0205 hrs. on 2 June 42, thereby incurring expenses for transportation and escorts expenses to the amount of three pounds four shillings and three pence (£ 3/4/3)

Rowland's Castle,
Hants.
30 June, 1942.

D. Fletcher Capt
(D.Fletcher) Lt. Col. H.L.I. of C.
Officer Commanding No. 5 Wing
Canadian Training School.

/DJF.

To be tried by Field General Court Martial

Bordn, Hant-
July 8th 1942

J. P. Archambault
J. P. ARCHAMBAULT, Brigadier.
Commanding "F" Group,
Cdn. Reinforcement Units.

Reference Pro

MEDICAL OFFICER'S CERTIFICATE 10 July 42

TO WHOM IT MAY CONCERN:

This is to certify that B 72931 Pte McCoy, J.P. is fit to undergo trial by Field General Court-Martial.

Receiving treatment for V.D.S.

(G.S.Long) Capt., R.C.A.M.C.,
Medical Officer,
Canadian Training School.

HAVANNAH BARRACKS
BORDON, HANTS

10 Jul 42.

TO/
Brigadier J.P. Archambault, D.S.O., M.C.,
Commander, "F" Group, C.R.U.,
Canadian Army, Overseas.

FIELD GENERAL COURT MARTIAL
C.15600, Pte. Gavan, P.A.
B.72931, Pte. McCoy, P.J.

1. The Members of the m/n F.G.C.M., assembled at the N.A.A.F.I. Reading Room, Havannah Barracks, Bordon, Hants. at 0930 hrs. Friday, 10 Jul 42, considering the case of B.72931, Pte. McCoy, P.J., 48th Highrs., attached to C.T.S., charged under A.A. Sec. 15 (1), W.O.A.S. absenting himself without leave, find that the condition of Pte. McCoy's Pay Book is in an impossible state, in that he already owes the Government $450-25.

2. This Court had, as a result of evidence, no alternative but to give the full sentence to the Accused, but in doing so would like to recommend that higher authority go into this case thoroughly, in order that this man may have a revision in his debt, which is now far beyond the capacity of his earnings.

(R.G. Storms) Major, 1 C.B.O.W.,
President, F.G.C.M.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Bordon, Hants ON THE 10th DAY OF July 42

TRIAL OF:- No. B-72931, Pte. McCoy, J. P. Unit 48th Highlanders Attached: C.T.S.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) (Unit)

Defending Officer:- (Name) Capt. J. T. Harper (Unit) P.P.C.L.I. (Att: CTS)

At 1045 hrs the trial commences.

The order convening the court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - NO

The President, members and judge-advocate (if any) are duly sworn.

The following constitute the Court:

President ..... Major (Unit)
1st CDN. BASE ORDNANCE WORKSHOP (RCOC)

Members ..... Capt. (Unit)
No. 1 C. O. R. U., RCOC

..... Capt. (Unit)
No. 1 C. O. R. U., RCOC

The officers under instruction are duly sworn.

Q2 Do you object to Cpl. A. S. Hill acting as shorthand writer? A2.- No

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name.....N/A.....(Unit)..... sworn, produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3. (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - No

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4 - No

---

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

FIELD GENERAL COURT MARTIAL

Convened by order of Brigadier J.P. Archambault, D.S.O., M.C., Commander, "F" Group, C.R.U., at the N.A.A.F.I. Reading Room, Havannah Barracks, Bordon, Hants, at 0930 hours, Friday, 10 July 1942, for the purpose of trying - B.72931, Pte. McCoy, P.J., 48th Highrs., attached to Canadian Training School, a soldier of the Canadian Army Overseas, on a charge under Army Act, Sec. 15(1) absenting himself without leave.

Officer for Defence - Capt. J.T. Harper, P.P.C.L.I., posted to Canadian Training School, O.C. #3(Weapons) Wing, states:-

"I wish to put in a plea for mitigation of sentence.

I only met the Accused two or three days ago and have spoken with him several times. I think this is a pathetic case insofar as this soldier, since the beginning of the war, has continually been going absent without leave, and has lost approximately 610 days pay since joining the Army. He has been continually refused leave, and at the present time he owes the Government approximately $450.00, which is an impossible situation. He makes an assignment of $20.00 per month to his mother who is dependent upon it, and who is still receiving it. The only other money he receives is ten shillings twice a month, 15th and 30th. At that rate he is going to be in debt to the Government for 2 years, making this a most impossible situation. He is very highly strung, having been through the bombing raids on Coventry, and he has been in the Neurological Hospital at Basingstoke twice for nerves. He has been to his C.O. at various times requesting leave, but always has been refused on the grounds that he hadn't money for leave. No effort or inquiry was made to ascertain if there were any source from which he might obtain money for leave. He has had only 5 days privilege leave since coming to this country in December, 1939. I think that due to the mere fact of not having been granted leave, he simply took it. He has two brothers in this country, a Sergeant in the R.C.E. and also a Sapper in the 1st Bn. R.C.E., either of which would have provided him with money for the purpose of going on leave. No C.O. asked whether he could get money, but simply refused him, which is not quite fair. He tookit. No man can keep to duty the whole time. I realise that leave is a privilege but I do think that he should be given some consideration. The Accused's father died when Accused was young, and he had a stepfather who was probably not good, and who is an invalid at the present time, and is unable to support the mother. This man has a very bad impediment in his speech and has difficulty in explaining himself. He probably has been badly defended in the past, and I believe if he is given a chance he will become a good soldier. I therefore recommend that this case be brought specially to the notice of higher authority; also that a recommendation be made by this Court to have reduced the amount of money which this man owes to the Government; and also that leniency be applied in this case. This would without a doubt give the man a chance to clear himself and become a good soldier."

The Court was adjourned to consider sentence.

SUMMARY OF EVIDENCE

In the case of B.72931 - Pte. McCoy, James Patrick, 48th Highrs. of C., attached to No. 5 (Battle) Wing, Canadian Training School, taken before Lieut. J.D. Chanter at Havannah Barracks, Bordon, Hants. on

15 June 1942 and 30 June 1942

Summary of Evidence taken on Oath by order of the Commanding Officer.

First Witness

B.76507 - Pte. Granger, C.L., Tor. Scots. R. (MG) posted to No. 5 (Battle) Wing, Canadian Training School, having been duly sworn states.

"On the evening of 18 May 42 I saw Pte. McCoy leaving the Quartermaster Stores having in his possession a midnight pass."

"I am responsible for the Storemen and at 0800 hrs Pte. McCoy failed to report for duty so I reported his absence to the permanent Orderly Sergeant, Sgt. Browne, R.J. I did not see Pte. McCoy again until he returned to Camp on 4 June 42."

The accused declined to put any questions to the witness.

C.L. Granger
(C.L.Granger) Pte., B.76507.

Second Witness

K.57136 - Sgt. Browne, R.J., 1 C.Scot.R. posted to No. 5 (Battle) Wing, Canadian Training School, having been duly sworn states:-

"At 0800 hours on 19 May 42 I was Orderly Sergeant. As a result of a report I received from Pte. Granger I went to the Q.M. Stores and looked for Pte. McCoy. I did not find him there, so entered him on the absentee report. I was Orderly Sergeant each day until the 4th of June and at no time during the intervening time did I see Pte. McCoy about the camp. I entered his name each day in the absentee report."

R.J. Browne
(R.J.Browne) Sgt., K.57136.

The accused, having been cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence." Declines to make any statement or give evidence.

J.P. McCoy
(J.P.McCoy) Pte., B.72931.

I certify that the foregoing Summary of Evidence, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

J.D. Chanter
(J.D.Chanter) Lieut., Carlt. & York R.
Adjt., No. 5 (Battle) Wing,
Canadian Training School.

/RWW

LIST OF EXHIBITS

EXHIBIT "A" Certificate of Apprehension under A.A. Sec. 165 (i)(m).

EXHIBIT "B" Expense Vouchers.

DESCRIPTIVE RETURN OF § James Patrick McCoy who was apprehended at Manchester (hour) 2.5 am on the 2 day of June and was committed to confinement at Manchester on the 2 day of June as a ~~Deserter or~~ Absentee without leave) from the 48 Bn. of the H. of C. Regiment

Age 23 Height 5 feet 9 inches
Complexion fresh Hair Dark Eyes Hazel
Marks Tattoo L. F. Arm In uniform ~~or plain clothes~~

Probable date and place of attestation	9. 9. 39. Toronto
Probable date of desertion or beginning of absence and from what place	29. 5. 42. Portsmouth
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	James Lynn M/C City Police D. D.
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	Prisoner was apprehended on Private information Regt. No. B. 72931.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he belongs to the before-mentioned Corps.

Wm McLennan — Signature
Residence
Post Town
of Committing Magistrate.
2 JUN 1942
Date of Signature
Signature of Prisoner
J. P. McCoy
James Lynn RCD 214 — Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the ____ day of ____ for the purpose of obtaining such evidence.

Signature
Residence
Post Town
of Magistrate.
Date of Signature

§ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to" as the case may be.

Expense Voucher Re—: Ref: K.R. & O. (Can) 589

Reg. No. B72931 Rank Pte. Name McCoy, J. P. Unit High Rd'g Can

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~the Unit from~~ London from Manchester

Date	Particulars	Amount		
4 June 41	Escorts return fare from LONDON To Manchester	1	8	2
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~taxi~~, Meals, Bus fares		7	4
	Total £	2	9	7

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Geo. W. L. Cowling Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Expense Voucher Re—: Ref: K.R. & O. (Can) 536

Reg. No. B-72931 Rank Pte. Name McCoy, J.P. Unit 5 Wing, C.T.S.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
4 June 42	Escorts return fare from LONDON To Rowland Castle		9	9
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Rowland Castle		4	11
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		14	8

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

H. W. Bowling
~~M. McCoy~~ Capt. Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

No. B 72931 Name Mc.Coy, J.P. "A" Company 48th Highlanders of Canada Date of enlistment 9/9/39 G.C. Badges

Service or Proficiency Pay

Character

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No.

Signature O.C. Company, etc.

M.F.M. 6
12SM—7-41 (1219-30)
H.Q. 1772-22-1052

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing with trial	By whom awarded	Remarks
Barossa Bks	4/6/40	Pte		A.W.L. from 2230 hrs 4/6/40 - 1700 hrs 16/6/30 Total 11 days 15½ hrs	Lieut. I.S. Wallace CSM Church	27 day detention	17 Jun 40	Lt/Col Keene	Forfeits 12 days pay
						Released from the detention Barrack Aldershot on 13/7/40 on Sentence having Expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 1 days Commandants Initials JRR			
					1 day remitted under Rule 129 Rules For Military Detention Barracks & Military Prisons. JRR				

P.T.O.)

Place	Date of offence	Rank	Cases of Drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	17 Jul 40	Pte.		W.O.A.S. absent without leave from roll call at 1500 hrs. 17 Jul 40 to 1800 hrs 31 Jul 40 (339) hrs A A 15(1)	CSM Church Cpl Peddle	42 days detention & forfeits 42 days pay authy FR&I 149,1(b) & 15 days pay authy FR&I 149,1(a) Total forfeiture- 57 days pay	2 Sep 40	Field Gen Court Martial	19 Days remitted
Witley	9/10/9/40	"		(1) A.W.L. from 9/10 Sep 40 until 22 Nov 40 A.A.Sec15(1) (ii) Trying to escape A.A. Sec 22 (iii)A.W.L. from 1200 hrs 5 Jan 41 until 1120 A.A.Sec 15-1 26 Jan while in arrest (iv) Conduct to the pred A.A.Sec-40	120 days detn 12/3/41	Forfeits 88 days pay FR&I 1 Released from Detention Barrack Witley Jun 4 1941 19 Sentence Having Expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 35 Days Commandants Initials G.B.			Forfs 88 days pay FR&I Sec 141 Forfs 95 dys pay FR&I Sec 141 Forfs 120 days pay FR&I 1 (b) Total forf 303 days pay DJ

M.F.M. 6
(A.F.B. 199)
17534—7-41 (1919-36)
H.Q. 1772-39-1428

No. | Name | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley	17/6/41	Pte.		Before a FGCM WOAS - AWL 2200 hrs 17-6-41 until apprehended by MP at 2345 hrs 19-8-41 (63 days 1 hr 15 mins) A.A. Sec 15-1		90 days det Released from the Detention Barrack Witley on Jan 3 1942 19__ Sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 30 days Commandants Initials GB	5-11-41	FGCM E.J. Riden Lieut.	Forf 163 day pay
Algonquin	8-1-42	Pte.		AWL from 2359 hrs 8-1-42 till 1145 hrs 19-1-42 Total 10 days 11 hrs 45 min A.A. Sec 15(1)	Documentary Evidence	Forf 26 day Ord Pay 21 - 17 - 7	26-1-42	W W Black Lt.Col.	Forfeit 11days pay FR&I 149 1 (a) EGR

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Algonquin	10-2-42	Pte.		WOAS an act to the prej etc - refusing to obey an order given by a superior offr - A.A.Sec.40	CSM Toussaint H.A.	14 days CB & forfeits 14 days pay	12-2-42	L.W.W.Slack Lt.Col.	
Algonquin Camp	2-3-42	Pte.		WOAS AWL from 2200 hrs 2-3-42 until 2130 hrs 5-3-42 A.A.Sec 15(1)	Documentary Cpl.Butt G. Cpl. Simmons	14 days C.B.	23-4-42	L.W.W.Slack Lt.Col.	3 days pay reg 14 days F.C.pay

COPY

TRUE

CERTIFIED

F.C.Peckham

(F.C.Peckham) Capt., Linc. & Well'd. R.,
Adjutant, Canadian Training School.

Havannah Barracks,
Bordon, Hants.
29 June, 1942.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B72931 Pte. McCoy, J.P. of the 48th Highlanders of Canada

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be analyzed in the proceedings.

†See Para. 661 K.R. 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any more special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and fixed.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For A.W.L. (Sec. 15)	2 times	3 times.
For Refusing to obey an order (Sec 40)	1 times	1 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, NIL

or,

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted,

or,

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.~~

W1 4300,000 50,000 2/40 W. S. Ltd. 12—9304

3. The accused is not under sentence at the present time,

or,

~~The accused at the present time is under sentence for~~ .....
~~beginning on the~~ ..... ~~day of~~ .....

4. The accused has been in confinement, awaiting trial on the present charges

for 2 days in Civil Custody,

and ..... days in Military Custody.

Total ..... days.

Of which ..... days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper is 21 yrs 9 mos.

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 9 Sep 1979

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve~~ is .....

8. The accused is entitled to deferred pay or gratuity in respect of NIL years' service.

9. The accused is entitled to reckon 2 yrs. 10 mos. years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward ~~[or is in possession of or entitled to~~

]

11. ~~(*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of~~

12. ~~(*In the case of an officer.*) The accused holds in the army the rank of~~
~~, dated~~ ~~, and in his regiment (or corps or department) the rank of~~
~~dated~~

13. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date,~~

~~Date of Promotion.~~

~~In the rank of~~ , ~~years,~~ .....

~~In the rank of~~ , ~~years,~~ .....

~~In the rank of~~ , ~~years,~~ .....

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name B72931 Pte. McCoy, James Patrick of the No. 5 Wing, Canadian Training School

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
F.G.C.M.	2 Sep 40 Witley	A.W.L. 17 July 40 until 31 July 40 (339 hrs.) A.A. Sec.15(1)	Detention 42 days forf. 42 & 15 days pay.	19 days under prison rules.
F.G.C.M.	12 Mar 41 Witley	(1) AWL 9 Sep 40 until 22 Nov 40 AA Sec 15(1)	120 days detention	
		(2) Trying to escape A.A. 22	forfts 88 days pay	35 days
		(3) AWL 5 Jan 41 until 26 Jan 42 A.A. 15	forfts 95 days pay	
		(4) Conduct to the prejudice A.A. 40	forfts 120 days pay	
F.G.C.M.	5 Nov 41 Witley	A.W.L. 17 June 41 until 19 Aug 41 (63 days 1 hr. 53 min.) A.A. 15	90 days detention	30 days

(*Continued overleaf.*)

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of July 1942.

[illegible] ADJT.
CANADIAN TRAINING SCHOOL (No. 9 WING)

APPLICATION FOR DEFENDING OFFICER, ETC.

PRECEDENT.

To:- The Commandant, Cdn. Trng. School.

With reference to my pending trial by Field General Court Martial.

(a) ~~I propose to employ counsel for the purpose of conducting my defence~~.

(b) I wish @ ~~do not wish~~ that an officer be assigned to act as defending officer.

(If Capt. W. H. Bates, R.C.A./C.T.S. is available, I wish that he may be assigned for this purpose)@

@ Delete as applicable

@ Insert as applicable

J. P. McCoy

(J.P.McCoy)Pte., B.72931
No. 5 Wing, Cdn. Trng. School.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 29th. day of August, 1940.

Whereas it appears to me, the undersigned, an officer in Command of 1st Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[illegible]:—

*[illegible]

*[illegible]

*[illegible]

ENTERED IN RECORDS OF C.M.

President.

Rank.	Name.	Regiment.
Major	V.N. Hodson,	R.C.R.

Members.

Rank.	Name.	Regiment.
Captain	R.W. Armstrong,	1 Fd Regt., RCHA.
Lieutenant	W.K.K. McConnell,	1 Fd Coy., RCE.
Lieutenant	W.N. Hovey, (Waiting Member)	1 Cdn Recce Sqn.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed Armand Smith Brigadier,
(ARMAND SMITH)
Commanding 1st Canadian Infantry Brigade.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B.72931, Private, McCoy, James Patrick. 48 Highrs.	When on active service absenting himself without leave, in that he, at Newdigate, absented himself without leave from roll call at 1500 hrs. on 17 July, 1940, till 1300 hrs. on 31 July, 1940. (A.A. Sec. 15(1)) add	Guilty	Guilty 42 days detention (Forfeits 15 days pay under 72(1))	Confirmed AAA

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— No.

(Signed) Armand Smith (Signed) W. Hoadman Maj
Commanding 1st Cdn Infty Bde Brig. — Convening Officer (e) — President. RCR

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Second day of Sept. 1940, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3 ~~The interpreter~~)
*(4 ~~The officers under instruction~~)
were duly sworn.

* Omit if not applicable.

Signed this Second day of September 1940

W. Hoadman Major RCR
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this second day of September 1940

Armand Smith Brig.
Confirming Officer.

Promulgated and extracts taken in the case of B 72931. Pte McCoy J.P.

(a) (Dated) 2 Sep 40 (Signed) Jas S. Johnston Capt Adjt 48 Highrs

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41759) Wt. 40125—893 200 m 1940 P. St. G. 620.

Record of Proceedings
FGCM. 2. Sep.

C. 1/4

1. Challenge - accused does not object to being tried by the President or members.

2. Accused made a statement.

3. Accused has no witnesses to call.

4. Prosecutor makes no address.

5. Defending officer makes a final address.

6. The adjutant was called by the prosecution to produce the statement of character. Attached hereto, marked B.

[illegible] Maj
RAA.

CHARGE SHEET

The accused B.72931, Private James Patrick McCoy, 48th Highlanders of Canada C.A.S.F., a soldier of the regular forces, is charged with:-

First Charge
Army Act 15(1)

When on active service absenting himself without leave

in that he,

at NEWDIGATE, absented himself without leave from roll call at 1500 hrs on 17 July 1940 till 1800 hrs on 31 July 1940.

E.W. Haedwby

Lieut.-Colonel,
Cmdg.48th Highlanders of Canada.

NEWDIGATE
14 August 1940.

A. 1/
15

Summary of EVIDENCE in the case of:

B72931 Pte. McCoy, J.P., of
48th Highlanders of Canada, C.A.S.F.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

1st witness for the Prosecution

No. B72562 C.S.M. Church, T.R., 48th Highlanders of Canada, having been duly sworn, states:

"At Newdigate on the 17th July 1940, pursuant to the orders of Lieut. Warren, Acting O.C. "A" Coy., a roll of "A" Coy. was called at 1500 hrs. The roll was called by platoons. I was present at the roll call and the Accused was not there. I did not see him again until 1800 hrs. on 31st July 1940. I was with the Coy. during all that period. The Accused was not granted leave of absence. The Accused was not warned of the roll call at 1500 hrs. on 17th July 1940, but he was present at roll call on the night of the 16th July 1940, when he was warned that he would not leave Coy. lines without permission."

The Accused declines to cross-examine this Witness.

Thos R. Church C.S.M.
(Thos R. Church) C.S.M.

2nd witness for the Prosecution

No. B72663 Cpl. Peddle, W.M., 48th Highlanders of Canada, having been duly sworn, states:

"At 1500 hrs. on the 17th July 1940, as Platoon Sgt. of No. 7 Pl., "A" Coy., 48th Highlanders, I called the roll of the said platoon. The Accused was not present. The Accused was a member of that platoon. I did not see him again until 1800 hrs. on the 31st July 1940, when he voluntarily returned to his Coy."

The Accused declines to cross-examine this Witness.

W. M. Peddle cpl.
(W.M. Peddle) Cpl.

The Accused, having been duly cautioned in accordance with Rule of Procedure 4 (E), reserves his defence.

Certified that Rule of Procedure 4 (C), (D), (E) & (F) ~~and (G)~~ have been complied with.

Taken down by me in the presence and hearing of the Accused this twelfth day of August, nineteen hundred and forty, near Newdigate, Surrey.

Ian S. Johnston
(Ian S. Johnston) Capt., Adjt.
48th Highlanders of Canada

B. 1/21

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

48TH HIGHLANDERS of ~~the~~ CANADA, C.A.S.F.

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, ~~Battery or Company~~ Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Filled

	*Within last 12 months.	*Since Enlistment.
For Absence without leave	one times	one times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or,

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted,

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. 42648/664 50,000 2/40 W. S. Ltd. 21—0004

3. The accused is not under sentence at the present time,

or,

~~The accused at the present time is under sentence for~~ .....

~~beginning on the~~ .....

4. The accused has been in confinement, awaiting trial on the present charges

~~for~~ ~~days in Civil Custody~~,

and 29 days in Military Custody.

Total 29 days.

Of which Nil. days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 21 yrs

6. The date of his ~~commission~~ attestation specified in his record of service / attestation paper is 9 Sept 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is One year

8. The accused is entitled to deferred pay or gratuity in respect of one years years' service.

9. The accused is entitled to reckon One years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [~~or is in possession of or entitled to~~

]

11. ~~(If the accused is a warrant officer.)~~ ~~The accused before he was made a warrant officer last held the regimental rank of~~

12. ~~(In the case of an officer.)~~ ~~The accused holds in the army the rank of~~

~~, dated~~ ~~, and in the regiment (or corps or department) the rank of~~ ~~dated~~

13. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date,~~

Date of Promotion.

~~In the rank of~~ ~~, years,~~ .....

~~In the rank of~~ ~~, years,~~ .....

~~In the rank of~~ ~~, years,~~ .....

(Instruction.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name ..... of the .....

Note.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
		Nil		

(*Continued overleaf.*)

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2nd day of September 194

Sam S Johnston Capt Adjt

J. 1/54

48TH HIGHLANDERS OF CANADA

2 Sept. 40:

Certified that B.72931 Pte. McCoy J.P.
48th Highlanders of Canada is fit to with-
stand trial by Court-Martial.

C.W. Scrogg

Major RCAMC
48TH Highlanders of Canada.

F/5-4-10
R-72931 Pte. McCoy, J.P.
C.T.S.

42 u.

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this ninth day of December, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "F" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*[I am unable to appoint :—~~
~~*(1. Three Officers to form the Court.)~~
~~*(2. A Field Officer as President.)~~
~~for the following reasons, namely :—]~~

* Omit if not applicable.

Proceedings Reviewed
Approved in Cases
Reviewing Officer (J.A.G.) C.M.H.Q.
22 Dec 42.

NOTE.—The President must be named. The members and writing members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LIEUT-COLONEL	D.L.REDMAN, V.D.,	H.Q.,C.R.U.

Members.

Rank.	Name.	Regiment.
LIEUTENANT	C. BAYNUR,	1 C.A.S.C.R.U. att. 5 C.C.C., RCE?
LIEUTENANT	W.T. ROYES	6 C.C.C.,R.C.E.
LIEUTENANT	WAITING MEMBER. D.C.WESTAWAY,	7 C.C.C.,R.C.E.

*Signed [signature] Brigadier,
(J.P.ARCHAMBAULT)
Commanding "F" GROUP, C.R.U.
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-72931 PTE. MCCOY, JAMES PATRICK. 48 Highrs of C., C.T.S.	FIRST CHARGE. Sec. 15 (1) Army Act.	Guilty	Guilty Sentence To undergo detention for a period of forty (40) days and to be put under stoppages of pay to make good the sum of $3-12-3 the expenses of his apprehension 10 Dec 1942	Finding and Sentence Confirmed
	(See Charge Sheet attached)			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) (C. P. ARCHAMBAULT) Brigadier, *Commanding* "F" Group, C.R.U. *Confirming Officer (e)*

(Signed) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 10th day of December 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 10th day of December 1942.

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 10th day of December 1942.

C. P. ARCHAMBAULT, Brigadier,
Commanding "F" Group,
Cdn. Reinforcement Units.
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 11 December (Signed) Frank Barber 2/Lt
2 i/c C.T.S.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused No. B.72931 Pte. McCoy, James, Patrick, 48th Highrs. of C., posted to Administration Wing, Canadian Training School, a soldier of the Canadian Army Overseas, is charged with, when on Active Service

FIRST CHARGE
Sec. 15 (1)
Army Act.

Absenting himself without leave

in that he

at Havannah Barracks, Bordon, absented himself without leave at 2359 hrs., 20 November 1942 until he was apprehended at Blackpool, Lancs. by Cpl. Nowell, S., Corps Military Police at 1530 hrs., 2nd December 1942, thereby incurring expenses for transportation and escorts to the amount of three pounds, twelve shillings and threepence. (£3/12/3).

(C.W. DEWEY) Colonel, Ld. S.H.,
Commandant, Gun.Trng. School.

Havannah Barracks,
Bordon, Hants.
8th December 1942.

To be tried by Field General Court Martial.

(J.P. ARMSTRAULT) Brigadier, Commanding,
"P" GROUP, CDN. REINF. UNITS,
CONVENING OFFICER.

Brodon, Hants.,
9 Dec 42

CTS/113

MEDICAL OFFICER'S CERTIFICATE

I hereby declare that I have to-day examined:

No. B.72951, Pte. McCoy, James Patrick,

48th Highlanders of C./posted to C.T.S.

Regiment, XXXXXXXX/posted to Canadian Training School and certify that I found him Medically fit/~~unfit~~ to undergo trial by Court-Martial.

10 December, 1942

Bordon, Hants.

Capt., R.C.A.M.C., Medical Officer, Canadian Training School.

(To be signed in duplicate)

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT HAVANNAH BARRACKS BORDON. HANTS.
ON THE 10th. DAY OF DECEMBER. 1942.

The accused B.729.31. Pte McCoy T.P. Unit G.T.S.

The order convening the Court and charge sheet are laid before the Court who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court
The Medical Certificate is laid before the Court, signed by the President and attached to the proceedings.
The order convening the Court is read by the President and the accused having no objection to the President or any member of the Court, the Court is duly sworn.

The following constitute the Court:

President LT. COL. D.H. REDMAN Unit C.A.G. HIGHRS

Members LIEUT. G. BAYFORD Unit S.G.G.R.G.R. (CASEHU ATTD.)

LIEUT. W.T. BAYES Unit G.G.G.R. R.G.R.

The officers under instruction are duly sworn. LIEUT. D.C. WESTAWAY T.C.C.C. N.C.F.

Prosecutor Lieut. D.A. McKAY Unit 9 AW HT. (ATTD G.T.S.)

Defending Officer Capt. T.E. McBrown Unit K.S.L.I.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s).
The Summary of Evidence is read, signed by the President and attached to the Proceedings.
The Prosecutor is sworn and produces AFB 296 and MFM 6.
The Court complies with R.P. 46(B)

Pursuant to R.P.37 THE ACCUSED

(a) ~~makes a statement in mitigation of punishment~~
(b) ~~calls witnesses as to character or~~
(c) ~~calls witnesses in mitigation of punishment~~
(d) addresses the Court by his Defending Officer
(e) ~~or in person.~~

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

(Statement in mitigation of punishment by the Defending Officer attached hereto)

(To be signed by the President and attached to A.F.A.3 (over)

MMMcKol

FIELD GENERAL COURT MARTIAL of B.72931 Pte. McCoy, J.P.
48 Hlghrs. C./C.T.S.

PLEA OF MITIGATION:

The accused B.72931 Pte. McCoy, J.P. pleads:-

He is in debt to the Canadian Government to the extent of $500.00. His Part II Pay Book is held by the Provost Corps in London, but the Pay Office C.T.S. state that the above sum is approximately correct.

This matter was taken up at his last Court Martial, by the President of the Court, and the accused was bouyed up with the thought that his debt was going to be greatly reduced. The recommendation was turned down. He has $20.00 a month assigned to his mother in Toronto, Ontario and she is really in need of this assistance.

Under present circumstances if everything was to go in his favour, it will take between two and three years before he will be entitled to a full pay. This knowledge is very depressing, and the future looks so black he is convinced he can never get clear.

Would it please the Court to take into consideration the above facts. ~~and findings~~

J.J. McCrossan Capt.
RCR/C.T.S.

10 Dec. 42.

SUMMARY OF EVIDENCE

In the case of B.72951 - Pte. McCoy, James, Patrick, 48th Highrs of C. posted to Administration Wing, Canadian Trng. School, taken before Lieut. D.A. Mackay, A/Adjutant at Havannah Barracks, Bordon, Hants. on

7th December 1942

Summary of Evidence taken on Oath by order of the Commandant Canadian Training School

First Witness:

K.53321 L/Cpl. MOORE, Walter, Charles, Seaforths of Canada, posted to Administration Wing, Canadian Training School, having been duly sworn states:

"As N.C.O. i/c batman at Fernie quarters, C.T.S. Pte. McCoy worked under my instructions as a batman. On or about 6th Nov. 1942, Pte. McCoy was due for privilege leave. I (L/Cpl. Moore) O.K'd his application chit for the period from 13th Nov. 42 till 20th Nov. 42, before it was handed into the Orderly Room. The last time I saw Pte McCoy was the morning his leave commenced, 13th Nov. 42. Pte. McCoy did not report for duty at Reveille, 21st Nov. 42. I reported his absence to the Orderly Room. Pte. McCoy has not been seen by me at his normal place of work since the commencement of his privilege leave on the 13th Nov. 42".

Accused declines to question the witness.

L/Cpl. W.C. Moore
(K.53321 L/Cpl. Moore, W.C.
Seaforth of C/posted to CTS)

Second Witness:

B.88310 Sgt. Bigley, Gordon. Toronto Scottish Regiment (MG) posted to Administration Wing, Canadian Training School, having been duly sworn states:

"On or about 11th Nov. 42 I was acting in the capacity of Orderly Room Sgt. I handed Pte. McCoy J.P. a privilege leave pass, for the period commencing 0630 hrs., 13 Nov. 42 till 2359 hrs. 20 Nov. 42 signed by Lieut. W.A. Murray Asst/Adjut, C.T.S. The stub of which I now produce and recognise as being initialled by Lieut. W.A. Murray C.T.S. (This stub is marked Exhibit "A"). On the 21st Nov. 42 Pte. McCoy's pass had not been handed in to the guard room and passed down to the Orderly Room in the usual manner. I immediately reported to the Orderly Corporal that Pte. McCoy was absent from 2359 hrs. 20th Nov. 42

Accused declines to question the witness.

G. Bigley
(B.88310 Sgt. Bigley G)
Tor. Scot./ posted to CTS

Third Witness:

Lieut. W.A. Murray, Victoria Rifles of Canada, posted to Canadian Training School, Asst/Adjutant, C.T.S. having been duly sworn states:

"I received a certificate of apprehension for Pte. McCoy, J.P. the accused whom I now recognize, issued by the Military Police, Lancs. and Border District, dated 3rd Dec. 42 (This certificate is marked Exhibit "B") and an Expense Voucher showing costs of apprehension to be three pounds, twelve shillings and threepence, (£3/12/3) (This Voucher is marked Exhibit "C")

The accused declinces to question the witness.

Signed W.A. Murray
(W.A. Murray) Asst/Adjut.
Victoria Rifles of Canada.

The accused having been cautioned as follows, "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but what ever you say or any evidence you give will be taken down in wroting and may be given in evidence".

Declines to make any statement or give evidence.

signed J.P. McCoy
(B.73931 Pte. McCoy) J.P.
48th Highrs of C/ attd CTS

Bordon, Hants.
8th December 1942.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and in the hearing of the accused and that Rules of Procedure 4 C,D,E, and F, have been complied with, and that Rule

D.A. Mackay Lt
(D.A. Mackay) Lieut, Ger. List
A/Adjutant, Cdn. Trng. School

Mackay Lt

St. Cement of in the case of:-

EVIDENCE

No. B.72931 Pte. McCoy, J.,
48th Highlanders of Canada,
C.F.B., Bordon, Hants.

Sir,

At Blackpool, on 2nd. Dec. '42, at about 15.30 hrs., I was on duty in Chapel Street, where I saw the above-named soldier.

My attention was drawn to his untidy appearance and the fact that he had his hands in his pockets. I stopped him and asked him for his pass which he produced. His pass had expired on the 29th Nov. '42. I asked him if he was absent, and he replied, " Yes".

I arrested him and conveyed him to Squires Gate Camp, where I handed him over to the M.P. i/c Guard Room.

40a, Foxhall Road,
Blackpool.
3rd. Dec. '42.

D. Sewell S.I.
C. M. Police.

REMARKS

Exhibit "B"

CHARGE

Army Form B 252
(See King's Regulations)

48th Highlanders of Canada

Regiment / Battery / Squadron / Troop or / Company

CHARGE against No. 3.72931 Rank Pte.

Name McCoy, J.

Place Date of Offence

OFFENCE Whilst on Active Service.

1. Absent from until

apprehended by the Military Police, Blackpool

at about 15.30 hrs., in Chapel Street.

Names of Witnesses :— Cpl. Russell, S., C. M. Police.

Signature of O.C. Battery, Squadron, Troop or Company } H.G. Allen Capt. T.A.

Punishment Awarded }

By whom Awarded } Adjutant.

MILITARY POLICE
LANCS & BORDER DISTRICT
3 DEC 1942
D.L. O.C.D.L.

P.T.O

1005. Wt W34/20/1406 1,500,000 10/41 K & R. Ltd G67/147

Wam

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. B-72931 Rank Pte. Name McCry, J.P. Unit 48 Hig[illegible]

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit from~~ London from Blackpool

Date	Particulars	Amount		
5 Dec. 41	Escorts return fare from LONDON To Blackpool	1	14	10
	Prisoners single fare to LONDON From Blackpool		17	5
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		18	0
	Total £	3	12	3

statement of Expenses is Correct, and that the amounts are fair and just.

J/L Gerrie Lieut.

cer Issuing Railway Warrant and Expense monies
Provost Company, Canadian Provost Corps, London.

Exhibit "C"

W.A.M.

No. B72931 Name McCoy JP | "A" Sqn., Battery, or Company | Corps 48 Highrs | Date of enlistment 8/Sept39 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. EC Peckham Capt. | Character

M.F.M. 5 (A.F.B. 122) 173M—7-41 (1219-38) H.Q. 1772-39-1052

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barossa Bks	4/6/40	Pte.		AWL from 2230 hrs. 4/6/40 1700 hrs. 16/6/40. Total 11 days 15½ hours.	Lieut. IS Wallace CSM Church	27 days detention Released from the detention Barrack Aldershot on 13/7/40 on Sentence having expired. Remission earned under "Rules for Det. Barracks and Military Prison. 1 days Commandants Initials JRR 1 day remitted under Rule 129 Rules for Military detention Barrack & Military Prisons JRR	17 Jun 40	Lt.-Col. Keene	For. 12 days pay

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Th[illegible]e Field	17/7/40	Pte.		WOAS A.W.L. from roll call at 1500 hrs. 17/7/40 to 1800 hrs. 31 July 40 (339 hrs) A.A. 15(1)	CSM Church CPL Peddle	42 days detention & forgeits 42 days pay authy FR&I 149 1 (b) & 15 days pay authy FR&I 149 1 (a) Total Forfeiture ~~[illegible] days pay~~ ~~[illegible] days det.~~	2 Sept. 40	Field Gen. C.M.	Released from Detention Barrack Witley Jun 41 Sentence having expired Remission earned under rules for Det. Barracks and Mil. prison 35 days. Comman ants initials GB
Witley	9/9/40	Pte.		AWL from 9/10 Sept. 40 until 22 Nov. 40 A.A. Sec. 15 (1) Trying to escape AA Sec. 22 AWL from 1200 hrs. 5/1/41 until 1120 A.A. Sec. 15 (1) 26 Jan 41 ~~Dishonest to the Prejudice~~ A.A. Sec. 40 while in arrest.			12/3/41 For. 88 days pay FR&I Forfs 95 days pay FR&II Forfs 120 days pay FR'I 1 Total forf. 303 days pay DJ		

No. B72931 Name McCoy JP | Sqn., Battery, or Company | Corps 48 Highrs | Date of enlistment 9 Sept. 1939 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 112) 175M—7-41 (1219-39) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. EC Peckham Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley	17/6/41	Pte.		Before a F.G.C.M. WOAS AWL 2200 hrs. 17/6/41 until apprehended by MP at 2345 hrs. 19/8/41 (63 days 1 hr. 15 mins) AA Sec. 15 (1)		90 days detention 5/11/41 FGCM Released from the detention Barrack Witley on Jan 3 1942 Sentence having expired. Remission earned under "Rules for Det. barracks and Military Prisons" 30 days Commandants initials GB		J. Riden Lieut.	Forf. 163 pay
Algonquin	8/1/42			AWL from 2359 hrs. 8/1/42 till 1145 hrs. 19/1/42 total 10 days 11 hrs. min.45 A.A. Sec. 15 (1)	Documentary	Forf. 28 days Cost of apprehension £1/17/7	Or. pay 26/1/42	WW Sleak Lt.-col	For. 11 dys pay FRI&I 149 1 (a) EGR

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Algonquin	10/2/42	Pte.		WOAS an act to the prejudice of refusing to obey an order given by a superior officer. A.A. Sec. 40	CSM Toussaint	14 days CB forfeits 14 days pay	12-2-42	NW Slack Lt.-col	
Algonquin	2-3-42			WOAS AWL from 2200 hrs. 2-3-42 until 2130 hrs. 5-3-42 AA Sec. 15 (1)	Documentary Cpl. Butt G Cpl. Simmons	14 days CB	23-4-42	NW Slack Lt.-col	3 days pay reg. 14 days FO pay
Rowlands Castle	18-5-42	Pte.		Sec. 15 (1) AWL from 2359 hrs. 18 May 42 until apprehended at 0205 hrs. 2 June 42 (14 days 2 hrs 5 mins)	6 days detention and stoppages of pay to cover cost of appr. of £3/4/3.	FGCM	10/7/42	FGCM	For. 6 days pay under FR&I 149 (1 (b) for. 39 days payunder FR&I 149 (1)(c)(ii) total Forf. 59 days pay.
Bordon Hants	20/9/42	Pte.		Sec. 15 (1) AA AWL from 1000 hrs. 20-9-42 until his return at 0900 21-9-42 (23 hrs.)	Documentary	7 days CB for. 1 days pay		Major Stuart Robertson	

Certified true copy.

ADJUTANT
CANADIAN
TRAINING SCHOOL
DEC 8 1942

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B.72931 Pte. McCoy JP of the 48th Highrs of C posted to CTS

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.		*Since Enlistment.	
For A.A. Sec. 15 (1)	2	times	1	times.
For ~~A.A. Sec. 22~~		times	1	times.
For A.A. Sec. 40	1	times	1	times.
For		times		times.

Number of instances of gallantry or distinguished conduct, NIL

~~OR~~

~~There are no entries in the Conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted,~~

~~OR~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. 43648/664 50,000 2/40 W. S. Ltd. 51—6004

Brockman Capt

3. ~~The accused is not under sentence at the present time.~~
The accused is not under sentence at the present time

or,

~~The accused at the present time is under sentence for~~ .....
~~beginning on the~~ ..... ~~day of~~ .....

4. The accused has been in confinement, awaiting trial on the present charges

for NIL days in Civil Custody,

and 7 days in Military Custody.

Total 7 days.

Of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24 yrs. 3 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 9 Sept. 39

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~ .....

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs. 3 mths. years' service.

9. The accused is entitled to reckon 3 yrs. 3 mths. years' service for the purpose of determining his pension, &c.

10. ~~The accused is in possession of, or entitled to, no military decoration or military reward (or is in possession of or entitled to~~ .....

11. (*If the accused is a warrant officer.*) ~~The accused before he was made a warrant officer last held the regimental rank of~~ .....

12. (*In the case of an officer.*) ~~The accused holds in the army the rank of~~ ....., ~~dated~~ ....., ~~and in his regiment (or corps or department) the rank of~~ ..... ~~dated~~ .....

13. ~~The accused has served as a non-commissioned officer continuously without reduction, to the present date.~~

			Date of Promotion
In the rank of	,	years	.....
In the rank of	,	years	.....
In the rank of	,	years	.....

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name B.72031 Pte. McCoy James, Patrick of the 48th Highrs of C. posted to C.T.S.

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
FIELD GENERAL COURT MARTIAL	17th July 1940 In the Field	A.A. Sec. 15 (1)	57 days for. of pay 42 days Detention	35 Days
Field General Court Martial	12th March 1941 Witley	AWL Sec. 15 (1) A.A Sec. 22 A.A. Sec. 40 AWL Sec. 15 (1)	120 days detention 303 days for. of pay	
Field General Court Martial	17 June 1941 Witley	AWL Sec. 15 (1)	153 days for. of pay 90 days Detention	30 days
Field General Court Martial	15 May 1942 Rawlands Castle	AWL A.A. Sec. 15 (1)	59 days forf. of pay 6 days det.	

(Continued overleaf.

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th December day of 1942

D. A. Mackay Lieut

(D.A. Mackay) Lieut, General List.
A/Adjutant, Cdn. Trng. School.

To

Commandant,
Canadian Training School.

With reference to my pending trial by Field General Court-Martial.

(a) xxxx

B-72931 Pte. McCoy, J.P.
No.1 Cdn Inf Hldg Unit

Orig

Army Form A.3.

Correspondence to be PINNED here.

PROCEEDINGS REVIEWED

31/12/41

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 30th day of October, 19 41

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~XXXX

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-72931 PTE. McCOY, J.P. No.1 Cdn Inf Hldg Unit.	First Charge A.A. sec 15(1) See charge sheet attached.	Guilty	Guilty To undergo detention for ninety days (90)	Confirmed [illegible] Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [illegible] Brigadier (Signed) [illegible] Major
Commanding Cdn Base Units.
Convening Officer (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
* Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the fifth day of November 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~) ucf
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this fifth day of November 1941.

[illegible]
President of the Court Martial.

C. Certificate in case of death sentences. ucf

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~ ucf

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 11th day of November 1941.

[illegible] Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of B-72931 Pte.McCoy J.P.

(a) (Dated) 14 Nov.41 (Signed) [illegible]
Commanding
No. 1 Cdn. Inf. Holding Unit, C.A. (O)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(12750) Wt. 46143—893 (96) m 8/40 F.S. G.500

CHARGE-SHEET

The accused, B-72931 Pte. McCoy, J.P. (The 48th Highlanders of Canada) on the strength of No. 1 Canadian Infantry Holding Unit as a reinforcement, a soldier of the Canadian Army (Overseas), is charged with:-

When on Active Service, absenting himself without leave--

First Charge
Sec 15(1)
Army Act

in that he,

at Algonquin Camp, Witley, Surrey, absented himself without leave from 2230 hrs. 17 June 1941, until he was apprehended by the military police at Liverpool at 2345 hrs. 19 August 1941.

L.W.W. Slack .....Lt.-Col.
(L.W.W. Slack) Officer Commanding,
No. 1 Cdn. Infantry Holding Unit.

Witley, Surrey,
27 October 1941.

To be tried by Field General Court Martial

F.R. Phelan
(F.R. Phelan) Brigadier
Commanding Cdn Base Units.

Farnborough, Hants
This 30th day of Oct 41.

Jones
major

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT WITLEY, Surrey ON THE 5th DAY OF NOV 41.

TRIAL OF:- No. B-72931, PTE J.P. McCOY, 1 CIHU.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lt. F.S. Weatherston, (Unit) 1 CIHU.

Defending Officer:- (Name) Lt. H. Cassells, (Unit) 1 CIHU

At 1100 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1- No, sir.

The President, members and judge-advocate (if any) are duly sworn.

The officers under instruction are duly sworn.

Q2. ~~Do you object~~ ~~Acting as shorthand writer~~

A2.-

~~The shorthand writer is duly sworn~~

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Q3. Do you wish to make any statement in mitigation of punishment?

A3.-No, sir.

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4.- No, sir.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER.

Defending Officer stated he was called in at last moment to defend the accused. Accused, questioned by Court, expressed desire to proceed with case. Defending Officer asked Court to bear in mind limited time in which to prepare case. Requests leniency on ground that accused had stated that his reason for going AWL was because he felt that whenever he asked for a pass he seemed to be "baulked" and had been ill on several occasions and not felt "up to scratch." Upon completion of sentence would like transfer Engineers. Questioned by Court, accused stated he had done a "little bit of engine work but no qualifications." Glass cutter in civil life. Again questioned by Court, accused stated he did not know why he joined army.

Prosecutor, sworn, produced AF B-296 and copy MFM-6.

.....Major.....

President of Court Martial

SUMMARY OF EVIDENCE

In the case of No. B-72931 Pte. McCoy, J.P. (The 48th Highlanders of Canada) No. 1 Canadian Infantry Holding Unit.

By direction of the Commanding Officer, the Evidence is taken on Oath.

1st Witness — Lieut. A.M. Hueston, Officer i/c Records, No. 1 Cdn. Infantry Holding Unit, having been duly sworn, states:

I am Officer i/c Records, No. 1 Cdn. Infantry Holding Unit, and as such produce the following documents in evidence:

1. Certified true copy of the Record of the Declaration of a Court of Inquiry, declaring that the accused absented himself without leave at Algonquin Camp from 2230 hrs. 17 June 1941.

2. Part II D.O. No. 240, dated 25 October 1941, No. 1 Cdn. Infantry Holding Unit, showing that the accused was apprehended in Liverpool at 2345 hrs. 19 August 1941.

A.M. Hueston .....Lieut.
(Officer i/c Records)
No. 1 Cdn. Infantry Holding Unit.

(The accused declines to cross-examine this witness)

The accused having been duly cautioned in accordance with Rule of Procedure 4 (e) reserves his defence.

Certified that Rule of Procedure 4 (c), (d), (e), and (f) has been complied with.

Taken down by me in the presence and hearing of the accused this 17th day of October 1941.

R.S. Wheatley .....Lieut.
(Officer taking the Summary)

Major

MEDICAL OFFICER'S CERTIFICATE

I certify that this day I have examined No. B-72931 Pte. McCoy, J.P. , and find him fit to stand trial by Court-Martial.

H C Johnson Capt
Medical Officer,
No. 1 Cdn. Inf. Holding Unit

Witley, Surrey,
5 November 1941

H C Johnson Capt
Nov 5 '41.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Camp 101, Witley, on the 10th day of July 1941, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 72931 Pte. McCoy, J.P. (48th Hrs. of C.)

DECLARATION.

The Court declare, that B-72931 Pte. McCoy, J.P. illegally absented himself without leave at 2230 hrs. 17th June 1941, and that he is still so absent; and that on 17th June 1941 he was deficient and is still deficient the following articles of kit:

		£	S	D
Anklets, webb	1 pr.	0	4	4
Badges, cap	1	0	1	9
Brushes, shaving	1	0	1	2
" tooth	1	0	0	5
Forks, table	1	0	0	4½
Knife, "	1	0	0	10
Razor	1	0	0	5½
Spoon, table	1	0	0	4½
B.D. Blouse,	1	1	2	6
B.D. Trousers	1	1	0	6
Shorts, P.T.	1	0	2	1
Helmet, steel	1	0	7	0
Tins, mess	1	0	2	3
Container, A.C.	1	0	4	3
Eyeshields	6	0	2	3
Facepiece	1	0	7	6
Haversack	1	0	4	7

		£	S	D
Ointment, A.C.	2	0	1	6
Outfits, A.C.	1	0	0	2½
Wallet, A.C.	1	0	0	9
Total		£4	5	1

Names of President and Members

President: Capt. G. L. Charlebois (Alg. Regt. #1 C.I.H.U.)
Members: Lieut. J.B. Hamilton (R.C.R.)
Lieut. T.P.L. McGivern (R.R. of C.)

Signature of Commanding Officer D.C. Cameron, Maj (signed) for the Commanding Officer

CERTIFIED TRUE COPY.

G. McQueston Lt

Signature of Officer having custody of the Original Record.

(12281) Wt.54318/1623 75,000 10/39 A.& E.W.Ltd. Gp.698
(11463) Wt.45722/700 225,000 1/40 " " Forms/B115/54

LAST ORDER
No. 239
24 OCT 41
SHEET ONE

No. 1 CANADIAN INFANTRY HOLDING UNIT
DAILY ORDERS PART II
ISSUED BY
LT-COL. L.W.H. BLACK, M.C., V.D.,
OFFICER COMMANDING

THIS ORDER
No. 240
25 OCT 41
SHEET ONE.

SECTION "A" - OFFICERS

1. STRENGTH INCREASE

Lieut D.O. SCHLEIHAUF,(RCR), T.O.S. from RCR Field Unit on admission to hosp w.e.f. 19 Oct 41 and posted to RCR Coy. (Auth: RCR D.O. 66 dated 24 Oct 41.)

2. ATTACHMENTS

Lieut A. MITCHELL (RCR
Lieut K.R. DARGAVEL (RRegtC)
The a/m officers are attached for all purposes as Weapon Training Officers to HQ Cdn Corps w.e.f. 24 Oct 41. (Auth: AGH 4-O-TRNG)

Lieut E.H. SHUTER (RCR)
Lieut G.A. FRASER (48th)
The a/m officers are attached for all purposes as Weapon Training Officers to HQ 1st Cdn Div w.e.f. 24 Oct 41 (Auth: AGH 4-O-Trng.)

Lieut H.H. GARRETT (RRegtC)
Lieut L.J. CURTIN (EG)
The a/m officers are attached for all purposes as Weapon Training Officers to HQ 2nd Cdn Div w.e.f. 24 Oct 41. (Auth: AGH 4-O-Trng.)

3. HOSPITALIZATION

Lieut D.P. SCHLEIHAUF(RCR), admitted to No. 5 Gen Hosp w.e.f. 18 Oct41

SECTION "B" - OTHER RANKS

4. STRENGTH INCREASE

A-3594 Pte BRUSH, C.O. (RCR), T.O.S. from RCR Field Unit on admission to hosp w.e.f. 16 Oct 41 and posted to RCR Coy. (Auth RCR D.O. 66 dated 24 Oct 41.)

D-37599 Pte COFFEY, S.S. (HQ), ceases to be attached for all purposes on being T.O.S. from RHLI Field Unit w.e.f. 14 Oct 41 (Cat "C2" and posted to H.Q. Coy. (Auth: RHLI D.O. 65 dated 17 Oct 41.)

C-4554 Pte COOK, G.T. (HPE), ceases to be attached for all purposes on being T.O.S. from HPE Field Unit w.e.f. 10 Oct 41 and posted to HPE Coy . (Auth: HPE D.O. 54 dated 24 Oct 41.)

A-3337 Pte DALY, R.C. (RCR), T.O.S. from RCR Field Unit on admission to hosp 17 Oct 41 and posted to RCR Coy. (Auth: RCR D.O. 66 dated 24 Oct 41.)

A-3761 Pte GORDON, R.A. (RCR), T.O.S. from RCR Field Unit on admission to hosp w.e.f. 20 Oct 41 and posted to RCR Coy. (Auth: RCR D.O. 66 dated 24 Oct 41.)

D-37378 Pte HEYWOOD, D.R. (RHLI), T.O.S. from RHLI Field Unit on admission to hosp w.e.f. 10 Oct 41 and posted to RHLI Coy. (Auth: RHLI D.O. 65 dated 17 Oct 41.)

A-6012 Pte KUNNING, D. (RCR), T.O.S. from RCR Field Unit on admission to hosp 16 Oct 41 and posted to RCR Coy. (Auth RCR D.O. 66 dated 24 Oct 41.)

4. STRENGTH INCREASE(CONTINUED)

C-4804 Pte RAYNOR, W. (HPE), T.O.S. from H.P.E. Field Unit on admission to hosp 17 Oct 41 and posted to HPE Coy. (Auth: HPE D.O. 54 dated 24 Oct 41.)

C-4584 Pte RUPNOW, A.E. (HPE), ceases to be attached on being T.O.S. from HPE Field Unit w.e.f. 10 Oct 41 and posted to HPE Coy. (Auth: HPE D.O. 54 dated 24 Oct 41.)

A-3311 Pte SHUKER, D.P. (RCR), ceases to be attached for all purposes on being T.O.S. from RCR Field Unit and posted to RCR Coy. (Shown in D.O. 238 as S.O.S.) (Auth: RCR D.O. 66 dated 24 Oct 41.)

5. AMENDMENTS (STRENGTH INCREASE)

D-73789 Pte BRETT, W.L. (HQ)
D-73767 Pte McDONALD, A.E. (48th)
Pt II D.O. 175 (4) dated 5 Aug 41 insofar as it relates to the a/m personnel is amended to read"w.e.f. 7 Jul 41."

Pt II D.O. 195 (4) dated 8 Sep 41 insofar as it relates to D-72931 Pte McCOY, J. . (48th) is amended to read "T.O.S. 19 Aug 41 on apprehension as a deserter at 2345 hrs 19 Aug 41 in Liverpool.

6. STRENGTH DECREASE

A-3080 Pte SHORT, L.L.(RCR), S.O.S. on transfer to RCE and posted to No. 1 Engineers Holding Unit w.e.f. 25 Oct 41 (Auth: CIHQ 10/Short L/1 AG 3b dated 30 Sep 41.)

7. ATTACHMENTS

D-89076 Pte BAILEY, W.H. (RHLI), ceases to be attached for all purposes to No. 1 Rd. Const Coy w.e.f. 25 Oct 41.

C-5002 Pte BAY, D.H. (HPE), ceases to be attached to 2nd Bn RCE for all purposes on admission to hosp w.e.f. 17 Oct 41.

D-36718 Sgt SIMSON, F. (RHLI), attached for all purposes on ceasing to be attached to 2nd Bn RCE for all purposes w.e.f. 24 Oct 41.

8. AMENDMENTS (ATTACHMENTS)

Pt I D.O. 238 (4)dated 23 Oct 41 insofar as it relates to D-89047 Pte RUSH, W.G. (RHLI) is amended to read "D-89047 Pte RUST, W.G."

Pt II D.O. 226 (7) dated 12 Oct 41 insofar as it relates to D-36718 Sgt SIMSON, F. is amended to read "ceases to be attached to No. 1 CIHU for all purposes on being attached to 2nd Bn RCE for all purposes w.e.f. 11 Oct 41."

9. APPOINTMENTS

A-3340 Pte DENOIR, H.J. (RCR), to be appointed L/Cpl with pay w.e.f. 23 Oct 41.

10. HOSPITALIZATION

Admissions

A-3594	Pte BRUSH, C.O. (RCR)	# 5 Cdn Gen	15 Oct 41
A-3337	Pte DALY, R.C.(RCR)	ditto	16 Oct 41
A-3781	Pte GORDON, R.A. (RCR)	ditto	19 Oct 41
D-37370	Pte HEYWOOD, D.R. (RHLI)	#15 Cdn Gen	9 Oct 41
A-6012	Pte KUNNING, D. (RCR)	# 5 Cdn Gen	15 Oct 41
A-4804	Pte RAYNOR, W. (HPE)	ditto	16 Oct 41
C-5002	Pte MAY, D.N. (HPE)	#15 Cdn Gen	16 Oct 41
D-67106	Pte SPROWELL, W. (HQ)	ditto	24 Oct 41

Discharges

D-74834	Pte KINDRED, J.W. (48th)	# 2 CHC	24 Oct 41
C-5779	Pte MACDONALD, J.A. (HPE)	ditto	24 Oct 41
C-5002	Pte MAY, D.N. (HPE)	#15 Cdn Gen	24 Oct 41
C-5655	Pte SHARMAN, W.J. (HQ)	ditto	24 Oct 41

11. AMENDMENTS (HOSPITALIZATION)

Pt II D.O. 239 (10) dated 24 Oct 41 insofar as it relates to D73470 Pte SPARKE, E. (48th) is amended to read "D-73470 Pte SPARKS, E.E."

Pt II D.O. 226 (10) dated 11 Oct 41 insofar as it relates to D73470 Pte SPARKS, E. (48th) is amended to read "D-73470 Pte SPARKS, E.E."

12. TRANSFERS

A-34044 Sgt DASSIL, H., transferred from No. 1 Cdn Infantry Holding Unit (P.E.) to Essex Scottish Regt and posted to E.S. Coy as a reinforcement w.e.f. 20 Oct 41 (Auth CMHQ 6/HOLD/1 AG 3b dated 3 Oct 41 CDU 6-0-TRAN)

D-88765 A/Sgt HUMBARD, E.R.
D-88766 A/Sgt SEWELL, A.H.
The a/m NCOs transferred from No. 1 Cdn. Infantry Holding Unit (P.E.) to Royal Regiment of Canada, and posted to RRegtC Coy, as reinforcements w.e.f. 20 Oct 41. (Auth: CMHQ 6/HOLD/1 AG 3b dated 3 Oct 41 CDU 6-0-TRAN)

13. REPOSTINGS

The u/m NCOs are reposted to I Wing (PE) as Assistant Instructors w.e.f. 21 Oct 41.:

A-34044 Sgt DASSIL, H. (ES)
D-88765 A/Sgt HUMBARD, E.R. (RRegtC)
D-88766 A/Sgt SEWELL, A.H. (RRegtC)

C-4658 Pte MAXWELL, H. (HQ P.E.), to be reposted to HPE Coy as a reinforcement.

C-5375 Pte MAXWELL, S.H. (HPE) to be reposted to Permanent Estab. H.Q. Coy to complete Transport Section Establishment.

D-88757 Pte SPRINGER, M. (48th), reposted to H.Q. (P.E.) supernumerary to Establishment as Military Helper (Aux Services) w.e.f. 21 Oct 41.

D M McGhosin Capt.
for (W.O. Stockdale) Adjutant.
No. 1 Cdn. Infantry Holding Unit.

WAIVER

I, No. B-72931 Pte. McCoy, J.P. (48th Highlanders of Canada) having full knowledge that, under Rule of Procedure No. 89, I am entitled to seven days' notice of my trial if the officer prosecuting has legal experience,

HEREBY WAIVE MY SAID RIGHTS.

J. P. McCoy

Witley, Surrey,

I, No. B-72931 Pte. McCoy, J.P. desire to have an officer assigned by the Convening Officer to represent me at my trial by Court-Martial.

I desire the services of Lieut. B.M. McLean (NS & PE) if he is available.

J. P. McCoy

Witley, Surrey,
27 October 1941

RB

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B-72931 Pte. McCoy, J.P. of the 48th Highlanders of Canada.

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1905.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For Absence without leave	0 times	1 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

Nil.

or,

~~There are no entries in the Conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted,~~

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. 20848-684 50,000 2/49 W. S. Ltd. 51—4604

Major

3. The accused is not under sentence at the present time,

or,

~~The accused at the present time is under sentence for~~

~~beginning on the ..... day of~~

4. The accused has been in confinement, awaiting trial on the present charges

for 0 days in Civil Custody,

and 75 days in Military Custody.

Total 75 days.

Of which 57 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper is 23 years

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 9 September 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 25 months.

8. The accused is entitled to deferred pay or gratuity in respect of 25 months ~~years'~~ service.

9. The accused is entitled to reckon 25 mos. ~~years'~~ service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or* is in possession of *or* entitled to

Nil

]

~~11. (*If the accused is a warrant officer.*) The accused before he was made a~~ warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

			Date of Promotion.
In the rank of	,	years,	
In the rank of	,	years,	
In the rank of	,	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the ~~president, and annexed to the proceedings.~~

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name B-72931 Pte. McCoy, J.P. of the 48th Highlanders of Canada

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
Field General Court Martial.	2 September 1940	W.O.A.S. absent without leave from roll call at 1500 hrs. 17 July 1940 to 1800 hrs. 31 July 1940. (339 hrs.) A.A. Sec. 15(1).	42 days detention. Total forfeiture of 57 days pay.	
Field General Court Martial	Witley, Surrey. 12 March 1941.	1. A.W.L. from 9 and 10 September 1940 until 22 November 1940. A.A. Sec. 15-1 2. Trying to escape. A.A. Sec. 22. 3. A.W.L. from 1200 hrs. 5 January 1941 until 1120 hrs. 26 January 1941 while in arrest. A.A. Sec. 15(1) 4. Conduct to the prejudice---. A.A. Sec. 40.	120 days detention. Total forfeiture of 303 days pay.	35 days.

(Continued overleaf.

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of November, 1941.

G. M. Preston Lieut.
(Officer i/c Records)
No. 1 Cdn. Infantry Holding Unit.

No. 72931 Name Mc.Coy, J.P. "A" Company 48th Highlanders of Canada Corps

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment 9/9/39 | G.C. Badges | Sheet No. | Signature O.C. Company, etc. | Service or Proficiency Pay | Character

M.F.M. 6 (A.F.B. 123) 30GH—8-39 (1703) H.Q. (77)-49-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barossa Bks.	4-6-40	Pte.	-	A.W.L. from 2230 hrs. 4-6-40 - 1700 hrs. 16/6/40. Total 11 days 18½ hrs.	Lieut. J.S. Wallace. CSM Church	27 days detention	17 June 40	Lt.-Col. Keene	Forfeits 12 days pay.
						RELEASED from the DETENTION BARRACK ALDERSHOT on 13.4.40. SENTENCE HAVING EXPIRED. Remission earned under "Rules for Detention Barracks and Military Prisons" 1 days. Cmdnts. initials "J.R.H."			
							1 day remitted under Rule 129-- Rules for Military Detention Barracks and Military Prisons. "J.R.H."		

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	17 July 40	Pte.	-	W.O.A.S. absent without leave from roll call at 1500 hrs. 17 Jul 40 to 1800 hrs. 31 Jul 40 (339 hrs.) A.A. - 15(1)	CSM Church Cpl. Peddle	42 days detention and forfeits 42 days pay. authy. F.R.I. 149(1)(b) and 15 days pay. authy. F.R.I. 149(1)(a). Total forf. 57 days pay.	2.9.40	F.G.C.M.	RELEASED from the DETENTION BARRACK Witley on June 4 1941. SENTENCE HAVING EXPIRED. Remission earned under "Rules for Detention Barracks and Military Prisons" 35 days. Cmdnts. init."GR"
				CERTIFIED TRUE COPY: G. M. Hueston Lieut. (Officer i/c Records) #1 C.I.H.U.					
Witley	9/10/ 9/40	"	-	1) A.W.L. from 9/10 Sept. 40 until 22 Nov. 40 A.A. Sec.15-1 2) Trying to escape. A.A. Sec.22 3) A.W.L. from 1200 hrs. 5 Jan. 41 until 1120 A.A. Sec. 15-1 26 Jan 41 while in arrest. 4) Conduct to the prej. A.A. Sec. 40.		120 days detn.	12-3-41	F.G.C.M.	
						Forf. 88 days pay F.R.I. (1)(c)			
						" 95 " " " (1)(a)			
						" 120 " " " (1)(b)			
						Total Forf. 303 days pay. "D.I."			

H.Q.C. 55-M-1619 CONFIDENTIAL

H.F.B. 2078
HSM—4-41 (9625)
H.Q. 201-1-48

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

MEIER. JOSEPH L.602245 PTE.

CONFIDENTIAL
H.Q.C.55-M-1619

CENTRAL REGISTRY	DATE	F.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
MAR 29 1945	[illegible]	[illegible]		[illegible]	NEW FILE	C.R.	MAR 26 1945
				JAG			
APR 12 1945	12 4/45	[illegible]	[illegible]	D.C.M.	To note, [illegible]	mm	11-V-45

(If space for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1619 (JAG/D-9)

11 Apr 45.

District Officer Commanding,
Military District No.2,
Toronto, Ont.

Standing Court-Martial
L-502245 - Pte. Joseph MEIER,
(Mid. Regt) No. 2 District Depot, C.A.

Receipt is acknowledged of your T-20-M-21115 (AJAG) dated 9th April 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

Noted
L.H. Clayton
L. H. CLAYTON
Lieut.-Colonel
Inspector of Courts-Martial
APR 12 1945

/ET

EKM
Capt
for (R.J.Orde) Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE No. T-20-M-21115 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

305663

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
9th April, 1945.

CENTRAL REGISTRY Army
CONF. SEC.
APR 10 1945
File C 556 - M - 1619
Chgd. to
Referred to JAG

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
L-602245 - Pte. Joseph MEIER,
(Mid. Regt) No. 2 District Depot, C.A.

Reference H.Q.C.55-M-1619 (JAG/D-9) dated 29th March, 1945.

2. Returned herewith proceedings of the marginally-noted Standing Court-Martial, pursuant to C.A.R.O. 4567(7)(C)(e).

3. Pursuant to H.Q.55-1-41 F.D.74 (Adm) dated 16th January, 1945, it is considered that no administrative action is necessary.

(A. E. Potts)
Major-General

D.O.C. M.D. 2.

NAT. DEF. 8 440
2500M-6 49 (4305)
H.Q. 1772-09-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont.,

on the 5th day of March, 1945 at 10:15 hours.

for the trial of: L.602245, Pte. Joseph MEIER,
Number Rank Full Name

(Mid. Regt.) No. 2 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major W. P. McClement, E.D., (A&SH) H.Q., M.D.2.

PROSECUTOR: Major N. M. Menzies, E.D., H.Q., M.D.2.
Rank Full Name Unit Attachment, if any

~~PRISONER'S~~ DEFENDING OFFICER: Lt. R. G. Davidge (RR of C) attd No. 2 D.D., C.A.
Rank Full Name Unit Attachment, if any

FINDING: Not guilty of desertion, but guilty of absence without leave.

SENTENCE: To undergo detention for 90 days, and to be put under stoppages of pay until he has made good the sum of $20.25 in respect of the cost of apprehension and return to his corps.

Signed at Toronto, Ont., this 5th day of March, 1945.

W P McClement (Major)
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 36399 in Vol. ... Record of Courts-Martial kept in the Office of the Judge Advocate-General this 28 day of March 1945

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont.,

on the 5th day of March, 1945 at 10:15 hours,

for the trial of: L.602245, Pte. Joseph MEIER,
Number Rank Full Name

(Mid. Regt) No. 2 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major W. P. McClemont, E.D., (A&SH) H.Q., M.D.2.

PROSECUTOR: Major N. M. Menzies, E.D., H.Q., M.D.2.
Rank Full Name Unit Attachment, if any

~~OFFICER~~ DEFENDING OFFICER: Lt. R. G. Davidge (RR of C) att'd No. 2 D.D., C.A.
Rank Full Name Unit Attachment, if any

FINDING: Not guilty of desertion, but guilty of absence without leave.

SENTENCE: To undergo detention for 90 days, and to be put under stoppages of pay until he has made good the sum of $20.25 in respect of the cost of apprehension and return to his corps.

Signed at Toronto, Ont., this 5th day of March, 1945.

W.P. McClemont (Major)
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 36399 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 28 day of March 1945

Forms of Oaths and Declarations

Oaths

Shorthand Writer

You swear by Almigthy God that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the Court a true transcript of the same.

Answer: I do.

Interpreter

You swear by Almighty God that you will to the best of your ability truly interpret and translate, as you shall be required to do, touching the matter before this court-martial.

Answer: I do.

Witness

You swear by Almighty God that the evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth.

Answer: I do.

Solemn Declarations

The form of declaration will be the same as the form of oaths except that for the words "You swear by Almighty God" will be substituted the words "You (name in full) do solemnly promise and declare"; and that the words "solemnly promise and declare" will be substituted for the word "swear" wherever it occurs.

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter?~~

Answer:

Question to the accused. Do you object to M.36367, SM R. Gostick, No. 2 Det., CMSC, CA, HQ, MD 2, acting as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or by a Court-Martial?~~

Answer: No, sir.

The accused is arraigned upon ~~the~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

5

B-2
W. P. McClement
Pres & C. Maj.

CHARGE SHEET

The accused, No. L-602245, Private Joseph MEIER, (Mid.Regt), No. 2 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:-

CHARGE
Sec. 12 (1) (a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE:

- in that he -

at Toronto, Ontario, on the 4th day of January, 1945, absented himself from the Midland Regiment, C.A., at 1200 hours, on said 4th day of January, 1945, until he was apprehended by the Civil Authorities, at Portreeve, Saskatchewan, at 1415 hours, on the 19th day of February, 1945, dressed in civilian clothes, costs of apprehension and return to No. 2 District Depot, C.A., being Twenty Dollars and Twenty-five Cents, ($20.25).

G. H. Greenwood Colonel
Officer Commanding,
No. 2 District Depot, C.A.

Toronto, Ontario,
28th February, 1945.

W.P.M.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. No. B.58203, Pte. (A/L/Cpl.) R. N. HEWER, H.W.E., No. 2 District Depot, C.A.,

being duly sworn, is examined by the Prosecutor.

Question

Q Cpl. Hewer, what is your position in No. 2 District Depot?

A Sir, I am an N.C.O. of the Home War Establishment.

Q Do you know the accused?

A I recognize Pte. Meier, sir.

Q Have you any information to give the Court regarding the accused?

A Yes, sir. I produce a certified true extract of Daily Part II Order No. 24, dated 27th of January, '45, of No. 2 District Depot, C.A., Toronto, Ont., certified true extract, J. J. Eyles, Captain & Adjutant, No. 2 D.D.

Q To whom does that refer?

A The accused, sir.

THE PRESIDENT: (To Def. Off.) Any objection to this document?

THE DEFENDING OFFICER: No, sir.

(Certified true extract from No. 2 DD Pt II Ord 24, 27 Jan 45, is marked Exhibit "F," sgnd by the President, read, and att'd to the proceedings.)

THE WITNESS: (Cont'd) I further produce M.F.M. 215, being certificate of arrest, signed by Constable R. R. Engel, in charge of Leader Detachment.

Q Of what, R.C.M.P.?

A R.C.M.P., sir.

Q To whom does that document refer?

A The accused, sir.

THE PRESIDENT: (To Def. Off.) Any objection?

THE DEFENDING OFFICER: No, sir.

(M.F.M. 215 is marked Exhibit "G," sgnd by the Pres., read, and att'd to the proceedings.

THE WITNESS: I further produce M.F.B. 1481, being certificate of transportation in the amount of $9.10, signed by Lt. G. L. Brechin, officer issuing transport warrant.

Q To whom does that document refer?

A The accused, sir.

THE PRESIDENT: (To Def. Off.) Any objection to this document?

THE DEFENDING OFFICER: No, sir.

(MFB 1481 dated at Maple Creek, Sask., 19 Feb 45, is marked Exhibit "H," sgnd by the President, read, and att'd to the proceedings.)

THE WITNESS: (Cont'd) I also produce M.F.B. 1482, being certificate of incidental expenses in the amount of $11.15, signed by L/Cpl. Randall, E. E., escort for the accused.

Q And to whom does that document refer?

A The accused, sir.

THE PRESIDENT: (To Def. Off.) Any objection to this document?

THE DEFENDING OFFICER: No, sir.

(MFB 1482 dated at Maple Creek, Sask., 21 Feb. 45, is marked Exhibit "I," sgnd by the Pres., read, and att'd to the proceedings.)

THE WITNESS: (Cont'd) That is all the evidence I have, sir.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE.

THE WITNESS WITHDRAWS.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. On oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

First Witness for the Defence

The Accused, No. L.602245, Pte. Joseph MEIER, (Mid. Regt) No. 2 District Depot, C.A., being duly sworn, is examined by the Defending Officer:

Q Pte. Meier, where are you stationed at the moment?

A Exhibition Grounds, No. 2 District Depot.

Q What is your unit?

A Midland Regiment, sir.

Q What were your reasons for going home? I mean, the reasons why you went home in the first place?

A Well, I had a furlough attached to embarkation leave, sir.

Q When your furlough was up, why didn't you report back to your unit?

A Well, sir, the folks I was staying with, they moved to town until spring, and she has got no other place to go to; and she is in poor health; and I couldn't leave at the present time. So, I prepared her stuff to get ready so that she could move at the first opportunity; and while I was doing that they picked me up. And I also helped the father-in-law on his farm while being absent.

Q Why couldn't you move right away?

A Well, sir, the roads were all closed up, and I couldn't move with nothing.

Q Why were the roads closed up?

A Blocked with snow, sir.

Q You stated that you were in civilian clothes when you were picked up. Can you give any reason why you were in civilian clothes?

A Yes, sir.

Q Will you tell the Court, please?

A Well, I was in civilian clothes on account of getting

it torn and dirty and hav e to pay for them; because I was doing farm work. I might have torn them and had to pay for them when I came back.

Q You mean you might have torn your Army uniform; or civilian clothes?

A My Army uniform.

Q Your reasons, then, is that you were wearing civilian clothes because you were working on the farm and you didn't want to damage your Army uniform?

A Right, sir.

Q Did you have any intention of changing your name?

A No, sir.

Q While you were away?

A No, sir.

Q Were you getting paid for your work on the farm at that time?

A No, sir; I wasn't.

Q And whose farm is that that you were working on?

A My father-in-law's, sir.

Q Your father-in-law?

A Yes, sir.

Q And you were helping your father-in-law out; were you?

A Yes, sir.

Q Was there any reason why you would help him out?

A Yes, sir.

Q What is the reason?

A He only has one son at home, and he is looking after two crippled men. The father-in-law was sick then so bad he couldn't do any work; so I helped him out as much as I could, sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q Meier, where was your home when you were called up?

A Prelate, Saskatchewan.

Q Is that very far away from Portreeve, where you were picked up?

A It is about 24 miles, sir.

Q Now, you say you had a furlough attached to an embarkation leave; is that right?

A Yes, sir.

Q When was that leave up, or that furlough?

A On the 1st of January.

Q And were you supposed to report any place at the end of it?

A Yes, sir; down to Regina first.

Q To Regina?

A I think.

Q Were you supposed to go anywhere after that, you know of?

A Pardon, sir?

Q Do you know any place else you were supposed to go after Regina?

A I wasn't quite sure, sir, where I was supposed to go, exactly.

Q Were you warned for any special duty, then, before you went on this leave?

A Well, sir, as far as the warning goes, they told us -- they didn't tell us how long we would stay in Regina. They told us to report there, and then maybe make up a draft, they told us, and then go down east.

Q And where were you when you got this leave?

A Vernon, B.C.

Q And then you were ordered to report to Regina; is that right?

A Yes, sir.

Q Do you know of your own knowledge whether your unit, the Midland Regiment, was moving away from Vernon?

A Pardon, sir?

Q Do you know whether or not your unit was going away from Vernon, the Midland Regiment?

A Well, sir, they all moved together.

Q Do you know where they went to?

A No, sir.

Q But they were moving away from Vernon?

A They were moving away from Vernon; but we didn't know where they were going.

Q And you were given a furlough and told to report to Regina?

A Yes, sir.

Q And you say it was the 1st of January that that furlough was up; is that right?

A Yes, sir.

Q And did you return from that furlough?

A No, sir.

Q And did you stay away from the Army until apprehended by the civil police?

A Yes, sir.

Q On the 19th of February?

A Yes, sir.

Q And you said you were dressed in civilian clothes. And were you brought under escort to Regina from where you were picked up?

A Yes, sir.

Q And you say you were working on this farm, helping out.

What did you intend to do as far as the Army was concerned?

A Well, sir, all I was intending to do was wait until the roads were open, get my wife moved to town, and then come back to the Army.

Q It was your wife who wasn't able to move?

A Yes, sir.

Q I thought you said at first it was the people you were staying with were moving to town?

A They are moving in the spring.

Q And your wife was moving with them?

A Moving before them.

Q And what did you intend to do after your wife moved to town?

A I was intending to come back.

Q Have you any idea when you were intending to come back?

A As soon as the roads were in shape I was going to come back.

Q Have you any idea when that would be; February, March or April? Have you any idea?

A Well, I think after a week, after a week after I left the roads were all right.

Q You would have come back yourself a week after you were picked up; is that what you mean?

A Yes, sir.

Q You thought the roads would be all right then. And did you wear your uniform at all after you were away?

A I wore it a while, sir, until I started working on the farm.

Q Did you wear it at nights at all when you were away?

A I wore it at parties.

Q When you went to parties you wore it?

A Yes, sir.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE.

BY THE PRESIDENT

Q Meier, have you any children?

A Yes, sir.

Q How many?

A Two of them, sir.

Q And they are with your wife; are they?

A Yes, sir.

Q On your father and mother's farm?

A Yes, sir.

Q How large is that farm? How many acres?

A It is two sections, sir.

Q That would be about approximately what acreage?

A 360 acres, sir.

Q 360; is that right, altogether?

A About that, sir.

Q That would be two quarter-sections?

A Yes, sir.

Q 320?

A Yes, sir; that is right, sir.

Q How did you get to this farm if the roads were in such bad condition?

A Well, I come there by train, sir, from my leave.

Q How far is the farm from the nearest station?

A It is about 4 miles and a quarter, or something like that, sir.

Q And what you say is that the roads were so bad your wife and children and father-in-law couldn't move out; is that right?

A Well, at that time when I first come home, they weren't too bad. But it snowed just after I got home two days, it snowed right up, and they got blocked right up.

Q I suppose you are a fully trained soldier?

A Yes, sir.

THE ACCUSED RESUMES HIS SEAT.

THE PROSECUTOR AND DEFENDING OFFICER MAKE CLOSING ADDRESSES WHICH ARE RECORDED BUT NOT TRANSCRIBED.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer.

THE DEFENDING OFFICER: Sir, this man's PULHEMS read "2" under the "M." He has a wife and two children, which has been brought out in the evidence. During the time he was home his wife was suffering from ill health. The two children were also in the care of her, and while he was home no doubt the accused could have taken care of the two children. This state of affairs at home would have caused a certain amount of worry. The PULHEMS record shows that the man is deficient somewhat, and I think possibly due to that, some leniency should be shown in his case.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"F"
W. McClement Exhibit "A" 29
Pres. & C.M. Maj.

D A I L Y O R D E R P A R T I I

by

LT-COL. G. M. ALEXANDER, M.C. V.D.

Officer Commanding

NO. 2 DISTRICT DEPOT? C.A.(A)

Order No. 24
27 Jan 45
TORONTO, Ont.

(last Order Issued No. 23 d/26 Jan 45)

51 STRENGTH INCREASE
(Appraisal Wing)

T.O.S. Appraisal Wing and posted to "R" Wing from Midland Regiment (whilst Absent without leave)
(Auth: 1st Bn. Midland Regt. D.O. 6 d/9 Jan 45)

B-634223 Pte. HERMAN, J.R.
L-609773 Pte. HOCKER, A.A.
L-602245 Pte. MEIER, J.

52 ABSENT WITHOUT LEAVE Continued
(Reinforcement Wing)

Absent without leave from 1200 hrs. 4 Jan 45, still absent without leave at 1200 hrs. 12 Jan 45. (8th day)

B-634223 Pte. HERMAN, J.R.
L-609773 Pte. HOCKER, A.A.
L-602245 Pte MEIER, J.

Signed .....J..J..Eyles.....Capt.
Adj't No. 2 District Depot, C.A.(A)

CERTIFIED TRUE ~~COPY OF~~ EXTRACT

JJEyles Capt. & Adjt.
No. 2 District Depot, C.A.

"B" Exhibit "B" 31

W. A. Clement Major, Pass. C.M.

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, AS PUBLISHED IN GENERAL ORDER No. 127, 1942.

(Apprehension by or Surrender to Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by (~~surrendered to~~)

Strike out words not applicable

Csts. L. C. Rooney and G. R. Engel, R. C. M. Police,
(Name of Peace Officer or Constable)

at Portreeve, Sask. (Place) at 2.15 p.m. (Hour)

on the 19th day of February 1945

Strike out words not applicable

and at the time of arrest ~~he was wearing military clothing~~ he was ~~in uniform~~ (dressed in civilian clothes).

Regimental particulars of officer or soldier referred to above.

No. L-602245
Rank Private
Name Joseph MEIER
Unit Midland Regiment

Description

Age 34
Height 5' 7"
Complexion Dark
Hair Dakr brown
Eyes Grey
Marks Scar on right thumb

Signature of peace officer or constable by whom arrest, or to whom surrender, was made, or of officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.

G. R. Engel Cst.
(Peace Officer) ~~Lieut.-Colonel~~
Reg. No. 12354, G. R. Engel.
i/c Leader Detachment

Strike out words not applicable

M.F.M. 215
75M—12-43 (2178)
M.O. 1272-30-1939

M.F.B. 1481
(Revised 10-43 (7306)
D.A.Q. 1777-39-1451

"H"
Supplement
Pay. R.C. to major

Exhibit "C"

33

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — Strike out word not applicable — Complete — Full description of soldier being escorted — Strike out phrase not applicable

I, Lieut G.L. Brechin (Rank) (Name) No. 12 District Company, R.C.A.S.C. (Unit) hereby certify that I (issued) (~~XXXXXX~~) the hereinafter itemized transportation for escort to proceed from Maple Creek, Sask. (Place) to Regina, Sask. (Place) and return to Maple Creek, Sask. (Place) for the purpose of escorting L602245 Pte. Meier, J. (Number) (Rank) (Name in full) Midland Reg't (12 D.D.) (Unit) (Attachment, if any) alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~XXXXXXXXXXXXXXXX~~) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	M.D. 12 Transport Warrant No. C 781080 dated 19 Feb.45 covering One Second Class fare form Map le Creek, Sask. to Regina, Sask and return to Maple Creek, Sask. for Escort. L 2674 L/Cpl. Randall, E.E.	$4.55
	M.D. 12 Transport Warrant No. C 781081 dated 19 Feb. 45 covering One Second Class fare from Maple Creek, Sask to Regina, Sask. for Absentee	$4.55
	Note Absentee assessed 50% of Escorts fare (Two Absentees and One Escort)	
	TOTAL	$ 9.10

Dated at Maple Creek, Sask this 19th day of Feb. A.D. 19 45

G L Brechin (G.L. Brechin) Lieut
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~XXXXXXXXXXXXXXXX~~)
Strike out description not applicable.
~~No. 12 District Company R.C.A.S.C.~~

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.* Dates of warrants or transportation issued must be set out. Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

"I"

W. McClemont Exhibit "D"

Pres. S. Carraja

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ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941.

(INCIDENTAL EXPENSES)

Complete description — I, L-2674 L/Cpl. Ernest Edward RANDALL, Maple Creek Detachment,
(No.) (Rank) (Unit)

Strike out words not applicable — as (escort) XXXXXXXXXXXXX consisting of No. 43 Provost Company, C.Pro.C.

Members of escort — L-2674 L/Cpl. Ernest Edward RANDALL, Maple Creek Detachment, No.43 Provost Company, C.Pro.C.

detailed to proceed from Maple Creek, Sask. (Place) to Regina, Sask. (Place)

Name and description of soldier escorted — to return L-602245 Pte. MEIER, J., 1st. Bn. Midland Regiment.

alleged to be a deserter or absentee without leave, to Regina, Sask. (Place),

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement		Amount
EXPENSES INCURRED BY THE R.C.M.P.		
19 Feb 45.		
Police Car Mileage - 58 miles, one way, @ .15¢ per mile.	8.70	
1 Lunch, 1 Dinner @ .66¢	1.32	
	10.02	10.02
EXPENSES INCURRED BY NO.43 PROVOST COY.C.PRO.C.		
20 Feb 45.		
Meal Tickets issued on M.D. 12 Transport Warrant C.781080 dated 19 Feb 45.		
1 Breakfast @ .75¢ (Escort).	.75	
2 Breakfasts @ .75¢ (2 Absentees).	1.50	
	2.25	
TO BE DIVIDED BETWEEN TWO (2) ABSENTEES.		1.13
Total		$ 11.15

Dated at Maple Creek, Sask. this 21st. day of February, A.D. 19 45.

E.E. Randall C.C.
(Signature and rank)
(Escort)

L-2674 L/Cpl. Randall, E.E.
Maple Creek Detachment,
No. 43 Provost Company, C.Pro.C.

Strike out words not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.D. 1488
[illegible]
R.G. 2772-29-[illegible]

Y

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Wm. Clemow
Pres. S.C.M. Mgr

N.D.D. 155
(Revised 11-41 (1272))
H.Q. 1272-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L-602245	Private	Joseph MEIER	(Mid.Regt), No. 2 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and Other Disciplinary Records~~ Conduct sheets ~~Disciplinary Records~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Offences~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For A.W.L.	1 times	Neglect to prej.	1 times
For	times	A.W.L.	3 times
For	times		times
For	times		times

~~Number of entries in Conduct sheets attached.~~

~~Number of entries for misconduct in Conduct sheets must be stated separately.~~

2. The accused has not been previously convicted

~~as~~

~~Previous convictions of the accused by a court-martial or civil court or summary awards under Section 47 of the Army Act~~ ~~Section 48~~ ~~Section 49~~ ~~Section 50 or 51 of the Army Act.~~

3. The accused is not under sentence at the present time.

~~or,~~

~~The sentence in the present case was awarded on the day of~~ ~~beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charge for nil days in civil custody, and ~~0~~ 14 days in military ~~Army~~ custody, making a total of ~~0~~ 14 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~Attestation~~ ~~Attestation~~ paper is 25 years.

6. The date of his ~~commission~~ enrolment specified in his ~~Attestation~~ ~~Attestation~~ paper is 31st October, 1941.

7. ~~The accused's conduct in civil employment~~

8. ~~The accused's character as a soldier is~~

9. ~~The accused's character as a citizen is~~

10. ~~In the opinion of the officer~~ ~~The accused has no redeeming qualities~~

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11. ~~(In the case of an officer)~~ ~~The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~28th~~ 5th day of ~~February~~ March, 1945. Capt&Adj.
No. 2 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

M.F.M. 6

1st Bn. P.A. Vol's

Date of Birth

Reg. No. D-602245 Name MEIER, J Corps RAR

Date of enlistment or enrolment 31 Oct. 41

Sheet No. one of *1, 2, 3, 4, 5

Signature O.C. Company, etc.

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order disposing with trial	By whom awarded	Remarks
Nanaimo, BC	26-11-42	Pte.		Neglect to the Prejudice of Good Order & Military Disc. AA 40.	Ext.from M.F.M.103	72 hrs. Detention	26-11-42		
Port Alberni, BC	27-12-42	Pte.		ABSENTING HIMSELF WITHOUT LEAVE AA 15-1 From 2400 hrs 27-12-42 to 1335 hrs. 14-1-43 Total 17 days, 13 hrs. 35 min.	Ext from MFM 103	For. 5 day's pay Auth Art 149-2 FR&I	15-1-43		For. 18 days pay Auth Art 149-1(a) FR&I C.A.
Vernon, BC	28-2-44	Pte.		ABSENTING HIMSELF WITHOUT LEAVE. AA 15-1 From 2200 hrs. 28-2-44 until 1300 hrs. 4-4-44 Total 35 days, 15 hrs.	Cpl. Kitz S.	Awarded 28 days Detention	6-4-44	Lt. Col. K,W,MacIntyre	For.36dys pay Auth Art 149-1(a) FR&I

(P.T.O.)

M.F.M. 6—500M—5-44 (5386)
H.Q. 1773-99-1652

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Withheld pro. f.c. Major

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order disposing with trial	By whom awarded	Remarks
Terrace BC	26Oct 44	Pte.		Absent Without Leave from 2200 hrs 22 Oct.44 to 1845 hrs 26 Oct 44. Total absence 3 dys 22 hrs 45 min AA 15(1)	Documentary	28 days Detention	27 Oct 44	Lt.Col M.D.Roverts	Forf 4 dys pay FR&I (1) (a) Forf.28 dys on pay FR&I 149(1) (b) Total 32 dys

CERTIFIED TRUE COPY M Coyles .....Capt. & Adj.
No. 2 District Depot, C.A.

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MEDICAL OFFICER'S REPORT

I certify that No. L-602245 Pte. Joseph MEYER
of No. 2 D.D. is in a good state of health,
and is fit to undergo Trial by Court martial.

A. Stubbings Capt.
Medical Officer Capt. R.C.A.M.C.
attached to No. 2 District Depot CA
Toronto, Ontario.

Station Exhibition Barracks,
No. 2 District Depot CA

Date 5th March 1945

M. F. B. 246

25M—10-42 (5508)
H.Q. 1772-50-800

W. P. McClement
Pres. S.C.M. Major

H.Q.C.55-M-1619 (JAG/D-9)
Your File - T.20-M-21115

March 29, 1945.

District Officer Commanding,
Military District No, 2,
Toronto, Ont.

STANDING COURT-MARTIAL
L-802245, Pte. Joseph MEIER,
(Mid. Regt.) No. 2 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

LYV/ET

(R.J.Orde) Brigadier,
Judge Advocate-General.

THIS COPY FOR H.Q.D.55-M-1619
M.D.T.20-M-21115

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. L.802245 Name MEIER, Joseph

Rank Pte Unit (Mid Regt) No. 2 D.D. C.A.

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 4-1-45

Date of Arrest 19-2-45 Charge Signed 28-2-45

Orders for D.C.M.

Place and Date of Trial Stanley Barks Toronto Ont 5-3-45

Sentence Det 90 days; stoppages $20.25

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36399

Date 28-3-45

MEMO Guilty A.W.L.

M.D. 2 - No. 2 D.D.

Absence - Sentence

1½ mos Det. 90 days

for Judge Advocate General

1CM-1-45(M-4629)

CANADA

In reply please quote No.
IN REPLY PLEASE QUOTE No.
T-20-M-21115 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
20th March 1945.

CONFIDENTIAL

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

6-55-M-1619

STANDING COURT-MARTIAL

L-602245, Pte. Joseph MEIER,
(Mid. Regt.) No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

W.P. McClemont

(W.P. McClemont) Major
Permanent President
Standing Courts-Martial

36399

NAT. DEF. B. 640
25000M 4-44-4331
H.Q. 1772-39-767

H.Q.C. 55-M-1620 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

MEILLEUR. ANATOLE C.33944 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1620

CENTRAL REGISTRY	DATE	P.A. OR U.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
[redacted]R 2 1945				J.A.G.	NEW FILE C.R.		MAR 26 1945
					With Papers C.R. APR 20 1945		
[redacted]					To note, pls.		25-4-45
APR 27 1945							APR 27 1945
MAY 7 1945					With Papers C.R. MAY 5 1945		
					OCT 1 1945		
							OCT 22 1945
OCT 29 1945				Admin	Passed pls		23-10-45
DEC 11 1945				Admin	PER B.F. DEC 12 1945		
					With Papers C.R. DEC 22 1945		
DEC 24 1945				Admin. 3	With permission		24 Dec 45
DEC 28 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

M.8-1-20 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
22nd December, 1945.

CENTRAL REGISTRY Army
DEC 26 1945
17199
C J-J-9-1/620
admin 24/12/45
CMBR

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

SOLDIERS UNDER SENTENCE

Reference HQC 9039-1, Adm 3 (b),3, dated 8th September, 1945, pertaining to the marginally noted subject.

2. Attached hereto, MFsH 288 duly completed in respect to the undermentioned soldiers, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter:-

D-649942 CECYRE, A.

D-650081 DEMERS, R.

C-427112 DUPLANTIE, L.

D-649994 GRENIER, R.

D-650637 LANDREVILLE, L.

C- 33944 MEILLEUR, A.

D-601611 TOMLINSON, B.J.

D-638134 RAYMOND, R.

(E.S. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCL.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of C-33944 (Number) Private (Rank) MEILLEUR, Anatole, (Name in full)

R.C.E., C.A., attached to No. 4 District Depot, C.A., (Unit) (Attachment (if any))

Sentenced to 22 months detention with stoppages of pay of $27.04

on 12 Mar 45 at Montreal South, Quebec,

being served at No. 65 Military Detention Barracks, Longueuil, Quebec, (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 years 4 months - 1st March 1942.

Medical grade or category PULHEMS 1111141

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa. (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~xxx~~ committed to undergo his sentence, which I recommend should ~~xxx~~ be (suspended) (~~xxxxxxxxxxxx~~ (reviewed on 12 Oct 45 (date)) for reasons given in paragraph X.

Place MONTREAL, P.Q.

Date 16 Apr 45.

(Confirming Authority) (E.J. RENAUD) Major General, D.O.C., M.D. No. 4.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....

(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 288
(Army Form A-2104)
HM—5-43 (441)
H.Q. 1775-39-2015

Part V

I direct that the sentence (which I hereby commute to.....

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be posted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
MAY 7 1945	B.F. for review on 22/10/45	Adjutant-General for Superior Military Authority	
28 Aug 45	BF. 12 Feb 46	for DOC mo 4.	
22 DEC 45	Sentence remitted wef 18 DEC 45.	(E.J. RENAUD) Major-General, D.O.C., M.D. 4.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE: ABSENTING HIMSELF WITHOUT LEAVE, in that he Sec.15(1) A.A. At Petawawa, Ont., at 2200 hrs on 19 Mar 42 absented himself without leave from his unit, 3rd Btn. RCE CA, until he was apprehended by the Military Police at Brownsburg, Que., at 1930 hrs on 7 Feb 45 dressed in civilian clothes.	19-3-42	12-3-45
SECOND CHARGE: LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES, in that he at No. 4 D.D., C.A., Sec. 24 (2) A.A. Montreal South, Quebec, on 14 Feb 45 was deficient of articles to the amount of $30.65.	14-2-45	12-3-45

Signature of Officer making entry

(S. Echenberg) Colonel,
Commanding No. 4 District Depot, C.A

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
12-4-45	I do not recommend any remission of sentence in this soldier's case.	(S. Echenberg) Colonel, Commanding No. 4 DD CA.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
16th April 1945.	In view of this man's mental retardation, it is recommended that case may be reviewed on the 12 Oct with a view of a suitability.	(E.J. RENAUD) Major General, D.O.C., M.D. No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

33

M.8-1-20 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
21st December, 1945.

CENTRAL
CC 16718
DEC 22 1945
File CNS - Nr. 1620
Chgd. to
Referred to EMBR

The Secretary,
Department of National Defence,
Ottawa, Ontario.

SOLDIERS UNDER SENTENCE

Attached hereto, forms for remission in respect to the undermentioned soldiers:-

D-655499 BELL, J.
D-650743 BELLEMARE, J.L.
D-504991 BRUNET, J.P.
D-649942 CECYRE, A.
D-652076 CHABOT, J.
E-628099 COTE, H.
D-655757 CUERRIER, G.
D-615871 DAOUST, J.
D-647202 DAUDELIN, F.
D-615087 DAVID, J.R.
D-656369 DEMERS, P.E.
D-650081 DEMERS, R.
G-422624 DUGUAY, L.
D-527112 DUPLANTIE, L.
D-638314 DUROCHER, G.
D-700108 GARCEAU, R.
D-649994 GRENIER, R.
D-658308 HEBERT, M.
D-655113 LAFORTUNE, B.
D-650637 LANDREVILLE, L.
D-136679 LANGEVIN, R.
D-650451 LANGUEDOC, R.
D-645223 LAVERDURE, H.
D-143752 LEGER, R.
D-643628 LEVASSEUR, P.E.
D-146006 MARTIN, J.P.
C- 33944 MEILLEUR, A.
D-647659 MEILLEUR, E.
D-655077 MELFI, J.
D-610667 MELILLO, A.
D-506333 MESSIER, G.
D-700313 PAILLE, M.
D-472519 REID, R.
D-653586 ROZON, R.
D-645019 SAVOIE, L.
D-641816 ST. AUBIN, M.
D-601611 TOMLINSON, G.

p. LeRoche Capt.
(B.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCL.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-M-1620
District File No. M.1-M-14370

PART I

No. C-33944 Rank PTE Name MEILLEUR, A.
Unit No. 4 District Depot, C.A.

PART II

Date of Trial 12th March, 1945
Charge (s) A.W.L. and Losses by neglect his equip. and regimental necess.
Sentence 22 months det and stoppages of pay to the amt of $27.04.
Date of sentence 12th March, 1945
Confirmation -- (a) Authority: D.O.C. M.D.4.
(b) Date 12 mar 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 18th December, 1945.

Signed at Montreal this 4.DEC day of 1945.
(Appointment) E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.

To be signed by the Remitting Authority personally.

PART IV

PROMULGATION

Remission (~~commutation~~)(~~mitigation~~)* promulgated and extracts taken at Montreal South, Que. this 18th day of December, 1945.
(1)
Ass officer i/c Documents. (L.R.HAMELIN) Lieut.
C.I.C., C.A., att'd to No.4 District Depot, CA

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. C-33944 Rank Pte. Name MEILLEUR, A. awarded by ~~Summary~~ Court Martial on the 12th March, 1945 has been remitted on the 18th December, 1945 by D.O.C. Military District No.4, Montreal, Que.

Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A. No.303 Place Jacques Cartier Barracks, Montreal South, Que. Date 18th December, 1945

Adjutant (J.M.M. CHARLEBOIS) Capt-Adjt
General List, C.A., att'd to
No.4 District Depot, C.A.

* Strike out and initial words not applicable.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-M-1620
District File No. M.1-M-14370

PART I

No. C-33944 Rank PTE Name MEILLEUR, A.
Unit No. 4 District Depot, C.A.

PART II

Date of Trial 12th March, 1945
Charge (s) A.W.L. and losing by neglect his equip. and regimt. ness
Sentence 22 months det and stoppages of pay to the amt of $27.04
Date of sentence 12th March, 1945
Confirmation -- (a) Authority: D.O.C. M.D.4
(b) Date : 12 Mar 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 18th December, 1945.

Signed at Montreal this 4. DEC day of 1945.

(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.

To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (~~commutation~~)(~~mitigation~~)* promulgated and extracts taken at Montreal South, Que. this 18th day of December, 1945.

(1)

Asst officer i/c Documents. (L.R. HAMELIN) Lieut.,
C.I.C., C.A., att'd to
No.4 District Depot, CA

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. C-22944 Rank Pte. Name MEILLEUR, A. Standing
The sentence of 22 months detention awarded by ~~xxxxxxx~~ Court Martial on the 12th March, 1945 has been remitted on the 18th December, 1945 by D.O.C.
UNIT Military District No.4, Montreal, Que.
Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.
No. 303 Place Jacques Cartier Barracks, Montreal South, Que. Date 18th December, 1945

Adjutant

(J. MAURICE BOIS) Capt-Adjt
General List, C.A., att'd to
No.4 District Depot, C.A.

* Strike out and initial words not applicable.

RECEIVED
OCT 27 1945
ADMIN.
32

C. SIGS
NATIONAL DEFENCE BLDG
OCT 27 1945
ARMY SIGNAL OFFICE

Adam

VER V CIM NR 31

FROM COMMANDING FOUR MONTREAL PQ 271255R

TO SEC D N D OTTAWA ONT

GR 36 BT

ADIS 545 UNCLASS HQC 55-M-1620 ADM 3(A) DATED 24 OCT 45 RE

C THREE THREE NINE FOUR FOUR PTE MEILLEUR A ACK

271511R

BT 271437R SA B

84615

HQC55-21-1620
Adm 3(a)

DEPARTMENT OF NATIONAL DEFENCE

ARMY CONFIDENTIAL

AIR MAIL OTTAWA, Ontario, 24 Oct 45.

District Officer Commanding,
Military District No. 4,
MONTREAL, P.Q.

C.33944 Pte MEILLEUR Anatole
CM Board of Review
65 MDR

Ref telegram AG 0267 dated 18 Oct 45 review.

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation: -

"Release on 12 Dec 1945".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be informed of action taken.

6. Ack by telegram requested.

Enc: MEM 288

RDW/MR

(R. E. Walford)
Major-General
Adjutant-General

HQC 55- M-1620 (CMBR-4)
5 Oct 45
Case No ~~0181~~ 0185

REVIEW OF SENTENCE

1. No, Rank and Name; C.33944, Pte. MEILLEUR, Anatole

2. Unit at date of offence: 3rd Bn RCE, CA, Petawawa, Ont.

3. Charge: AA 15(1) - AWL (from 19 Mar 42 until apprehended in civilian clothes on 7 Feb 45 - Approx 35 mos)

AA 24(2) - Losing by neglect his eqpt, etc.

4. Place and Date of Trial: #4 DD (CA) Montreal South, Quebec, 12 Mar 45

5. Finding: Guilty of both charges

6. (a) Sentence; 22 mos detention (and pay stoppages)

(b) Date of Sentence: 12 Mar 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at #65 M.D.B. in MD 4

(N.B. - Discharged under RO 1029 ( ) for wof).

Case No----------

CONDUCT

11. (a) Prior to conviction: Clean MFM 6 but was only in Army 18 days before commission of present offence
Date of enlistment: 1 Mar 42

Date of enrolment: Present Age: 26

(b) After conviction: Good

(Expected date of release 12 Feb 46)

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

Declaration of accused (after guilty plea): Was sick - had pains in legs, stomach and head. While absent stayed home and worked for (neighbouring) farmers - worked about ½ the time he was absent. Didn't know what he was doing when he enlisted - was led into it by others. While absent received medical treatment from Dr. Cote in Brownsburg who gave him pills for his head and legs.

Defending Offr - read a psychiatric report which among other things refers to the accused as follows: "shy and seclusive, fearful.... M test 36... almost illiterate...definitely mentally retarded" Pulhems grade is M-4.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC Reviewing Offr, etc).

Rev Offr: There is nothing in the record to justify a favourable recommendation. No remission.

Reviewed by (A.B. Gold) Lieut.

---

14. ~~Decision~~ Recommendation of the Board:

Release on 12 Dec 45

OCT 16 1945

Date:----------194---.

H. A. Stilwell Maj
Chairman/Member/Secretary.
Courts Martial Board of Review

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

M.1-M-14370 A/DIS

MONTREAL, 11th October 1945.

CENTRAL REGISTRY Army
CONF. SEC.
2419
OCT 12 1945
File C55-2-1-1620
Chgd. to CMBR 1-10-45
Referred to CMBR

Secretary,
Department of National Defence,
OTTAWA, Ontario.

C-33944 - Pte. MEILLEUR, A.

Reference 55-M-1620 (CMBR) dated 9 Oct 1945.

2. Attached hereto M.P.M. 288, together with recent Report on Conduct in respect to the marginally named soldier duly forwarded as directed in N.D.H.Q. communication, under reference.

(E.J. RENAUD) Major General
District Officer Commanding,
Military District No. 4.

Encl.

35

REPORT ON CONDUCT

I.C.M. - B

Department of National Defence,
H. Q. C. 55-M-1620, (ICM)
OTTAWA, 27 APR 1945.

To:- Commandant
No. 65 Longueuil, Military Detention Barracks.

1. Soldier under sentence	C33944 Pte. Anatole MEILLEUR,
2. PLEASE STATE:-	
(i) Date of sentence	12th March, 1945.
(ii) Sentence	22 months.
(iii) Date you received soldier	13th March, 1945.
(iv) (a) Can soldier read and write?	A little.
(b) Religion	RC.
(c) Married, Widower, Single	Single.
(d) What Army trade has soldier?	None.
(v) (a) Conduct of soldier	Fair.
(b) Industry of soldier	Fair.
(c) Remission earned:-	Partially.
(i) Number of days actually earned	14 days.
(ii) Number of days obtainable to date	17 da ys.
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	Fit.
(a) Whether detention will seriously aggravate soldier's condition.	No.
(b) Whether further confinement is likely to prove fatal.	No.
(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence?	No.
(b) Moral effect confinement has had?	Good.
(c) If returned to Army, is soldier likely to become a good soldier?	Too early to judge. Very little training. AWL a couple of weeks after call up.
(viii) Date term will expire if all remission earned from now on.	9th April, 1946

(A. E. Walford)
Major-General
Adjutant-General.

Signature Major
Commandant.

Date of Report:

HC:MS.
45(M-4515)

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

HQC 55-M-1620 (ICM)

NDHQ Ottawa, Ontario

~~1 Aug~~ 1945

CONFIDENTIAL
C.M.

~~District Officer Commanding,~~

~~Military District No. 4,~~

~~MONTREAL, Que.~~

~~G.33944 Pte. MEILLEUR, A.~~

Ref 1-M-14370

2. Enclosed herewith:-

(a) MFM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

6. In the event that the soldier under sentence has been transferred to another District or Command these documents will be transmitted by the recipient to the appropriate authority.

(A.E. Walford)
Major-General
Adjutant-General

30

FILE NO: M.1-M-14370 A/DMS

311962

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

4

Montreal, Que.,
4th May 1945.

CENTRAL REGISTRY Army
CONF. SEC.
MAY 5 1945
File 55-M-1620
Chgd. to
Referred to

The Secretary,
Department of National Defence,
Ottawa, Ontario.

C33944 - Pte. Anatole MEILLEUR

Reference H.Q.C. 55-M-1620 (ICM)
dated 27 Apr 45.

2. Herewith enclosed "Report on Conduct" form in respect of the marginally named soldier, duly completed and returned as directed in letter referred to above.

(E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCLOSURE

JG/FR

28

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1620,(ICM)
OTTAWA, 27 APR 1945.

Your File - M.1-M-14370

District Officer Commanding,

Military District No. 4,

MONTREAL, P.Q.

C33944 Pte. Anatole MEILLEUR,

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in No. 65 Longueuil, Military Detention Barrack, under your command, a sentence of 22 months' detention awarded by a Standing Court-Martial on the 12 day of MAR 1945.

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

Notified Col Shaw 20 4 25 45
Delay from date of trial to repeat Raw action

LHC:WS.

5M-2-45(M-4516)

26

H.Q.C.55-M-1820 (JAG/D-4)

25 Apr 45.

District Officer Commanding,
Military District No. 4,
Montreal, Que.

~~Standing~~ Court-Martial
C-33944, Pte. Anatole MEILLEUR
R.C.E., C.A., attached to No. 4
District Depot, C.A.

Receipt is acknowledged of your M.1-M-14370 (J) dated 18th April 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M.288, and form of remission.

Noted
L. H. CLAYTON
Lieut.-Colonel
Director of Court Martial
APR 27 1945

JOGR/ET

Et M
Capt.
for (R.J.Orde) Brigadier,
Judge Advocate-General.

25

2M-8-44 (M-4177)

I.C.M. - L 4220

REVIEW OF SENTENCE

DATE APR 27 1945

H.Q.C. File: 55-19-1620

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES AWL from 19 March 42. till arrested 7 Feb. 41 3 Yrs.

8. PREVIOUS CONDUCT ~~ENROLLED~~ ENLISTED 1 March 42 AGE 21

nil. Enlisted 1111141

9. STATEMENT OF ACCUSED Sick. legs, stomach + head. While away worked for farmers.
Did not know what was doing when drunk.
Led on by others.
Given pills by civil doctor.

10. RECOMMENDATION

24

IN REPLY PLEASE QUOTE No. M.1-M-14370(J)

20 1945

R-135

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

REGISTERED

Montreal, Que., 18th April, 1945.

308368

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CANADIAN MILITARY Army
CO. F. S.S.C.
APR 20 1945
File C55-M-1620
Chgd. to
Referred to J.A.G.

STANDING COURT-MARTIAL
C-33944, Pte. Anatole MEILLEUR
R.C.E., C.A., attached to No.4
District Depot, C.A.

Reference your HQC.55-M-1620 (JAG/D-4) dated 31 Mar 45.

2. The attention of those concerned in this office has been drawn to the remarks contained in your above quoted letter.

3. Returned herewith, for custody, the proceedings of the marginally named Standing Court-Martial together with MTM 288 and form of remission duly completed.

J.L. Simonsen Capt
For (E.J.Renaud)Major-General,
District Officer Commanding,
Military District No. 4.

Enc.

23

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE
BY COURT-MARTIAL

N.D.H. File No. HQC-55-M-1620 (JAG/D-4)

District File No. M. 1-M-14370 (J)

PART I

No. C-33944 Rank Private Name MEILLEUR, Anatole

Unit R.C.H.A., C.A., Attached to No. 4 District Depot, C.A.

PART II

Date of Trial 12th March, 1945

Charge(s) Absenting himself without leave and losing by neglect stoppages of pay

Sentence twenty-two months' detention and forfeit

Date of Sentence 12th March, 1945

Confirmation - (a) Authority: (E.J. Renaud), Major-General, D.O.C., M.D. 4

(b) Date : 12th March, 1945

PART III

REMISSION

I, the undersigned, being the competent military authority under Sec. 57 (2) of the Army Act, do hereby remit ~~(commute) (mitigate)~~ x the sum of $2.04.

Signed at Montreal this 8th day of April 45

(Appointment) (E.J. Renaud), Maj.Gen. D.O.C., MD4

to be signed by the Remitting Authority personally.

PART IV

PROMULGATION

Remission ~~(remission) (mitigation)~~ promulgated and extracts taken at Montreal South, Quebec, this 10th day of April 194.5

(1)

(W. BAIRD) Lieut., C.G.G., C.A., attached to No. 4 D.D., C.A.

Ass-Officer i/c Documents.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. C-33944 Rank Private Name MEILLEUR, Anatole

The sentence of stoppages of pay of $27.04 awarded by ~~District~~ Court-Martial on the 12 Mar 194.5 has been REMITTED of $2.04 by District Officer Commanding, Military District No. 4 on the 6 Apr 1945

UNIT NO. 4 DISTRICT DEPOT, C.A.

Certified true Extract of Daily Orders Part II of No. 4 District Depot, C.A. No. 88 Place Jacques Cartier Barracks, Montreal South, Quebec Date 10th April 1945.

Adjutant

(W.E.S. POWER) Captain, R.H.R., of Can., C.A., att'd to No. 4 D.D., C.A.

x Strike out and initial words not applicable.

22

MEDICAL OFFICER'S REPORT

I certify that No. C-33944 Pte. MEILLEUR. A.
of 3rd Bn., R.C.E., att. No. 4 D.D.CA. is in a Good state of health,
and fit to undergo Trial by Court martial.

J. Tremblay Capt.
(J.F.Tremblay) Capt. Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, CA.

Station J.C. Bks., Montreal South, Que.,

Date 12th March 1945

J. C. G. Vallieres Major
President S.C.M.

M. F. B. 246
50M—12-43 (3122)
H.Q. 1773-39-400

21

-A-

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4 District Depot,C.A.,Montréal-Sud, P.Q.

le 12ième jour de mars 19 45 à 10.45 heures,

pour le procès de C-33944 (Matricule) Private (Grade) Anatole MEILLEUR (Nom et prénoms)

R.C.E.,C.A., attached to No.4 District Depot,C.A. (Unité) (Détachement, le cas échéant)

PRÉSIDENT: Major J.A.G. Dubeau, E.D., Quartiers Généraux, District Militaire No.4.

PROCUREUR: Capitaine P.J.F. Bousquet, Quartiers Généraux, District Militaire No.4.
(Grade) (Nom et prénoms) (Unité) (Détachement, le cas échéant)

~~OFFICIER~~ OFFICIER DÉFENSEUR: Capitaine J.O.A. Lefebvre, Les Fusiliers Mont-Royal,C.A., attached to No.4 District Depot,C.A.
(Grade) (Nom et prénoms) (Unité) (Détachement, le cas échéant)

VERDICT: La cour déclare l'accusé, C-33944 Private Anatole MEILLEUR, R.C.E.,C.A., attached to No.4 District Depot,C.A., coupable à l'égard du premier et du deuxième chefs d'accusation.

SENTENCE: La cour condamne l'accusé, C-33944 Private Anatole MEILLEUR, R.C.E., C.A., attached to No.4 District Depot,C.A., à la détention pendant vingt-deux mois et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $27.04, coût des articles perdus.

Extracts entered as No. 36400 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 28th day of March 1945

Signé à Montréal-Sud, P.Q. ce 12ième jour de mars 1945

J.A.G. Dubeau
Président de la cour martiale permanente
(J.A.G. Dubeau) Major

M.F.B. 1486A
5M-6-44 (4826)
H.Q. 1772-39-2296

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Formules de serments et de déclarations

Serments

Sténographe

Jurez-vous par le Dieu tout-puissant que vous inscrirez fidèlement, du mieux que vous pourrez, les témoignages rendus devant la présente cour martiale, ainsi que toutes les autres matières qu'il faudra, et que, quand on vous le demandera, vous en fournirez à la cour une transcription fidèle ?

Réponse: Je le jure.

Interprète

Jurez-vous par le Dieu tout-puissant que vous donnerez, selon toute votre habileté, une interprétation et une traduction fidèles, qu'on pourra exiger de vous, concernant la question dont est saisie la présente cour martiale ?

Réponse: Je le jure.

Témoin

Jurez-vous par le Dieu tout-puissant que le témoignage que vous rendrez devant cette cour sera la vérité, toute la vérité et rien que la vérité ?

Réponse: Je le jure.

Déclarations solennelles

La formule de la déclaration est la même que celle des serments, sauf qu'aux mots: "Jurez-vous par le Dieu tout-puissant" se substituent les mots: "(Nom et prénoms), promettez-vous et déclarez-vous solennellement", et que les mots: "promettez-vous et déclarez-vous solennellement" se substituent aux mots: "jurez-vous", partout où ces derniers se présentent.

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Vous opposez-vous comme interprète~~

Question à l'accusé. Vous opposez-vous à B-625377 Cpl(A/Sgt)H.Turcot,No.4 Det.C.M.S.C.,C.A. comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~(interprète le cas échéant) sera~~ est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ~~entre une cour martiale~~ ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur, à l'exception de l'item "Boots, ankle, felt, prs l.....$3.61. (voir document ci-joint marqué "Y").

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le s deux chef s d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

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CHARGE SHEET

J. C. F. Chen major
Provided 3 copies "B2"

The accused, C-33944, Private Anatole MEILLEUR, R.C.E., C.A., attached to No. 4 District Depot, C.A., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:-

FIRST CHARGE
Sec. 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Petawawa, Ontario, at 2200 hours on 19th March, 1942, absented himself without leave from his unit, 3rd Battalion R.C.E., C.A., until he was apprehended by the Military Police at Brownsburg, Quebec, at 1930 hours on 7th February, 1945, dressed in civilian clothes.

SECOND CHARGE
Sec. 24 (2)
Army Act.

LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES,

in that he,

at No. 4 District Depot, C.A., Montreal South, Quebec, on the 14th February, 1945, was deficient of the following articles, viz:-

	100%	75%
Clothing Division "A"		
Anklets Web prs	$ .77	$ .57
Cloaks or Great Coat drab	17.22	12.92
Gloves woollen kaki	.59	.44
Clothing Division "B"		
Battle Dress Blouse	6.18	4.63
Battle Dress Trousers prs	6.24	4.68
Boots Ankle Felt prs	4.81	3.61
Drawers Woollen prs	1.17	.88
Shirts Flannel Kaki	2.05	1.54
Shirts Woollen	1.14	.85
Socks Woollen	.37	.28
Clothing Division "C"		
Braces prs	.29	.22
Combs Hair	.04	.03
	$40.87	$30.65

Representing 100% Voc. Rate $40.87

TOTAL representing 75% Voc. Rate $30.65

Signed at Montreal, Quebec,
24th February, 1945.

Gregoire Bourgouin Capt
Prosecutor, H.Q., M. D. No. 4.

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CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au premier et au deuxième chef d'accusation, il est déclaré coupable ~~ladite accusation~~ desdites accusations. J.C.S.C. J.C.S.C.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement ~~à l'accusation~~ aux accusations dont vous vous êtes avoué coupable ? J.C.S.C.

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~ J.C.S.C.

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur. (voir page CC-3).

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

17

CC-3

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

J'étais malade, monsieur. J'avais mal aux jambes, mal dans l'estomac et mal à la tête. Avant d'entrer dans l'armée je travaillais chez les cultivateurs quand j'étais capable. Je ne suis pas marié. Durant mon absence sans permission je travaillais chez les cultivateurs. J'ai travaillé pour plusieurs cultivateurs. J'ai travaillé pour Leclerc une semaine ou deux semaines. J'ai travaillé pour Lemay, là je travaillais quand j'étais capable, une semaine ou deux semaines. Durant mon absence sans permission j'ai demeuré chez nous. Mon père ne travaille pas dans le moment. Il est journalier. Quand je ne travaillais pas c'est mon père qui me faisait vivre. Durant toute mon absence, des fois j'étais une semaine sans travailler, ensuite je commençais à travailler. J'ai été à peu près la moitié du temps à travailler et la moitié du temps à ne pas travailler. Avant de partir absent sans permission j'ai été un mois dans l'armée. Quand je me suis enrôlé je ne savais pas, c'est eux autres qui m'ont amené. Durant mon absence sans permission je me suis fait soigner par le docteur Coté à Brownsburg. Il m'a soigné à plusieurs reprises. Il me donnait des remèdes, des pilules pour la tête, pour les jambes.

J.C.R.C.

16

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur (voir page E-3).

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

E-3

EXPOSE DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE.

L'accusé a toujours eu une bonne conduite tant dans le civil que dans son peu de service dans l'armée. D'après le rapport que j'ai ici du psychiâtre, il dit dans ce rapport: "Man seems a dull mentality, answers only after delay, but reasons well enough, can make simple calculations. Five years in school with progress. Complains of headaches possibly due to sinusitis, for which he will be checked". Et un peu plus loin, "Social, single, poor mixer. Occasionally hereto-sexual relations and alcohol addict. No hobbies. Not interested in sports. Shy and seclusive, fearful. No severe disease. Schooling from 6 to 11 in a rural district. Reached grade 4. Repeated grades 2 and 3, slow learner, usually at the end of the class. Can hardly write, reads a little. Work, since age of 12 has worked on odd jobs on farms and bush. Medium built, dull looking individual of 25, unkempt, appears older than stated age. Talks slowly in a low monotone voice; answers after delay. Shows no objective signs of instability. Vocabulary is limited. M test 36. Almost illiterate. General knowledge limited. Poor performation on intelligence test. Definitely mentally retarded.

Dans le cas de l'accusé, son absence a été plutôt due à sa déficience mentale plutôt qu'à autre chose, monsieur. Maintenant, son "pulhems" montre un M-4. L'accusé a dit qu'il était prêt à faire du service dans n'importe quel territoire, mais par son "pulhems" il est entendu qu'il n'ira pas dans aucun territoire.

J.C.R.D

- F -

J. C. G. Chubbs major
Président SCM

LE PROCUREUR INFORME LA COUR QUE L'OFFICIER CONVOCATEUR AUTORISE LE RETRAIT DE L'ITEM SUIVANT DU DEUXIEME CHEF D'ACCUSATION D'APRES LA REGLE DE PROCEDURE 44 (h):

Boots, ankle, felt, prs 1.....$3.61.

(Voir document ci-joint marqué F-1).

L'ACCUSE SE DECLARE SATISFAIT D'UNE TELLE PROCEDURE.

LA COUR EST SATISFAITE QU'IL N'Y A AUCUN PREJUDICE POUR L'ACCUSE ET QUE LES FINS DE LA JUSTICE NE SONT PAS DETOURNEES.

J.C.G.C.

In reply quote No. M. 1-M-14370 F.D.1

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

CANADA

J.A.G. Hulbert major
Provisional-SCM

Montreal, Que., 12th March 1945.

TO: CAPTAIN P.J.F. BOUSQUET
Prosecutor, M. D. No.4
Sun Life Building,
Montreal, Que.

STANDING COURT MARTIAL.
C-33944 Private MEILLEUR. A.
3rd Bn., R.C.E., C.A., attached to
No.4 District Depot, C.A.

I, the Convening Officer of the marginally-noted Standing Court-Martial, concur in the withdrawal of the following item from the second charge laid against the marginally named accused in accordance with R. P. 44 (h):-

Boots, ankle, felt, prs., 1.....$3.61

Total.....$3.61.

(W.H.Kippen) Colonel
Acting D.O.C.
M. D. No.4.

12

M.F.A. 1326
1,500M—3-43 (9995)
H.Q. 1772-20-2009

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each [illegible]ch will be given a sub-number.

UNIT 3e BATAILLON, GENIE ROYAL CANADIEN

PART II ORDERS

par

LE LIEUT.COL. G.W. SMITH, OFFICIER COMMANDANT

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 37

STATION Petawawa, Ont.

DATE le 20 MARS 1942

"Last Order Issued No. 36 dated 19 mars 1942

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN., COY., ETC.	CASUALTY & REMARKS	DATE
			SECTION "B"			
309.	ABSENTS SANS PERMISSION		309. ABSENT WITHOUT LEAVE			
	Les militaires ci-dessous mentionnes sont absents sans permission avec effet de l'heure et de la date indiquees en marge de leurs noms.		The undermentioned personnel are absents without leave with effect from the time and date shown.			
	C-33944, Spr. MEILLEUR, A.		2200 hres 19-3-42		"A" Coy	
			(Signed) G.S. Cole, Capt., for (Geo. W. Smith) Lieut-Col., O.C. 3e Bn. G.R.C. (AC)			

CERTIFIED TRUE EXTRACT
SIGNED [illegible]
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c, Records N.D.H.Q.
DATE FEB 26 1945

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

Prepared by: [illegible]
and
Checked by: [illegible]

Officer Commanding or Adjutant

M. F. D. 873A
1,000,000-10-42 (6791)
H.Q. 1772-39-254

"C" A.C.P. [illegible] magistrate
President [illegible]

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Capt. J.B. Martineau (Number) T/Commanding Officer (Rank) Composite Provost Coys M.D. 4 (Name) (Unit)

hereby certify that C-33944 (Number) Pte (Rank) MEILLEUR (Name in full) Anatole

of the R.C.E. (Unit and attachment, if any)

Strike out words not applicable } was apprehended by [redacted] D-114534 (Number) Sgt (Rank)

FAIRFIELD R. (Name) of the Composite Provost Companies M.D. 4 (Unit or appointment)

at Brownsburg, Que (Place) at 1930 (Hour)

on the 7th day of February 19 45

Strike out words not applicable } as [redacted] absentee without leave), and that at the time of his arrest he was [redacted] [redacted] (dressed in civilian clothes).

Dated at Montreal, Que this 8th day of February 19 45

(J.B. Martineau) Capt.
(Signature, Number, Rank, Unit or appointment)

T/Commanding Officer Composite Provost Coys M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

A soldier of the active army.

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" D "

J. C. G. Sullivan major
President SCM

Regtl. No. C-33944

Name MEILLEUR. A.

CANADIAN ARMY

CLOTHING AND EQUIPMENT STATEMENT

M.F.C. 800

Regtl. No. C-33944 Name MEILLEUR. A.

Rank PTE. Date of Attestation 5/2/42

Original Unit ..... Station .....

Home address (Reserve Units only):—

CERTIFIED TRUE COPY

R. Mitchell

(R. MITCHELL) MAJOR
V.R.C., C.A. Attached to No. 4 D.D., C.A.
Quarter-Master at No. 4 D.D., C.A.

MFC 800
350M—11-42 (7129)
H.Q. 1772-38-1643

9

Description of Articles	Quantity 1	Quantity 2	Quantity 3	Quantity 4	Quantity 5	Quantity 6	Quantity 7	Quantity 8
Winter Issues—								
Boots, lumbermans, rubber ... prs.								
" ankle, felt ... prs.								
" insoles ... prs.								
Caps, winter, melton cloth								
Drawers, woollen ... prs.								
Mitts, pullover, leather ... prs.								
Mufflers, khaki								
Overshoes ... prs.								
Rubbers ... prs.								
Shirts, woollen								
Summer Issues—								
Belts, waist, leather, brown								
Buttons, G.S., large								
" " small								
Helmets, sun								
Jackets, khaki drill								
Puttees ... prs.								
Shirts, khaki, cotton W/S.S.								
Trousers, khaki drill ... prs.								
" " " short ... prs.								
Walking Out Dress—								
Jackets, serge, drab, open collar								
Neckties, black								
Pins, collar, safety								
Shoes, leather, black ... prs.								
Socks, black ... prs.								
Trousers, serge, drab, N.P. ... prs.								
Coats, waterproof								
Date of Issue	4/2/42							
Signature	Signed: A. Meilleur							

Description of Articles	Quantity 1	Quantity 2	Quantity 3	Quantity 4	Quantity 5	Quantity 6	Quantity 7	Quantity 8
Badges, cap Canada								
Bags, kit Issue								
Blacking ... tins								
Boot dressing ... tins								
Boot laces ... prs.								
Braces ... prs.								
Brasses, button								
Brushes—								
Boot, polishing								
Button								
Cloth								
Hair								
Shaving								
Tooth								
Caps, comforter								
Combs, hair								
Forks, table								
Holdalls								
Housewives								
Knives, clasp, and lanyard								
" table								
Razors								
Sponges, pipeclay								
Spoons								
Towels, hand								
B Cards								
Arms—								
Rifle								
Bayonet and scabbard								
Pistol								
Bottles, oil								
Pullthroughs								
Date of Issue	4/1/42							
Signature	Signed: A. Meilleur							

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Description of Articles	Quantity 1	Quantity 2	Quantity 3	Quantity 4	Quantity 5	Quantity 6	Quantity 7	Quantity 8
Anklets, web ... 1 prs.	1							
Badges arm Tank Bn.								
" " worsted, "CANADA" ... prs.								
" embroidered, unit title ... prs.								
" shoulder, worsted ... prs.								
Battle Dress, serge, trousers ... 1 prs.	1							
" " blouses ... 1	1							
Bonnets, Tam O'Shanter								
Boots, ankle ... 1 prs.	1							
Caps, field service								
" forage, drab								
" tank battalion	1							
Drawers, cotton, short ... prs.								
Dressings, 1st field								
Gloves, woollen, khaki ... prs.	1							
Greatcoats, drab	1							
Jackets, serge, drab								
" sweater or jersey pullover	1							
Overalls, combination								
Protectors, ear ... prs.								
Shirts, under, cotton								
Shirts, flannel, khaki ... 1	1							
Shoes, canvas ... prs.	1							
Socks ... 1 prs.	1							
Trousers serge, drab ... prs.								
Sheets, ground	1							
Date of Issue	9/2/44							
	1	2	3	4	5	6	7	8
SIGNATURE	Signed: A. Meilleur							

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Description of Articles	Quantity 1	Quantity 2	Quantity 3	Quantity 4	Quantity 5	Quantity 6	Quantity 7	Quantity 8
Attachments, brace								
Bags, ration	1							
Belts, waist	1							
Bottles, water	1							
Braces	1							
Carriers, cartridge								
" water bottle	1							
Cases, binocular								
" pistol								
Frogs, bayonet	1							
Haversacks	1							
Helmets, steel, complete	1							
Lanyards, pistol								
Pockets, compass								
Pouches, ammunition, pistol								
" basic	1							
" utility								
Slings, rifle	1							
Straps, shoulder, haversack	1							
" web, supporting	1							
Tins, mess, rectangular	1							
Packs	1							
Yokes								
Canteen Meestin	1							
Date of Issue	4/12/42							
	1	2	3	4	5	6	7	8
Signature	Signed: A. Meilleur							

Description of Articles	Quantity 1	Quantity 2	Quantity 3	Quantity 4	Quantity 5	Quantity 6	Quantity 7	Quantity 8
Respirator A.G.—								
Cloths, disinfecting, facepiece								
Container								
Facepiece								
Haversack								
Outfit anti-dimming								
Lens, material impregnated								
Eyeshields, A.G.								
Capes, A. G.								
Curtains, helmet								
Detectors, tippet pattern								
Ointment, A.G.								
Wallets, A.G.								
Detector Powder								
Pillows T.P								
Sleep Pillows +								
Blankets								
Mattress T.P								
Date of Issue	9/2/42							
	1	2	3	4	5	6	7	8
Signature	Signed: A. Meilleur							

6

A.C.G. Nelson Maj
President SCM

M.F.B. 355
78M—5-43 (14E)
H.Q. 1772-39-639
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

"Y"

Number	Rank	Name	Regiment (or unit)
C-33944	Private	Anatole MEILLEUR R.C.E., C.A., att'd	No. 4 District DepotCA.

1. The following is a fair and true summary of the entries in the Field ~~Service and Regimental~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	~~times~~	~~times~~
For	times	times
For	~~times~~	times
For	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~ ~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Air Force Act ~~A.F.A. 73~~ Section 47 of the Army Act ~~and dispensations with trial under A.A. 73~~ are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... for beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 34 days in military ~~Air Force~~ custody, making a total of 34 days in custody, of which 5 days were spent in hospital.

5. The present age of the accused according to his ~~enrolment~~ ~~record of service~~ attestation paper is 25 years 4 months. (12th October 1919)

6. The date of his ~~commission~~ attestation specified in his ~~enrolment~~ ~~record of service~~ attestation paper 1st March, 1942.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward military~~

10. ~~(If the accused is a warrant officer). The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

5

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....

Permanent Force
unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th Mar., 1945. ~~signed~~ (F.O'Connor) Captain,
27th C.A.R., C.A., att'd to
No.4 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked 4 signed by the president, and annexed to the proceedings.

Officer i/c Records,
No. 4 District Depot, C.A.

A. C. J. [illegible] major
President

No. C-33944 Name MEILLEUR A. Sqn., Battery, or Company } Corps 3rd. Bn. R.C.E. Date of enlistment } 1-3-42 G.C. Badges } Tradesmen's Rates of Pay }

No. and date of last drunk } Nil Period not reckoning towards freedom from extra fine } Sheet No. 1 Signature O.C. Company, etc. Major RCE (Sgd) G.J. Cote Character

M.F.M. 6 (A.F.B.122) 750M—12-42 (7337) H.Q. 1773-39-1052

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY					
				(F.O'Connor) Captain, 12th Mar.,1945.					
				27th C.A.R., C.A., att'd to					
				No. 4 District Depot, C.A.					
				Officer i/c Records,					
				No. 4 District Depot, C.A.					

(P.T.O.)

HQC.55-M-1620 (JAG/D-4)
Your File M.1-M-14370

31 Mar 45

District Officer Commanding,
Military District No. 4,
MONTREAL, Que.

STANDING COURT-MARTIAL
C.33944, Pte. Anatole MEILLEUR
R.C.E., C.A., attached to
No.4 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. It is noted from the proceedings that the accused pleaded Guilty to the charge of "Losing by neglect his equipments, clothing and regimental necessaries", with the exception of item: "Boots, ankle, felt, prs 1 ... $3.61" (Page B), that the prosecutor informed the Court that the convening officer had authorized the withdrawal of that item from the charge sheet, in accordance with R.P. 44(H), that the accused was satisfied of the procedure, and that the court was satisfied that no prejudice was done to the accused and of the justice of such course. (See document marked "F"). The accused was found guilty of the charge and sentenced, to be placed under stoppages of pay to the amount of $27.04, that is the amount contained in the charge sheet, less $3.61.

3. It is considered that upon the plea of Guilty as made by the accused, the procedure laid down in R.P. 44 (H) was not properly followed.

4. This rule directs, inter alia, "In any case where a court could after hearing the evidence have made a special finding of guilty subject to exceptions or variations in accordance with paragraph (D) and (E) of this rule, they may, if they are satisfied of the justice of such course, and if the concurrence of the convening officer is signified by the prosecutor, accept and record a plea of Guilty of the offence charged subject to such exceptions or variations."

5. Therefore, instead of withdrawing from the charge the item referred to (which course is not authorized by R.P.44(H)), the court should have accepted and recorded the plea of guilty of the offence as charged, subject to the exception concerned and made its finding accordingly as a special finding under R.P. 44(E), which finding should have read on page A and also on page CC of the proceedings: "guilty of the second charge with the exception that he did not loose by neglect the following article: "boots, ankle, felt, prs 1...$3.61".

over.....

6. As the accused was not placed under stoppages of pay for the item referred to, no injustice was done to the accused; the proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde), Brigadier,
Judge Advocate-General.

JOGR/AB

THIS COPY FOR: H.Q. C.55-M-1620
M.D. M.1-M-14370

G.S. MEMORANDUM - STANDING ~~DISTRICT~~ COURT-MARTIAL

No. C.33944 Name MEILLEUR, Anatole

Rank Pte Unit R.C.E. C.A. att No. 4D.D. C.A.

Charge (1st) A.A. 15 (1) - A.W.L.

(2nd) A.A. 24 (2) - Losing by neglect ..

Date of Crime (1) 19-3-42; (2) 14-2-45

Date of Arrest (1) 7-2-45 Charge Signed 24-2-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. Montreal S Que 12-3-45

Sentence Det 22 mos; stoppages $27.04

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36400

Date 28-3-45

MEMO. Amt of 2nd of stoppages remitted by Confirm 6-4-45

M.D. 4 - No. 4 D.D.

Absent Sentence

Approx 3 yrs Det 22 mos

for Judge Advocate General

-45 (M-4629)

2

IN REPLY PLEASE QUOTE No. M. 1-M-14370 F.D.

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 22nd March 1945.

CONFIDENTIAL.

1-55-M-1620

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

STANDING COURT MARTIAL.
C-33944 Private Anatole MEILLEUR
R.C.E., C.A., attached to
No.4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

(a) Proceedings of the court
(b) Medical officer's report d/12 Mar 45.

2. Submitted for your information, consideration and approval, please.

J. A. G. Dubeau

(J.A.G. Dubeau) Major
Headquarters, Military District No. 4.
President of Standing Court-Martial.

36400

NAT. DEF. B. 440
250M-4-44 (6325)
H.Q. 1752-39-787

1

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

H.Q.C. 55-M-1621 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT FIELD GENERAL COURT-MARTIAL

MICHAUD. P.E. D.129109 PTE.

-PAUL EMILE-

OVERSEAS COMBINED FILE

CONFIDENTIAL H.Q.C. 55-M-1621

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for which referred cannot be expressed on one line, add minute to file and enter here "See Minute")		
				J.A.G.	NEW FILE	C.R.	MAR 26 1945
APR 30 1945	15.2.46	BX	was	Admin 36	Remote	Ed M	2 Apr 45
MAY 9 - 1945	9.5.45	PA	wof	Admin	For Regulation C.R. MAY 5 1945		
JUL 19 1945	4.8.45	BX	was	Admin	For Regulation C.R. AUG 16 1945		
AUG 18 1945				Admin	With Papers C.R. AUG 24 1945	DK	
				SE (AG)	SE	wof	28.8.45
AUG 29 1945	29 Aug 45	PA	Ed	DJS		DJS	28.8.45
SEP - 4 1945	4.9.45	PA	wof	Admin	PER B.F. SEP 4 - 1945		
				Admin	For Regulation C.R. SEP 8 1945		
				Trans.	For trans to pers DM	wof	11.9.45
SEP 13 1945	13 Sep 45	PA	MS	D.M.	Mich Pers		SEP 12 1945
SEP 27 1945	26.9.45	PA	JK	JAS	With Papers C.R. SEP 26 1945	DK	
				J.A.G.	With Papers C.R. OCT 12 1945	DK	
OCT 13 1945	16.9.45	PA	was	CRBR	Remote	E.J.	12.11.45
OCT 16 1945	15.1.46	PA	GWS	Admin	PER B.F. JAN 15 1946		
JAN 15 1946							
MAY 27 1946	MAY 23 1946	PA	was	DRB	With Papers C.R. MAY 3 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

RECEIVED
24 Jan 1945
JAG BRANCH
CMHQ

RECORDED AT CMHQ IN AB 160 40-2

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1656 (40-7)
4/38B

Convened by Order of Brig K.G. Blackader, DSO Comd 8 Inf Bde dated 15 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.129109	Cpl.		Paul Emile	MICHAUD	Le Regiment de la Chaudiere.

PROCEEDINGS REVIEWED
"T.C. Odette" Lieut.
26 Jan 45 NCF
REVIEWING OFFICER JAG BRANCH
CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) France on (*date(s)*) 16 Sep 44

16/41

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~ ACH, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevent fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95. for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1730 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Lt. J.C. Closson as interpreter? Ans No

The Interpreter is sworn.(1) Do you object to S/Sgt Phillips, FH as shorthand writer? Ans No
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	O.L. Corbett	North Shore (NB) Regt
Member	Capt.	J.D. MacLean	QOR of C
Member	Capt.	J. Laliberte	Regt de Chaud
Judge-Advocate	Capt.	A.C. Hall	ADJA 3 Cdn Inf Div
Prosecutor	Lieut.	G. Lalande	Regt de Chaud
Defending Offr	Lieut.	G. Francq	Regt de Chaud

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D/129109 Cpl Michaud, P.E. before arraignment make(s) (no) (~~a~~) plea ACH

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in A8 rank and name of the accused making the plea.)

ACH A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ ACH considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

ACH

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

ACH

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1) ACH
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court~~ is closed, ~~and considers~~ the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial ~~will proceed~~ on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4) ACH
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence ~~solely on ground of irrelevence.~~ (RP 40(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. Give Evidence on oath. Do you intend to call witnesses on your behalf?
Ans. Yes Sir. Are they witnesses as to character only? Ans. Yes Sir.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s)~~ ACH ~~of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)~~ ACH ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith;~~ ACH ~~and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~ ACH
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No Sir.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. "B" and Ex. "C" respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes Sir.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D.129109 Cpl. Michaud, P.E.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Army Act Sec 12(1)			
2nd	Not Guilty	Guilty	with the exception that the absence
3rd			began at 1245 rather than 1215 hrs
4th			8 Aug 44
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

A.C.H ~~At present under sentence for~~ ..... ~~beginning on (date)~~ .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 0 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for the term of 10 years.

(Sgd) "Alex C. Hall" Capt. — Judge-Advocate, if any.
16 Sept 44 — Date awarded.
(Sgd) "O.L. Corbett" A/Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation.

Date 22 Sep 44 (Sgd) "K.G. Blackader" Brig Commanding 8 Cdn Inf Bde.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

FOR CONFIRMATION SEE PROCEEDINGS ON REVISION ATTACHED TO P.2 OF CFA 96.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date Nov 44

(Sgd) (H.D. CRERAR) GENERAL
Commanding C-in-C First Cdn Army
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D.129109 Cpl. Paul Emile Michaud	7 Dec 44	"W.T. Aselman" ?????

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

In the field in Belgium on the 7th day of November 1944 at 1000 hrs the court re-assembled by order of G.G. Simonds, Lt-Gen, GOC-in-C First Cdn Army, for the purpose of reconsidering the finding (and sentence if necessary).

Present:

President Major O.L. Corbett, North Shore Regt

Member Capt J.D. MacLean, QOR of C

Judge Advocate

Capt A.C. Hall, HQ 3 Cdn Inf Div

Capt J Laliberte, Regt de Chaud, having been evacuated as a battle casualty, was unable to be present.

The letter directing the re-assembly of the court for revision and giving the reasons of the confirming authority for requiring a revision of the finding (and sentence if necessary) is read, marked Exhibit "X", signed by the president and att to the proceedings.

The court having attentively considered the observations of the confirming authority and the whole of the proceedings,

Do now revoke their finding and sentence and find the accused "not guilty" of desertion but "guilty" of absenting himself without leave and sentence the accused to be imprisoned for two years.

Dated in the field in Belgium this 7th day of November 1944.

"Alex C. Hall"
(A.C. Hall) Capt.
Judge Advocate

"O.L. Corbett" Maj.
(O L Corbett) Major
President.

Confirmed

HDGC
1 Dec 44

"H.D.G. Crerar"
General
GOC-in-C First Cdn Army

PROMULGATED AND EXTRACTS TAKEN IN THE FIELD

Accused	Date	Signature of Offr and Unit
D.129109 Cpl. R.E. Michaud	7 Dec 44	"W.T. Aselman" ??? Lt.Col. R de Chaud.

OLC

CHARGE SHEET

The accused No D 129109 Cpl. MICHAUD, Paul Emile 1st Bn Le Regiment de la Chaudiere, an N.C.O. of the Cdn Army Overseas placed on Active Service, is charged with:

FIRST CHARGE
Army Act
Section 12(1)

WHILE ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE.

in that he,

In the field on 8th Aug 44, did absent himself without leave from 1215 hrs until apprehended by a member of the Corps of Military Police, at BASLY, FRANCE, at 1130 hrs 30th Aug 44, with intent to avoid action.

Dated in the field

this day 14th of Sept 44.

"Paul Mathieu" Lt.Col
(PAUL MATHIEU) Lt.Col.,
Commanding,
Le Regiment de la Chaudier.

To be tried by FGCM

"K.G. Blackader"
Brig.

15 Sep 44

Comd 8 Cdn Inf Bde.

OLC

FIELD GENERAL COURT-MARTIAL

CFA'95 (In lieu of AFAB) 60/FAB/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

	Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
KGB	XXXXXXXXXXXXX			XXXXXXXXXXXX	XXXXXXX	R de Chaud
	D125263	Pte		Paul	BRUNEAU	" "
	E10525	Pte.		Anicet	DUBE	" "
	D129109	Cpl		Paul Emile	MICHAUD	" "
	D157729	Pte	L/Cpl	Georges	TRUDEAU	" "
	D163158	Sjt		Jean	BAULU	" "

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, ~~XXX~~ (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 15 Sep 44 endorsed by me, ~~XXXXXXXXXXXXXXXXXX~~ " To be tried by Field General Court-Martial ".

KGB

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~XXXXXXXXXXXXXXXXX

REG DU CHAUDIERE, 16 Sept 1944 OLC

D.129109 Cpl Michaud, P.E.

The a/m soldier is fit to undergo trial by a court martial.

"P. Gauthier" Capt.
P. Gauthier, Capt.
M.O.

Plea in mitigation:

The accused made a statement during the trial saying that he lost his sec in battle. Now this man has been fighting in France since "D" Day, doing a good job, and then he loses a sec. Now as a sec leader this affected the morale of the man and since that time Cpl Michaud may have lost some of his nerve, which inclined him to go away. I might say that if a man has no control over his nerves and is badly shaken he might do anything. He might lose his sense of responsibility or he might not be so sure of himself. So I ask the court to consider what happened. That is all.

ACH

1st Witness for the Prosecution

E/41952 Sgt Turgeon, J, Regt de Chaud, having been duly sworn gives evidence as follows:

Q Who first noted the absence of Cpl Michaud?

A. I noticed the absence of Cpl Michaud at 1245 hrs 8 Aug 44.

Q. Do you know if Cpl Michaud knew that we were proceeding on an attack or some op before he went AWL?

A. I cannot certify.

Cross-examination.

Q. You said a moment ago that you noticed the absence of Cpl Michaud at 1245 hrs?

A. Yes, sir.

Q. In what capacity did you call the pl on meal parade on 8 Aug 44?

A A/pl Comd.

Q. How did you notice that Cpl Michaud was missing?

A. I noticed myself that he was missing in the pl.

Q. You say you noticed the absence of Cpl Michaud. In what way did you notice? Did you have a roll call? Did you call the roll of the pl?

A. I didn't make a roll call but I knewthe men in the pl sufficiently well to see that Cpl Michaud was missing.

Q. At that time did you know there was going to be a move of the bn?

A. Yes, sir.

Questioned by the Judge Advocate:

Q. Did you make a search yourself at noon on 8 Aug 44?

A. Yes, sir.

Q. Looking for the accused?

A. Yes, sir.

Q. What was the extent and nature of your search?

A. I looked for him about one hr.

Q. Have you been with the unit from 8 to 30 Aug 44?

A. Yes, sir.

Q. Was the accused present during that time?

A. No, sir.

Q. If he had been, would you have known it?

A. Yes, sir.

2nd Witness for the Prosecution

Capt J.P. Verge, Regt de Chaud, having been duly sworn states:

I produce herewith certificate in accordance with Sec 163 of the Army Act purporting to be signed by the Commanding Officer 243 Pro Coy and I identify the accused as the person to whom it refers.

The certificate is marked Exhibit "A", signed by the president and att to the proceedings.

The defence does not wish to cross-examine.

3rd Witness for the Prosecution

E/9305 Sgt Ouellette, H, Regt de Chaud, having been duly sworn gives evidence as follows:

Q. What was your duty in the coy from 8 to 30 Aug 44?

A. A/CSM.

Q. During this time did you see Cpl Michaud in the unit lines?

A. No, sir.

The defence does not wish to cross-examine.

Questioned by the Judge Advocate:

Q. If he had been present would you have seen him?

A. Yes, sir, because I was always in the coy lines.

ACH

Accused

Emile

D/129109 Cpl Paul/Michaud, Regt de Chaud, having been duly sworn gives evidence as follows:

Q. Will you tell the court what happened on 8 Aug 44 at meal parade and continue from there.

A. On 8 Aug 44 I was with the unit during the rest period down at Basly. My brother in the Air Force was with me then. He had come over to see me. I was all packed up on stand-to all the time. I thought that one day or another we were going to go away so that is why I was always ready. My brother came over to see me and I had not seen him since I had been in France. He asked me if I was going to be there long and he started to cry. Then I decided not to go with the unit when it went and I decided to pull out. So I went. Afterward I was residing in a house in Basly with a friend. I stayed there for 22 days. I had the intention of coming back to the unit but I did not know where it was then. The day I was coming back to the unit I got a German bicycle. That day the woman where we were residing was sick. So I could not leave the woman alone with one kid of five years. We stayed another day. We tried to find out where the unit was. It was then about 300 miles from there.

Q. Could you tell me if you knew that there was going to be a move very soon?

A. I did not know exactly. But since we are in the army we are always on the move. I did not know the unit was going to move the day I left.

Q. Were you advised by someone in your coy that you were going to move?

A. There was talk among the boys that the unit was going to move but nobody knes for sure that the unit was going to move.

Cross-examination:

Q. Where were you when the Commanding Officer talked to the whole coy?

A. Down to the PMR to find out if I could send some money home. I had some money in my paybook. When I came back the boys came over and told me the Col had given them a talk.

Questioned by the Judge Advocate:

Q. Your brother started talking to you and then you say your brother started to cry?

A. Yes, sir.

Q. Why did he start to cry?

A. Because he was happy to see me. He thought I was wounded or dead because he had had no news of me since I had gone to France.

Q. Did you stay any time with your brother?

A. Just that day.

Q. Then wy did you go AWL that day?

A. Frankly I was knocked out. I was knocked out on account of the war and particularly because I had lost my whole Sec one day. The war can turn a men and make him what he is not.

Character Witness

D/150133 Sgt Dion, F, Regt de Chaud, having been duly sworn gives evidence as follows:

Q. Do you recognize the accused?

A. Yes, sir.

Q. Would you tell the court what you know about Cpl. Michaud?

A. I met the accused in Bournemouth, England. I was sec comd at the time. His conduct was very good. I was a good friend of his. I knew him pretty well. He always conducted himself as a good soldier. Later in France he conducted himself as a good soldier. He was very good to take orders and very good to execute them.

The prosecution does not wish to cross-examine.

The prosecution does not wish to sum up.

The defence sums up:

Gentlemen, you have seen the witnesses and heard their evidence. You have seen the accused. Some evidence has been given the court proving that Cpl Michaud was absent for 22 day. But there is one thing lacking and that is proof of the intention of Cpl. Michaud to desert H M Service. I hope you will understand what Cpl Michaud said a few min ago and will consider his case in that light. That is all I have to say.

ACH

The Judge Advocate addresses the court:

The prosecution submits in this case that Cpl Michaud deserted H M Service. Now he who alleges must prove. In this case the prosecution must prove that allegation. They must est two main things to your satisfaction:

(1) They must prove the facts that they allege.

(2) They must convince you that those facts constitute an offence against military law, specifically desertion.

It is stated in MML that the criterion between desertion and AWL is intention. In other words desertion is AWL having superimposed upon it the element of intention. This intention must be an intntion on the part of the offender either

(1) never to return to H M Service or

(2) to avoid some particular important service.

Now intention is never capable of positive proof. That is, it cannot be laid before the court as an exhibit or proved by oral testimony of a witness who can say that he observed the mind of the accused. It can only be implied from overt acts. This process of inference would be simple if the overt act were a definite admission by the accused that he intended to desert. But such is not the case here. I do, however, draw your attn to MML, Chap VII para 23:

"If a man bound by law to perform any duty does an act which necessarily causes or most probably will cause a failure in the performance of that duty, he will be held in law to have intended to fail, and therefore to have wilfully failed, to perform that duty."

In trying to arrive at a decision as to what was in the mind of the accused you must endeavor to draw inferences from all the facts proved in evidence as they existed at the time of the alleged offence.

Previously I have said that he who alleges must prove. The law presumes, and you must accept this presumption, that every man is innocent until he is proven guilty and the onus of proving that guilt is entirely upon teh prosecution. If, therefore, upon any point you have a reasonable doubt, you must give the accused the benefit of that doubt. By reasonable doubt I do not mean the vague ephemoral doubt that a man who is anxious to avoid an unpleasant responsibility can conjure up in his mind. But rather it is that reasonable sensible doubt that a reasonable man in his other daily pursuits of business or military duty considers serious enough to deter him from positive action.

On a charge of desertion you may, under Army Act Sec 56, find the accused not guilty of desertion but guilty of being AWL. You may also find him not guilty of attempting to desert but I suggest that in such a case as this that that would not be a reasonable finding. You may of course find the accused not guilty of anything.

ACH

One further point arises in the present case. The charge alleges that the accused absented himself from 1215 hrs 8 Aug 44. The evidence indicates that the absence started at 1245 hrs. This is a small matter but nevertheless the evidence does not fully support the charge. Under R P 44 (D) you may bring in a special finding. That is, if you are satisfied of the other facts and are further satisfied that they prove either desertion or AWL, you may make the appropriate finding "with the exception that....etc...." and then fill in the clause that would make your finding conform with the evidence. Your form of special finding is set out on MML page 753.

ACH

Exhibit "A" OLO

CERTIFICATE IN ACCORDANCE WITH SECTION 163 (1)(JJ) A.A.

I certify that No 129109 Rank Cpl. Name MICHAUD, P.E.

Unit 'D' Coy, Chaudiers Regt. 3rd Canadian Division

was arrested at Basly at 1130 hrs on 30th

day of August 1944

Signature of Provost Marshall or
any other Officer into whose custody
the above named person was taken on arrest.

FIELD
20 / 8 / 1944.

"????????????" Capt.
Commanding
243 H.Q. Provost Coy, C.M.P.

Note:- When this charge has been dealt with the A.F.B. 252 should be forwarded through your usual military channels to the "A" Branch of the formation by whom you are administered (i.e. Brigade, Division, District or Corps.
Authy: Kings Regulations 1940, Para 562, or local Command Orders.

Exh A

CHARGE J1803 2269

Army Form B 252
(See King's Regulations)

Chaudiere Regiment

"D" Company

CHARGE against No. 129109 Rank Cpl.

Name MICHAUD, P.E.

Place Field Date of Offence ?

OFFENCE W.O.A.S. Absenting himself without leave from??until being apprehended by the Military Police at 1130 hrs on the 30th August 1944.

"?? Bexuley"
Capt.
DAPM 6 L of C

Names of Witnesses :—

Lieut. J.R.W. Curtis. C.M. Police

"??? eman" Capt
Commanding
243 HQ Provost Coy CMP

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded Remanded for F.G.C.M.

By whom Awarded "W.I. aucleman"??? Maj.

8 Sep 44 *Adjutant.*

84889 W.W.21972/590. 2,000,000 7/41 K. & H., Ltd. G.657/47

P.T.O.

Statement of evidence in the case of:-
No. 129109 Cpl. Michaud, P.E.,
'D' Company
Regt of Chaudiers
3rd Canadian Division.

At ST AUBIN SUR MER on the 30th August 1944 at about 1130 hrs I received information from the French Police that two French Canadians were known to be residing in a house in BASLY and that they were presumed to be absentees.

Accompanied by Sgt. Lees C.M.Police and a Gendarme I proceeded to the house in question where I saw the a/n soldier, who stated that he had absented himself from his Unit.

I obtained his particulars and verified same from his M.B.M.1 arrested him and conducted him to the 6 [illegible] Sub Area Guardroom where I handed him over to the NCO i/c Guard to be detained.

Handing over slip attached.

Field
30 Aug 44

"????????????" Lieut.
C.M. Police.

MILITARY POLICE

D.129109 Rank

Name MICHAUD, Pte. Coy / Troop / Batty / Sqdn

Unit CHAUDIERE REGT RCA

Station FIELD

Sir,

I was Commander of the 6 L of C

guadd on the 30-8-44

at about hrs, the above

named soldeir was handed over to me by the MILITARY POLICE.

He was Sober

Place Field Witnesses

Date 30th Aug 1944

Signature "P. Drummond" Bdr. Guard

Exhibit C

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

OLO

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
D.129109	CPL	MICHAUD, P.E.	Regt de la Chaudiere

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Field Conduct sheet ..... times.

For destroyed by enemy action. ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 4 days in military custody, *i.e.*, 4 days in open arrest, Nil days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 23

6. The date of his attestation / calling up for military service is 12 March 1942

7. The service which the accused is allowed to reckon is 2 years, 6 months

†State the military decorations (if any) held by accused.

8. The accused is in possession of† C V S M & CLASP

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	CORPORAL	19 July 1942
In the war substantive rank of	N/A	
In the acting rank of	N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(25114) Wt.8670/668 100,000 4/42 A.& E.W.Ltd. Gp.698
(22459) Wt.29255/1873 60,000 9/42 " " Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 14th day of Sep 44

"M.A. Cardinal" Capt, Adjt.
R de Chaud

Exhibit B

OLC

MFM 6
(AFB 123)
40/F&S/156 (3480)

TEMPORARY SHEET

Cpl.

No D129109 Name MICHAUD, P.E. Sqn. Battery, or Company D Coy Corps C I C

Date of enlistment 12-3-42 GC Badges N/A Service or Proficiency Pay

Date of last entry in Company Conduct Sheet

No and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No

Signature OC Company, etc "?????????" Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				original destroyed by enemy action.					

(PTO)

SUMMARY OF EVIDENCE

In the case of E 129109 Cpl MICHAUD, Paul Emile 1st Bn Le Regiment de la Chaudiere, an N.C.O. of the Can Army, placed on Active Service,

The C.O. directs that the Evidence be taken on Oath.

1st Witness: E 41952 Sgt Turgeon, J. of "D" Coy r de Chaud
On the 8th Aug 44 at about 1215 hrs, I called the Pl on meal parade, I noticed that D 129109 Cpl Michaud P.E. was missing, I askedthe 2 i/c of his section where Cpl Michaud was and he told me that he had not seen him for sometime.

The accused declines to cross examine the witness.

"Joachim Turgeon," Sgt.
E 41952 Sgt Turgeon, J.

2nd Witness: E-9305 Sgt Ouellette, H. of "D" Coy r de Chaud, having been duly sworn states:
I am e 9305 Sgt Ouellette, H. of "D" Coy r de Chaud and I certify having not seen E 129109 Cpl Michaud, P.E. from the 8th Aug 44, until I saw him at Coy H.Q. on the 6th Sept 44 around 1000 hrs.

The accused declines to cross examine the witness.

"H. Ouellette" Sgt
E 9305 Sgt Ouellette, H.

xxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxx
MAC
xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

Question to the accused: Desirez-vousfaire une declaration ou rendre temoignage sous serment? Vous n'etes pas oblige de dire quoique ce soit, ni de rendre temoignage a moins que vous ne le desiriez, mais tout ce que vous dire, et toutes depositions que vous ferez sera pris par ecrit et pourra servir de preuves.

Answer by the accused: Non Monsieur (NO SIR)

" "
D-129109 Cpl. Michaud, P.E.
D 129109 Cpl Michaud, P.E.

I certify that the foregoing Summary of Evidence consisting of one page has been taken down by me in writing in the presence and hearing of the accused, and that the Rules of Procedure 4 (C) (D) (E) (F) have been complied with.

In the field

this 14th day of Sept 44.

MAC

"Gos to Leland" Lt.
(G. LALANDE) Lieut.
Officer detailed
to take this Summary
of Evidence.

Capt, J.P. VERGE, 2 i/c "D" Coy, Le Regiment de la Chaudiere having been duly sworn states:

I am Capt J.P. VERGE, 2 i/c "D" Coy, Le Regiment do la chaudiere - I certify that the exigencies of the service do not permit the attendance of Lieut. J.R.W. CURTIS, C.M. Police. I furthermore certify that the lollowing documents are true - Certificate in accordance with section 163 (1) J.J. AA. - and statement signed by Lieut. CURTIS, J.W.R.

MAC

(A/m Documents are att as Exh A)

"J.P. Verge"
(J.P. VERGE) Capt.
2 i/c "D" Coy,
Le Regiment de la Chaudiere.

40-2

FIELD GENERAL COURT-MARTIAL

CPA90 (In lieu of APA81) 40/P & S/1698 (4910) 4/38B

Convened by Order of Brig K. G. Blackader, DSO Comd 3 Inf Bde dated 15 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D/129109	Cpl		Paul Emile	MICHAUD	Le Regiment de la Chaudière

D. J. A.
Cdn Sec G.H.Q 2 Ech 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) France on (*date(s)*) 16 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

16/41

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1730 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the OC.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to Lt J. C. Closson as interpreter? Ans No.

The Interpreter is sworn.(1) Do you object to S/Sgt Phillips, FH as shorthand writer? Ans No.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	O. L. Corbett	North Shore (NB) Regt
Member	Capt	J. D. MacLean	QOR of C
Member	Capt	J. Laliberte	Regt de Chaud
Judge-Advocate	Capt	A. C. Hall	ADJA 3 Cdn Inf Div
Prosecutor	Lieut	G. Lelande	Regt de Chaud
Defending Offr	Lieut	G. Francq	Regt de Chaud

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 1.)

A8. The accused D/129109 Cpl Michaud, P. E. before arraignment make(s) (no) (~~a~~) plea

.....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A9 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~in camera and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No, sir.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ .....charge(s).(2) ~~The Court~~ is closed, ~~and~~ considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial ~~will proceed~~ on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence ~~solely on ground of irrelevance. (RP 60(C), 114, 115.)~~

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. give evidence on oath..... Do you intend to call witnesses on your behalf ?
Ans. yes, sir. Are they witnesses as to character only ? Ans. yes, sir.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No, sir.....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. "B" and Ex. "C" respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes, sir.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D/129109 Cpl Paul Emile MICHAUD, Le Regiment de la Chaudiere

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Army Act Sec 12(1)			
2nd	Not Guilty	Guilty	with the exception that the absence
3rd			began at 1245 rather than 1215 hrs
4th			8 Aug 44
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~present under sentence for~~ ..... ~~beginning on (date)~~ .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ....0.... days, of which ....0.... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To suffer penal servitude for the term of 10 years

(Sgd) "Alex C. Hall" Capt. — Judge-Advocate, if any. 16 Sep 44 — Date awarded. (Sgd) "O.H. Corbett" Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation

Date 22 Sep 44 (Sgd) H.E. Blackader Brig Commanding 86 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date .....

Commanding .....

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 129109 Cpl Paul Emile Michaud	7 Dec 44	W Tarshuman

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused -- D/129109 Cpl Paul Emile MICHAUD, Regt de Chaud, an NCO of the Cdn Army Overseas placed on active service -- is charged with:

First Charge
Army Act
Sec 12(1)

WHILE ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

in the field on 8 Aug 44 did absent himself without leave from 1215 hrs until apprehended by a member of the Corps of Military Police at Basly, France, at 1130 hrs 30 Aug 44, with intent to avoid action.

In the field
14 Sep 44

(Sgd) Paul Mathieu, Lt-Col
Commanding Officer
Regt de Chaud

To be tried by Field General Court Martial.

15 Sep 44

(Sgd) K G Blackader, Brig
Comd 8 Cdn Inf Bde

Regt de Chaud
16 Sep 44

D/120109 Cpl Michaud, P E

The a/m soldier is fit to undergo trial by a court martial.

(Sgd) P Gauthier, Capt
Medical Officer
Regt de Chaud

C O P Y

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAM/1007 (D868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D/125263	Pte		Paul	BRUNEAU	
E/ 10525	Pte		Aniset	DUBE	
D/129109	Cpl		Paul Emile	MICHAUD	
D/157729	Pte	L/Cpl	Georges	TRUDEAU	
D/163158	Sgt		Jean	BAULU	

Le Regiment de la Chaudiere

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 15 Sep 44 endorsed by me, ~~(or by an offr of my staff for me),~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	O L Corbett	North Shore (NB) Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J D MacLean	QOR of C
Capt	J Laliberte	Regt de Chaud

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	W H Cairns	QOR of C

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	A C Hall	H Q 3 Cdn Inf Div

On Active Service in the Fd

in France (Country.) "K G Blackader" (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 15 Sep 44 Commanding 8 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

1st Witness for the Prosecution

E/41952 Sgt Turgeon, J, Regt de Chaud, having been duly sworn gives evidence as follows:

Q Who first noted the absence of Cpl Michaud?

A I noticed the absence of Cpl Michaud at 1245 hrs 8 Aug 44.

Q Do you know if Cpl Michaud knew that we were proceeding on an attack or some op before he went AWL?

A I cannot certify.

Cross-examination:

Q You said a moment ago that you noticed the absence of Cpl Michaud at 1245 hrs?

A Yes, sir.

Q In what capacity did you call the pl on meal parade on 8 Aug 44?

A A/pl comd.

Q How did you notice that Cpl Michaud was missing?

A I noticed myself that he was missing in the pl.

Q You say you noticed the absence of Cpl Michaud. In what way did you notice? Did you have a roll call? Did you call the roll of the pl?

A I didn't make a roll call but I knew the men in the pl sufficiently well to see that Cpl Michaud was missing.

Q At that time did you know there was going to be a move of the bn?

A Yes, sir.

Questioned by the Judge Advocate:

Q Did you make a search yourself at noon on 8 Aug 44?

A Yes, sir.

Q Looking for the accused?

A Yes, sir.

Q What was the extent and nature of your search?

A I looked for him about one hr.

Q Have you been with the unit from 8 to 30 Aug 44?

A Yes, sir.

Q Was the accused present during that time?

A No, sir.

Q If he had been, would you have known it?

A Yes, sir.

2nd Witness for the Prosecution

Capt J P Verge, Regt de Chaud, having been duly sworn states:

I produce herewith certificate in accordance with Sec 163 of the Army Act purporting to be signed by the Commanding Officer 243 Pro Coy and I identify the accused as the person to whom it refers.

The certificate is marked Exhibit "A", signed by the president and att to the proceedings.

The defence does not wish to cross-examine.

3rd Witness for the Prosecution

E/9305 Sgt Ouellette, H, Regt de Chaud, having been duly sworn gives evidence as follows:

Q What was your duty in the coy from 8 to 30 Aug 44?

A A/CSM.

Q During this time did you see Cpl Michaud in the unit lines?

A No, sir.

The defence does not wish to cross-examine.

Questioned by the Judge Advocate:

Q If he had been present would you have seen him?

A Yes, sir, because I was always in the coy lines.

Accused

D/129109 Cpl Paul Emile Michaud, Regt de Chaud, having been duly sworn gives evidence as follows:

Q Will you tell the court what happened on 8 Aug 44 at meal parade and continue from there.

A On 8 Aug 44 I was with the unit during the rest period down at Basly. My brother in the Air Force was with me then. He had come over to see me. I was all packed up on stand-to all the time. I thought that one day or another we were going to go away so that is why I was always ready. My brother came over to see me and I had not seen him since I had been in France. He asked me if I was going to be there long and he started to cry. Then I decided not to go with the unit when it went and I decided to pull out. So I went. Afterward I was residing in a house in Basly with a friend. I stayed there for 22 days. I had the intention of coming back to the unit but I did not know where it was then. The day I was coming back to the unit I got a German bicycle. That day the woman where we were residing was sick. So I could not leave the woman alone with one kid of five years. We stayed another day. We tried to find out where the unit was. It was then about 300 miles from there.

Q Could you tell me if you knew that there was going to be a move very soon?

A I did not know exactly. But since we are in the army we are always on the move. I did not know the unit was going to move the day I left.

Q Were you advised by someone in your coy that you were going to move?

A There was talk among the boys that the unit was going to move but nobody knew for sure that the unit was going to move.

Cross-examination:

Q Where were you when the Commanding Officer talked to the whole coy?

A Down to the PMR to find out if I could send some money home. I had some money in my paybook. When I came back the boys came over and told me the Col had given them a talk.

Questioned by the Judge Advocate:

Q Your brother started talking to you and then you say your brother started to cry?

A Yes, sir.

Q Why did he start to cry?

A Because he was happy to see me. He thought I was wounded or dead because he had had no news of me since I had gone to France.

Q Did you stay any time with your brother?

A Just that day.

Q Then why did you go AWL that day?

A Frankly I was knocked out. I was knocked out on account of the war and particularly because I had lost my whole See one day. The war can turn a man and make him what he is not.

Character Witness

D/150133 Sgt Dion, F, Regt de Chaud, having been duly sworn gives evidence as follows:

Q Do you recognize the accused?

A Yes, sir.

Q Would you tell the court what you know about Cpl Michaud?

A I met the accused in Bournemouth, England. I was sec cond at the time. His conduct was very good. I was a good friend of his. I knew him pretty well. He always conducted himself as a good soldier. Later in France he conducted himself as a good soldier. He was very good to take orders and very good to execute them.

The prosecution does not wish to cross-examine.

The prosecution does not wish to sum up.

The defence sums up:

Gentlemen, you have seen the witnesses and heard their evidence. You have seen the accused. Some evidence has been given the court proving that Cpl Michaud was absent for 22 days. But there is one thing lacking and that is proof of the intention of Cpl Michaud to desert H M Service. I hope you will understand what Cpl Michaud said a few min ago and will consider his case in that light. That is all I have to say.

CORRECTION

This document has been rephotographed to assure legibility

The Judge Advocate addresses the court:

The prosecution submits in this case that Cpl Michaud deserted H M Service. Now he who alleges must prove. In this case the prosecution must prove that allegation. They must est two main things to your satisfaction:

(1) They must prove the facts that they allege

(2) They must convince you that those facts constitute an offence against military law, specifically desertion

It is states in MML that the criterion between desertion and AWL is intention. In other words desertion is AWL having superimposed upon it the element of intention. This intention must be an intention on the part of the offender either

(1) never to return to H M Service or

(2) to avoid some particular important service

Now intention is never capable of positive proof. That is, it cannot be laid before the court as an exhibit or proved by oral testimony of a witness who can say that he observed the mind of the accused. It can only be implied from overt acts. This process of inference would be simple if the overt act were a definite admission by the accused that he intended to desert. But such is not the case here. I do, however, draw your attn to MML, Chap VII, para 23:

> "If a man bound by law to perform any duty does an act which necessarily causes or most probably will cause a failure in the performance of that duty, he will be held in law to have intended to fail, and therefore to have wilfully failed, to perform that duty."

In trying to arrive at a decision as to what was in the mind of the accused you must endeavor to draw inferences from all the facts proved in evidence as they existed at the time of the alleged offence.

Previously I have said that he who alleges must prove. The law presumes, and you must accept this presumption, that every man is innocent until he is proven guilty and the onus of proving that guilt is entirely upon the prosecution. If, therefore, upon any point you have a reasonable doubt, you must give the accused the benefit of that doubt. By reasonable doubt I do not mean the vague ephemeral doubt that a man who is anxious to avoid an unpleasant responsibility can conjure up in his mind. But rather it is that reasonable sensible doubt that a reasonable man in his other daily pursuits of business or military duty considers serious enough to deter him from positive action.

On a charge of desertion you may, under Army Act Sec 56, find the accused not guilty of desertion but guilty of being AWL. You may also find him guilty of attempting to desert but I suggest that in such a case as this that that would not be a reasonable finding. You may of course find the accused not guilty of anything.

One further point arises in the present case. The charge alleges that the accused absented himself from 1215 hrs 8 Aug 44. The evidence indicates that the absence started at 1245 hrs. This is a small matter but nevertheless the evidence does not fully support the charge. Under R P 44 (D) you may bring in a special finding. That is, if you are satisfied of the other facts and are further satisfied that they prove either desertion or AWL, you may make the appropriate finding "with the exception that....etc...." and then fill in the clause that would make your finding conform with the evidence. Your form of special finding is set out on MML page 753.

CERTIFICATE IN ACCORDANCE WITH SECTION 163 (1) (JJ)

I certify that No. 129109 Rank Cpl Name MICHAUD, P.E.

Unit HQ Coy, Chaudiere Regt. 3rd Canadian Division

was arrested at Bealy at 1130 hrs. on 30th

day of August 1944.

Signature of Provost Marshal or
any other Officer into whose custody
the above named person was taken on arrest.

Field
30/ 8/ 1944

(Signed) E.Penson Capt. Commanding
243 HQ Provost Coy C.M.P.

EXHIBIT "B"

3/17 MFM 6
(AFB 122)
49(FAS/128 (5413)

TEMPORARY SHEET

Cpl

No. D129109 Name MICHAUD, P.E. Sqn, Battery, or Company D Coy Corps C I C

Date of enlistment 12-3-42 GC Badges N/A Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original destroyed by enemy action.					

(PTO)

M.F.B. 355
22M—5-41 (572-5)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D.129109	Cpl.	MICHAUD, F.E.	Regt de la Chaudiere

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For Field Conduct sheet	times	times
For destroyed by enemy action.	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 4 days in Air Force / military custody, making a total of 4 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused ~~according to his record of service~~ is 23 ~~attestation paper is~~

6. The date of his ~~commission specified in his record of service~~ is attestation 12 March 1942 ~~attestation paper~~

7. The service which the accused is allowed to reckon ~~towards discharge~~ is 2 years 6 months

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession ~~of or entitled to an air force decoration, or air force reward (or is in possession of or entitled to)~~. State any air force decoration or reward. military military military C V S M & CLASP

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

19 July 1942 ..... Date of promotion.

In the rank of CORPORAL ..... years.

In the rank of N/A ..... years.

In the rank of N/A ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force / Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....
Unit
Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th day of Sep 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

(Signed) M.A. Cardinal Capt Adjt
R de Chaud

SUMMARY OF EVIDENCE in the case of D/129109 Cpl Paul Emile MICHAUD, Regt de Chaud, an NCO of the Cdn Army placed on active service.

The Commanding Officer directs that the evidence be taken on oath.

1st Witness E/41952 Sgt Turgeon, J, "D" Coy Regt de Chaud, having been duly sworn states:

I am E/41952 Sgt Turgeon, J, of "D" Coy Regt de Chaud. On 8 Aug 44 at about 1215 hrs I called the pl on meal parade. I noticed that D/129109 Cpl Michaud, P E, was missing. I asked the 2nd i/c his sec where Cpl Michaud was and he told me that he had not seen him for sometime.

The accused declines to cross-examine the witness.

"Joschim Turgeon", Sgt

2nd Witness E/9305 Sgt Ouellette, H, "D" Coy Regt de Chaud, having been duly sworn states:

I am E/9305 Sgt Ouellette, H, of "D" Coy Regt de Chaud. I certify not having seen D/129109 Cpl Michaud, P E, from 8 Aug 44 until I saw him at Coy HQ 6 Sep 44 around 1000 hrs.

The accused declines to cross-examine this witness.

"H Ouellette", Sgt

3rd Witness Capt J P Verge, 2nd i/c "D" Coy Regt de Chaud, having been duly sworn states:

I am Capt J P Verge, 2nd i/c "D" Coy Regt de Chaud. I certify that the exigencies of the service do not permit the attendance of Lieut J R W Curtis, CMP. I furthermore certify that the following documents are true:

(a) Certificate in accordance with Army Act Sec 163(1)(jj)
(b) Statement signed by Lieut J W R Curtis

(The a/m documents are att as Exhibit "A".)

"J P Verge", Capt

Question to the accused:

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer from the accused:

No, sir.

I certify that the foregoing summary of evidence consisting of one page has been taken down by in writing in the presence and hearing of the accused, and that R P 4(C) (D) (E) & (F) have been complied with.

Signed in the field this 14th day of Sep 1944.

"G Lalande", Lieut
Officer detailed to take
this summary of evidence

C O P Y

Note: When this charge has been dealt with the A.F.B. 252 should be forwarded through your usual military channels to the "A" branch of the formation by whom you are adminstered (i.e. Brigade, Division, District or Corps. Authy: Kings Regulations 1940, Para 562, or local Command Orders.

EXH "A"

Army Form B 252
(See King's Regulations)

CHARGE

Regiment
Battery
Squadron
Troop
Company

Chaudiere

"B"

CHARGE against No. 12 S 109 Rank Cpl

Name MICHAUD, P.B.

Place Field Date of Offence ?

OFFENCE W.O.A.S. Absenting himself without leave from?? until being apprehended by the Military Police at 1130 hrs on the 30th August 1944.

Names of Witnesses :—

Lieut. J.R.W. Curtis. C.M. Police

E.Fenna Capt. Commdg
243 HQ Provost Coy RE

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded Remanded for FGCM

By whom Awarded (Signed) W. Tablineau Maj

Adjutant.

8 Sep 44

P.T.O.

30188. WLW3127-1961. 2,000,000 10/42. K. & R., Ltd. G452747.

Statement of evidence in the case of:-
No. 129109 Cpl. Richaud, F.E.
"D" Company,
Regt of Chaudiere.
3rd Canadian Division.

At ST AUBIN SUR MER on the 30th August 1944 at about 1130 hrs I received information from the French Police that two French Canadians were known to be residing in a house in BASLY and that they were presumed to be absentees.

Accompanied by Sgt. Lees C.M. Police and a Gendarme I proceeded to the house in question where I saw the s/n soldier, who stated that he had absented himself from his Unit.

I obtained his particulars and verified same from his M.B.H. I arrested him and conducted him to the 6 L of C Sub Area Guardroom where I handed him over to the NCO i/c Guard to be detained.

Handing over slip attached.

Field.
30 Aug 44

(Signed) J.R.W. Curtis Lieut.
C.M. Police.

MILITARY POLICE RETAIN.

No. 129109 Rank Cpl

Name MICHAUD, Pte

D Coy.
Troop
Betty
Sqn

Unit Chaudiere Regt RCA

Station Field

Sir,

I was Commander of the G L of C

guard on the 30/8/44

at about hrs, the above
named soldier was handed over to me
by the MILITARY POLICE
He was Sober

Place Field Witnesses

Date 30th Aug 1944

Signature P.Drumonond Bdr. Guard.

Plea in mitigation:

The accused made a statement during the trial saying that he lost his sec in battle. Now this man has been fighting in France since "D" Day, doing a good job, and then he loses a sec. Now as a sec leader this affected the morale of the man and since that time Cpl Michaud may have lost some of his nerve, which inclined him to go away. I might say that if a man has no control over his nerves and is badly shaken he might do anything. He might lose his sense of responsibility or he might not be so sure of himself. So I ask the court to consider what happened. That is all.

T-36-10-182 Vol.2 (AJAG)

T-20-B-19933	T-20-H-7147
T-20-C-15715	T-20-K-21638
T-20-D-10624	T-20-P-10121
T-20-J-4514	T-20-R-2121
T-20-L-11460	T-20-T-6723
T-20-L-5513	T-20-V-11437
T-20-M-21993	

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
10th October, 1945.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
2495
OCT 12 1945
File — M-1621
Chgd. to
Referred to

S.U.S. ex U.K. - Remission of Sentences

J-34007 -	Pte. BERGERON, L.	- 1029(9)
D-75902 -	Pte. CASS, P.	- 1029(8)
D-142559 -	Pte. DUQUETTE, M.	- 1029(9)
L-101531 -	Gnr. JONES, R.	- 1029(9)
G-46829 -	Pte. LAROSE, R.	- 1029(9)
D-141228 -	Pte. LYNCH, T.F.	- 1029(9)
G-23546 -	Pte. MAILLET, G.J.	- 1029(9)
E-42428 -	Pte. MESSERVIER, R.	- 1029(9)
D-129109 -	Pte. PRIDEAU, E.A.	- 1029(8)
D-155140 -	Pte. RANKIN, R.	- 1029(9)
D-143097 -	Pte. TOWNSEND, K.	- 1029(9)
G-36829 -	Pte. WILSON, W.G.	- 1029(8)
D-129109 -	Pte. MICHAUD, P.E.	- 1029(8)

Reference HQS 8536-6 and CS 1-4-8-2 (SCA) dated 17th September, 1945.

2 The marginally-named SUS were discharged under the provision of C.A.R.O. 1029 as indicated after each name and such discharge and remission were effective 27th September, 1945, in all cases except in the cases of D-143097, Pte. TOWNSEND, K. and G-36829 Pte. WILSON, W.G. The effective Date of Discharge in the latter two cases was the 28th September, 1945.

3 Herewith Appendix "G" to C.A.R.O. 5913 showing Remission effective Date of Discharge, Promulgation and Certified True Extract of Daily Orders Part II.

4 Also enclosed herewith for disposal Army Form 3104 in all cases except that of G-23546 Pte. MAILLET, G.J. Army Form A 3104 was not received in his case.

(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

COPY TO : The Commander (FOR INFORMATION)
CAMP BORDEN,
Ontario.

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM.

NDHQ File No.
District File No. T-20-M-21658

PART I

No. D-129109 Rank Cpl. Name MICHAUD, P.E.
Unit No. 2 District Depot, C.A. (formerly Regt. de Chaudiere)

PART II

Date of Trial 16th Sept. 44 (FGCM)
Charge(s) Desertion (AA Sec. 12(1)
Sentence 2 years' Imprisonment
Date of Sentence 16th Sept. 44
Confirmation - (a) Authority : Jas. A. Roberts, Brig.
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act (~~[illegible]~~), do hereby remit (~~[illegible]~~) the balance of Imprisonment awarded the above-noted soldier, effective the Date of Discharge, namely (27 Sep 45).

SIGNED at TORONTO, Ontario
this 21st day of September
1945.

(A.E. Potts)
Major-General
D.O.C. M.D. 2.

PART IV
PROMULGATION

Remission (~~[illegible]~~[x]) promulgated and extracts taken at No. 2 District Depot, C.A. this 27th day of September 1945.

Capt. Adj.,
Officer i/c Documents (J.J. Eyles)

(1) Unit, attachment and appointment to be stated.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D.129109 Rank Cpl. Name MICHAUD, P.E.
The sentence of 2 years imprisonment
awarded by Fld.Gen. Court-Martial on the 16th day of Sep 44
194 has been remitted by 353 days
on the 27th day of September 1945 by Major-General A.E. Potts
Unit No. 2 District Depot, C.A.
Certified true Extract of Daily Orders Part II of
250 Place Toronto, Ont. Date 29 Sep 45.
Auth: T-20-M-21658 (AJAG), d/24 Sep 45.

Capt.
Adjutant (J.J. Eyles)

[x] Strike out and initial words not applicable.

Army Form A 3194.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. D/129109 Cpl Michaud, P E Unit Regt de Chaud

Sentenced to two years imprisonment on 16 Sep 44

Age on, and date of, enlistment 20 yrs 12 Mar 42 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII.
For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(*22948) Wt.26036/911 60,000 11/42 A.& E.W.Ltd. Gp.498 Forms/A.3194/11.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	No Remission Return to Canada in custody under sentence	Confirmed by Brigadier D.A.G. Canadian Military Headquarters 27 FEB 1945	
21 SEP. 1945	Remit Effective Date of Discharge	A. E. POTTS, Maj.-Gen. D.G.C. M.D.No. 2	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. A.A. Sec 12 (1) A.W.L. from 1245hrs 8 Aug 44, till apprehended at 1130hrs 30 Aug 44, with intent to avoid action. R L Boulanger Capt — Signature of Officer making entry.	8/8/44	16/9/44
VIII.—Second Trial. — Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
12 Dec 44	Recommend that whole of sentence be remitted ~~on return to Canada~~ ~~D.B.~~ U.K.	W Trueman Lt Col

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
18 Dec 44	No recommendation for remission of Sentence	Jas A Roberts Brig

T-30-10-282 (AJAG)
T-20-B-19933
T-20-C-15715
T-20-D-10524
T-20-J-4514
T-20-L-11460
T-20-L-5813
T-20-M-21993
T-20-M-7147
T-20-M-21658
T-20-P-10121
T-20-R-2129
T-20-T-8722
T-20-W-11407

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
24th September, 1945.

CENTRAL REGISTRY
SEP 26 1945
Chgd. to
Referred to

The Officer Commanding,
No. 2 District Depot, C.A.,
Stanley Barracks,
TORONTO, Ontario.

343712

6.55-M-1621

SUS ex UK - Remission of Sentences

C-34007	Pte. BERGERON, L.	- 1029(9)
B-75902	Pte. CASS, P.	- 1029(8)
D-142559	Pte. DUQUETTE, M.	- 1029(9)
L-101231	Gnr. JONES, R.	- 1029(9)
E-4630	Pte. LA ROSE, R.	- 1029(9)
B-143128	Pte. LYNCH, T.F.	- 1029(9)
C-23546	Pte. MAILLET, G.J.	- 1029(9)
E-42488	Pte. MESSERVIER, R.	- 1029(9)
D-129109	Pte. MICHAUD, P.E.	- 1029(8)
C-21566	Pte. PRINEAU, J.A.	- 1029(8)
B-155140	Pte. RANKIN, R.	- 1029(9)
D-143097	Pte. TOWNSEND, K.	- 1029(9)
C-36829	Pte. WILSON, W.G.	- 1029(8)

Reference CB 1-4-8-2 (SGA) dated 17th September, 1945.

2. The Commander, Camp Borden, has advised that the marginally-named SUS were despatched to No. 2 District Depot, C.A., on FRIDAY the 21ST of SEPTEMBER, 1945, for discharge under the provisions of C.A.R.O. 1029 as indicated in each case, after each name.

3. The District Officer Commanding, M.D. 2, has remitted the balance of the sentences now being served by the marginally-named SUS effective Date of Discharge.

4. Enclosed herewith Appendix "C" to C.A.R.O. 5913 effecting remission.

5. May Promulgation of the Remission be made to the said respective SUS effective the date of discharge, Parts IV and V of the said form completed and the form then returned to this Headquarters, please.

(P.J. Flynn)
Major
A.J.A.G. M.D. 2.

COPY TO : The Secretary, (FOR INFORMATION)
Department of National Defence,
OTTAWA, Ontario.

The Commander, (FOR INFORMATION)
CAMP BORDEN,
Ontario.

HDG/GB Q.G.G. 55-M-1621 Adm. 3(b)8

le 11 septembre 5.

Monsieur,

Je vous accuse réception de votre lettre du 30 août 1945 relativement à votre fils, le soldat P.-E. Michaud, matricule D-129109.

Les autorités militaires m'informent que la sentence infligée au soldat Michaud sera revisée dans un avenir très rapproché. Sa mise en liberté dépendra alors des rapports reçus au sujet de sa conduite pendant sa détention.

Votre bien dévoué,

le sous-ministre,

M. Jean Michaud,
Lac Lavoie,
Comté de Matapédia, P.Q.

QUOTE No. HQC 55-M-1621 Adm 3(b)2

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

OTTAWA, CANADA,

11 September 1945

Dear Sir:

This will acknowledge your letter of 30 August 1945 with reference to your son, D-129109 Pte P E Michaud.

I am informed by the military authorities that the sentence awarded this soldier will be reviewed in the very near future. Whether or not he will be released at that time will depend upon the reports received on his conduct while undergoing sentence.

Yours truly,

Deputy Minister,
(Army)

BUREAU FOR TRANSLATIONS
SEP 11 1945
SEP 12 1945
NATIONAL DEFENCE

Jean Michaud, Esq.,
Lac Lavoie,
County of Matapedia, P.Q.

ET
For translation, pls.

W. O. Fowler Capt
for. (J E MacDermid),
Colonel,
D Adm

11 Sep 45

352113

PRECIS
ER/AD
4-9-45

C.55 m 1621

Admin.

Lac Lavoie 30-8-45

RE: Emile MICHAUD

In this letter to the Adjutant-General, the writer, Mr. Jean Michaud, Lac Lavoie, County of Matapédia, P.Q., refers to a petition signed by the mayor of Lac aux Saumons and many persons of good standing about the discharge of his A/M son. It dealt with the punishment awarded to the a/m when he was in Italy.

He appeals to you for the release of his son setting forth that his son has not earned anything for a year and a half, that others have been granted remission of their sentences and that he needs his son on the farm.

Mr. Michaud would appreciate knowing if he can hope to receive a favourable answer.

RECEIVED
SEP 6 1945
A.D.M.
36

Sentence awarded Nov 8/45 will be reviewed in very near future. Whether or not he will be released will depend upon record

PRECIS
ER/AD
4-9-45

Admin.

Lac Lavoie 30-8-45

RE: Emile MICHAUD

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4-9-45

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Mr. Michaud would appreciate knowing if he can hope to receive a favourable answer.

Lac Larre 30/8/45.

Monsieur l'Adjudant-Général
Ottawa

BUREAU DES TRANSLATIONS
SEP 4 1945
Rec'd
Rat'd
SEP 5
NATIONAL DEFENCE

Cher monsieur

Vous avez sans doute, reçu depuis quelques temps déjà, une requête signée par le maire de Lac au Saumon et plusieurs gens attitrés, au sujet de la libération de mon fils Emile Michaud

Je ne commencerais pas a vous énumérer, la cause de sa détention, parce que vous êtes plus au courant que nous dans cette affaire.

Cette punition lui a été infligée lors de son séjour en Italie. Je vous demande si vous êtes capable de lui

rendu sa liberté, j'en aurais
bien besoin à ce temps-ci de
l'année sur ma terre et compt-
er bien que ça fait 1½ ans
qu'il ne touche pas un sous
quel avenir pour ce garçon
là se voir.

A bien penser, la justice
l'a puni, c'était son droit
de le faire, mais ne voit-on
pas des prisonniers obtenir des
mois de grâce, pourquoi pas
tien aussi bien que un autre?
Je sais que si vous le voul-
lez; vous êtes capable de faire bien
des choses d'abord je me suis
adressé aux autorités civiles et ils
m'ont refusé à moi, vous êtes as-
sez puissant pour m'obtenir
cela, je vous en serai gré toute
ma vie.

Daignez donc me répondre
si vous êtes assez bon et me dire
s'il y a lieu d'espérer oui ou
non, sur ce que je vous demand-
de,

Bien à vous
Jean Michaud, père
Lac Lavoie
Co. Matapédia P.Q.

CONFIDENTIAL

IN REPLY PLEASE QUOTE
No. CB 40-M-6237 (SCA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

337393

Headquarters Camp Borden
Camp Borden, Ontario 21 AUG 1945

The SECRETARY
Dept of Nat Defence
OTTAWA, Ontario.

CONFIDENTIAL

CENTRAL REGISTRY Army
CONF. SEC.
AUG 24 1945
File 55-M-1621
Chgd. to
Referred to Admin

D.129109 Pte. MICHAUD, P.E.
S.U.S. #62 M.D.B.

Ref. your HQC 55-M-1621 Adm 3(b)2, dated 18 AUG 45.

2. It is noted that C.M.H.Q. letter 10/Michaud PE/1 dated 8 MAR 45 states that in view of the circumstances surrounding ~~his~~ this soldiers offence, and his present attitude, it is recommended that he should serve his present sentence in full and thereafter should be discharged for misconduct.

3. Please be advised that in view of present policy and C.M.H.Q. recommendation, it is NOT proposed to make a review prior to this soldier having served one half of his sentence.

(A.C. SPENCER)
Major-General,
Commander-Camp Borden

/jrw

M.F.B. 239
20000M—2-42 (3558)
H.Q. 1172-20-194

HQC 55-M-1681
Adm 3(b)2

OTTAWA, Ontario

CONFIDENTIAL

18 Aug 45

Commander,
CAMP BORDEN, Ontario

D.129109 Pte MICHAUD, P E
505 - 62 MDB

Enclosed herewith copy of translation of a letter received at this HQ from the mother of this soldier.

2. May this HQ be infm, ple, if any review has or will be made prior to this soldier having served one-half of the sentence awarded.

3. This matter is a subject of a S.E.

(A E Walford)
Major-General
Adjutant-General

Encl.

HOP:ds

655M1621

SPECIAL ENQUIRY

Date AUG 13 1945

No. 3821B/917A

To: D Admin

Reply addressed to M.S will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

MS

MINISTERS OFFICE
AUG 28 1945
DEPT. N.D. OTTAWA.

C. 55-M-1621 Adm 3(h)2

25 Aug 45

SR 3821B/917A 6/13 Aug 45

D-129109 Pte MIDLAND, F E

This SUS was tried by FGCM 16 Sep 44 in France on a charge of desertion, having absented himself from 8 Aug 44 until apprehended at Basly, France, 30 Aug 44, with intent to avoid action. The accused was found guilty of the offence and was sentenced to suffer penal servitude for a term of ten years. Following confirmation the sentence of the Court was reviewed, the accused was found not guilty of desertion but guilty of absence without leave and the sentence was remitted to one of imprisonment for two years.

2. This SUS was returned to Canada from O/S under OO 131/44 in Apr 45 and admitted to No 62 MDB at Camp Borden.

3. Cmdr, Camp Borden, states that review of sentence with a view to remission will be held when one-half of the sentence has been served - 16 Sep 45.

A.G. Walford,
Major-General,
Adjutant-General.

FINAL

MOP/6293/oaj

MILITARY SECRETARY
AUG 29 1945
RECEIVED

Min. File 895-86

A. G.

May the Minister be informed of the offence, sentence and any review which may have taken place, please.

W. H. [illegible]
Colonel, M. S.

13 August, 1945.

Mrs. Joseph Michaud,
6893 De Laroche St.,
Montreal 10, P. Q.

Dear Mrs. Michaud:

Re: D.129109, Pte. Paul E. Michaud

General McNaughton has directed me to acknowledge receipt of your letter of 9th August in which you ask that your son, the above mentioned soldier, be released from detention.

The Minister does not feel that he would be justified in ordering the release of a soldier from detention except on the advice of the officers having jurisdiction over such matters.

He has, however, instructed that your letter be brought to the attention of the appropriate officers of the Department for their consideration, and as soon as I have the results of any review which may have taken place I will write to you again.

Yours very truly,

(H. L. Cameron) Colonel,
Military Secretary.

RECEIVED
AUG 14 1945
ADMIN
3(b)2

TO THE HON. THE MINISTER.

(Aug.9-45)

MILITARY SECRETARY
AUG 11 1945
RECEIVED

TRANSLATION
(Aug.9-1945)

Re-Pte. Paul Emille Michaud,
D/129109 (in detention).
(HQ.405-M-42708 /ADM. 3(B) 2)

Mr. Minister:

Once again, I have come to ask you, provided his conduct warrants it, that my son be released from detention.

My othe r son will soon return from overseas, and in his name, and that of the family, I beg of you to send his brother home, so that we all be together to greet him. You will readily understand that if he is still in detention it will thoroughly spoil our joy on my other son's return!

The latter fought on almost every theatre of war, and it seems to me but fitting that in recognition of his faithful services, his brother be released from detention.

If so, he will immediately secure employment, and help at home. I am in very poor health, and to have my son released will certainly help me to some extent.

Hoping that you will give my request your benevolent attention, I .....

(SGD) Mrs. Joseph Michaud,
6893 De Laroche St.,
Montreal (10), QUE.

CHJ

Montréal 6 aout 1945.

FOR TRANSLATION
AND RETURN TO
MIN. OF N. D.

Monsieur le Ministre

MINISTER'S OFFICE
AUG 8 1945
DEPT. N. D. OTTAWA

Pardonnez moi si je prend la liberte de vous ecrire pour vous demander a nouveau si il y a possibilite que vous reviseriez le dossier de mon fils le soldat Paul Emile Michaud. D. 129109 no de votre réforme Q.G. 405-M-42 708-ADM.3 (B)2 afin que si vous pouvez juge la conduite de mon fils assez favorable pour que vous lui rendiez sa liberte ses au nom de mon fils qui sera de retour d'outre mer prochainement que je fait cette demande que vous saurez peut-etre apprecier afin de nous enlevé

Madame
à tous ce sombre nuage
qui nous entoure et que nous
enlevera la joie de fêter le
retour de ce cher petit homme
qui n'a que vingt deux ans
et qui a lui aussi participé
à toutes les invasions que
que en Allemagne alors mal-
gré la faute que l'un deux
a commise un autre qui
fait la demande d'un pardon
mériterait bien que vous vous
rendiez à notre demande.
En plus je suis certaine que
mon fils qui fait sa dé-
tention ne mènera pas au
effort de guerre ce qu'il
n'a jamais été coupable et
qu'il pourra obtenir un
emploi dès sa libération
ce qui m'aidera beaucoup
car vous savez que ma santé

Bame
2

n'est pas très bonne et que mon cas est assez grave alors je ne vous ennuierai pas plus longtemps mais rendu ton cœur au pauvre fortuné. et j'espère que vous m'accorderai votre bonne sympathie donc j'ai temps pesant

Je termine ma lettre et veuillez bien m'excuser de toutes mes erreurs.

Madame Joseph Michaud
6893 De Laroche
Montréal 10 P.Q.

Au nom de mes deux fils et de moi même Je vous remercie.

HQ 605-M-42,708
Adm 3(b)2

8th May, 1945

Dear Madam:

Further to my letter to you of the 13th March, 1945 and with reference to your recent letter of the 26th April, 1945, in connection with your son D.129109 Pte P.E. Michaud:

Further details are now available with reference to the sentence awarded this soldier. I am informed by the military authorities that on the occasion when he deserted his unit he was a non-commissioned officer. The Court took an extremely serious view of the offence committed and he was sentenced to suffer penal servitude for a term of 10 years. This sentence was subsequently remitted to 2 years imprisonment.

Sentences awarded by Military Courts are reviewed from time to time with a view to remission or suspension when the conduct of the soldier and the interests of military discipline warrant such action. However, in view of the fact that a substantial portion of the sentence has already been remitted, it is probable that this soldier will be required to serve the greater part of the sentence awarded if not all of it.

There is nothing to indicate that this soldier is medically unfit or suffering any incurable nervous break-down. He is described as suffering from a moderate instability and is considered fit to undergo his sentence.

Yours truly,

Deputy Minister,
(Army)

Mrs. Joseph Michaud
6893 Delaroche Street,
MONTREAL 10, Quebec

TO: TRANS

For translation, Pls.

(J E MacDermid) Colonel
D Adm

MEMORANDUM

Minister of Justice

Ottawa, ce 28 avril 1945.

Referred to: M. R. Lavergne, Adjoint-général du Sous-Ministre de la Défense Nationale, Ottawa.

pour considération.

Bernard Rodgers
Secrétaire particulier adjoint.

F.T.

C.R.

Please place on File or False Docket and pass to H.T. then Admin for direct departmental reply.

30 Apl 45

D.M. (Army)

e
o
P
i
e

Montréal, 25 avril 19

APR 30
MAY 3

Monsieur le ministre,

Je m'excuse auprès de vous si j'ai pris la liberté de vous écrire; c'est pour vous demander de me venir en aide si cela est possible. Je suis une pauvre mère de famille de huit enfants, veuve depuis douze ans. J'ai deux fils en service, un dans l'aviation qui est en service outremer depuis seize mois. Le premier est dans l'armée; il est en service depuis trois ans. C'est pour ce dernier que je viens vous demander grâce pour mon fils qui, au début de son entraînement, signa pour service actif et devint au bout d'un mois qualifié Caporal Instructeur au camp de Sherbrooke; pendant seize mois il fut envoyé outremer. Le 6 juin il prit part à l'invasion de la France avec sonunité le Régiment de la Chaudière; il demeura 30 jours dans les tranchées sans repos ni pouvoir enlever ses vêtements. Pour comble de malheur après avoir obtenu un congé il était bien malade, nerveux et démoralisé; il demanda du secours à son officier qui n'a pas compris son cas; finalement il se retira et retourna avec son régiment. Après 22 jours d'absence il passe en cour martiale et fut renvoyé sur la ligne de feu où il demeura en faisant les campagnes de Caen, Belgique, Hollande, jusqu'en Allemagne. En décembre il fut condamné à 2 ans de détention.

Je viens d'apprendre que mon fils est revenu au Canada pour finir sa détention au camp de Borden, Ontario. Il a été déclassé pour une dépression nerveuse incurable, et son temps terminé il sera renvoyé avec une décharge de mauvaise conduite lui enlevant tous ses droits de vétérans. Avec une maladie contractée sur les fronts, lui qui a souffert de tout, risqué sa vie pendant sept mois, et maintenant on le qualifie comme une honte pour l'armée. J'ai demandé de bien vouloir m'aider à supporter mes peines en faisant sortir mon fils sur parole et le placer dans un camp militaire dans d'autres fonctions afin qu'il puisse payer sa dette et recevoir après la guerre des papiers de bonne conduite. Nous sommes pauvres et c'est mon aîné qui me protégeais dans la vie civile. Je souffre d'une maladie de coeur. Cardiaque. J'ai remis un certificat de médecin aux autorités militaires mais aucune sympathie envers moi a été montrée. Mon fils que je désire voir depuis si longtemps! Est-il juste de nous traiter ainsi. Il m'est impossible d'aller voir mon enfant; je ne suis pas assez riche ni assez forte pour entreprendre ce voyage. C'est pour cette raison que je viens vous demander de me secourir et de faire que je puisse revoir mon fils et qu'il soit pardonné de tout. C'est la seule faute qu'il a commise pendant son service. Il avait travaillé avec acharnement pour recevoir ses galons de Caporal et ce fut une grosse peine de se les voir enlevés. Ma peine et mes inquiétudes sont bien remplies car j'ai un autre de mes fils en Allemagne même. J'espère bienque si on ne m'a pas compris que vous même vous ferez pour moi votre possible afin de me

'tournez'

rendre plus heureuse. Je ne vous demande pas l'impossible mais rendez la Charité à une pauvre mère.

Je vous remercie de toute votre sympathie que vous aurez envers moi, parce que je suis que vous êtes Canadien comme nous-mêmes et que vous m'avez compris. J'attends de vous avec patience une réponse favorable.

Votre dévouée réquérante

(MME Veuve JOSEPH MICHAUD

6843 Delaroche, Montréal, 10, Qué.

Nom de mon fils: PAUL EMILE MICHAUD D.L29109

Post Office Box No. 565
Camp Borden,
Ont.

C55-M-1621

FREE
TRANSLATION
MB/JLa
2-5-45.

C
O
P
Y

405-M-42708

AIMIN.

MAY 4 1945

Montreal, April 26, 1945.

Mr. Minister:

Re: D.129109, Paul-Emile MICHAUD,
Post Office Box No. 555,
Camp Borden, Ont.

Kindly excuse me for taking the liberty of writing to ask for help, if possible. I have eight children and have been a widow since twelve years. I have two sons in the Armed Forces, one with the R.C.A.F. overseas since sixteen months and the other, the above-named, in the Army since three years. Paul-Emile signed for Active Service when he started his training and became a qualified Corporal Instructor at Sherbrooke a month later. He spent sixteen months over-seas. On June 6th, he took part in the invasion of France with the Regiment de la Chaudière and was thirty days in the trenches, without taking any rest. He obtained leave but was very sick, nervous and down-hearted. He applied for help to his officer who did not understand his case. Finally, he withdrew and then returned to his Regiment. After an absence of twenty-two days, he was court-martialed and returned to the firing-line where he fought at Caen, in Belgium, in Holland, as far as Germany. In December, he was sentenced to two years of detention.

I have just heard that he has been returned to Canada to complete his sentence at Camp Borden, Ontario. He has been found medically unfit on account of an incurable nervous breakdown and on completion of his sentence, he will be discharged for misconduct and deprived of all his rights as a veteran. On account of a disease contracted on the battle front and after having suffered from every-thing and risked his life during seven months, he is now considered as a disgrace to the Army. I have asked that he be paroled and assigned other duties in some military camp to pay for his misdeed and obtain an honourable discharge after the war. We are poor; he is my oldest son and my support in civil life. I am affected with heart trouble and I have submitted a medical certificate to the military authorities but I have not been shown any sympathy. It is impossible for me to go to see my child, being too poor and too weak to make the trip. That is why I beg you to help me so that I may see my son again and obtain his pardon. That is the only offence he has committed during his period of service. He had worked hard to earn his Corporal's stripes and he was very sorry when he lost them. I have another son in Germany.

I trust that you will do all you possibly can to relieve my worries. Thanking you for the sympathy which you will show to me and looking forward to a favourable reply, I am,

Yours very truly,

(Sgd.) Mrs. Joseph Michaud, widow,
68-3 Delaroche, Montreal 10, P.Q.

FREE

TRANSLATION
MB/JLa
2-5-45.

C
O
P
Y

ADMIN.

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Yours very truly,
(Sgd.) Mrs. Joseph Michaud, widow,
6883 Delorimier, Montreal 10, P.Q.

FREE

TRANSLATION
MB/JLm
2-5-45.

C
O
P
Y

ADMIN.

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Yours very truly,
(Sgd.) Mrs. Joseph Michaud, widow,
6383 Delaroche, Montreal 10, P.Q.

H.Q.S. 8536-6
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

OTTAWA, Ontario

16 Apr 48

CONFIDENTIAL

Commander,
CAMP BORDEN, Ontario

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario. (for information)

D.129108 Pte MICHAUD, P.E

1. This SUS has been returned from overseas in custody to complete sentence, and is to be committed to No 62 M.D.S.

2. Herewith is copy of letter from C.M.P.Q. together with original AFA 3104.

3. Subject to the recommendations contained in copy of C.M.P.Q. letter enclosed, the procedure for the disposition of this SUS is outlined in Circular Letter R.731 HQS 8536-6 (Adm 3) 1/9 Sep 44 and HQS 8536-6 (Adm 3(b)2) 2/26 Dec 44.

4. It will be particularly noted the C.M.P.Q. has recommended that this SUS be discharged upon completion of sentence under C.A.R.O. 1009(8).

5. The original AFA 3104 is to be returned to this Headquarters when it has served its purpose.

(A E Walford)
Major-General
Adjutant-General

Encl.

THIS COPY FOR H.Q.C. 55-M-1621
M.D. 10/Michaud PE/1

G.S.

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. D.129109 Name MICHAUD, Paul Emile

Rank Cpl Unit 1st Bn le Regt de la Chaudiere

Charge A.A. 12 (1) & N.O.A.S. Desertion

Date of Crime 8-8-44

Date of Arrest 30-8-44 Charge Signed 14-9-44

Orders for ~~D.C.M.~~ F.G.C.M. Brig Cmdg 8 Cdn Inf Bde

Place and Date of Trial Field 16-9-44

Sentence Penal servitude 10 yrs

Date of Confirmation 1-12-44

Date of Promulgation 7-12-44

Entered in Records of J.A.G. as No. 3434

Date 29-3-45

MEMO Finding and Sentence of court revoked by ~~President~~ Court and accused found Guilty A.W.L. and sentence to Imprisonment C.H.L. 2 yrs

Proceedings reviewed ~~EXEX~~ at C.M.H.Q.

Balance of sentence remitted by Conf. Auth. 27-9-46

Absent	Sentence
23 days	Penal servitude 10 yrs

{ but note amendment in Memo

R J Ryan Lt
for Judge Advocate-General

10M-1-45 (M-4629)

H.Q.C.55-M-1621
(JAG/D)

Quote No.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada 2nd April 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

~~Field General Court-Martial~~
D.129109 Pte. MICHAUD, P.E.

1. 10/Michaud, PE/1 Receipt is acknowledged of your 5 dated 8th March 194 , under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your ~~recommendation in this case~~ has been noted. Receipt is also acknowledged of A.F. A3104 in respect of the m/n F.G.C.M.

ELM
Capt.

for (R.J. Orde), Brigadier,
Judge Advocate-General.

WBB:ELM

TRANSLATION
MJD/gd
10/4/45

ADMIN.

INVESTIGATOR'S REPORT

March 10th, 1945.

Re: D-129109, Pte MICHAUD, Paul-Emile

So as to comply with Headquarters' request for a special enquiry, we hereby provide you with the following information:

Mrs. Michaud has been suffering from kidney trouble for twelve years and she also suffers from heart trouble; she is under the care of Dr. Albert Gélinas. She has not called at the doctor's office for a month and a half, but she usually sees him every month regularly and she must take medicine constantly. Mrs. Michaud still occupies her 4-room lodging which is rather modestly furnished, but comfortable and clean.

The particulars regarding the children which have been obtained, are as follows: Maurice, aged 22, whose regimental number is R-259070, is serving with the R.C.A.F.; he is serving in Holland at the present time and has assigned $23. out of his pay to his mother; Marcel, aged 17, who is employed by Rubinstein Bros., works in chromium and earns $16. a week; he pays $7. a week to his mother for his board; Guy, aged 15, is employed by the firm, Denis Liqueurs and his salary is $14. a week; he gives his entire salary to his mother who provides him with his needs; Jean-Claude, aged 12, who attends the Christophe-Colomb school, is in the 4th year; Arthur, aged 10, who attends the same school, is in the 3rd year; a daughter, Rolande, (Mrs. Gagné), is married and her husband who is employed in a munitions plant earns $30. a week; Mrs. Michaud does not draw any financial assistance from this family; a daughter, Armande, aged 19, who is single, is employed by the New Method Laundry and her salary is $12. a week; she gives $5. a week to her mother for her board.

Mrs. Arthur Ferland is still living at the home of Mrs. Michaud and giving $10. a month for his room; he takes his meals outside. He shares a room with Marcel. Following her husband's death, Mrs. Michaud lived with this man as husband and wife and he is the father of Arthur, the last son mentioned above and he pays $3. a week to Mrs. Michaud for the board of this child.

Following the sudden death of her husband in 1933, Mrs. Michaud found herself alone with young children and penniless. Arthur Ferland brought her assistance when she was in such distress, but, following the birth of Arthur in 1934, Mrs. Michaud stopped living as husband and wife with him and when the Pension for Needy Mothers was granted, he went to live somewhere else in 1940. Mrs. Michaud was then able to be granted an allowance by the Provincial Government. Since Mrs. Arthur Ferland was still paying for the board of his son, Arthur, he called at Mrs. Michaud's home every evening and that is the reason why she is supposed to have lost her Pension for Needy Mothers. He then returned to live at Mrs. Michaud's home because the rent he paid for his room helped to balance the budget. Besides, Mrs. Michaud claims that he was very kind to her and that he has greatly helped her bring up her children who have much respect for him. She is a good mother and she brings up her children very well.

The elder children are aware of the illegal relations which have already existed between Mr. Ferland and their mother. However, Paul-Emile, in a recent letter, recommended to his mother that this man should not leave their home as he and his brother, being in the Army, are less worried if a devoted person is staying with the family in order to bring assistance in case of need. Besides, Mr. Ferland does not wish to leave without bringing his son, Arthur, with him and for no consideration would Mrs. Michaud part with her child.

Mrs. Michaud complains that the physical condition of three of her children is poor; Jean-Claude is supposed to constantly suffer from headaches; Armande is supposed to have a liver complaint and Marcel is supposed to suffer from heart trouble.

Her son, Paul-Emile, is kept under detention at the present time and she has informed us that it is difficult for her to balance her budget due to the fact that she does not draw her $20. monthly assigned pay. If, because of the facts mentioned above and the fact that Maurice has also assigned part of his pay to her, a dependents' allowance cannot be granted her, we beg your Department to consider the possibility of granting Paul-Emile his pardon so that his mother may draw his assigned pay again. We do not believe that this young man's return to Canada would change family circumstances which seem to be irremediable at the present time. Yours truly,

For the investigator,

(Sgd) W. G. [illegible], D.S.P.

TRANSLATION
MJD/gd
10/4/45

INVESTIGATOR'S REPORT

March 10th, 1945.

Re: D-129109, File MICHAUD, Paul-Emile

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Her son, Paul-Emile, is kept under detention at the present time and she has informed us that it is difficult for her to balance her budget due to the fact that she does not draw her $20. monthly assigned pay. If, because of the facts mentioned above and the fact that Maurice has also assigned part of his pay to her, a dependents' allowance cannot be granted her, we beg your Department to consider the possibility of granting Paul-Emile his pardon so that his mother may draw his assigned [illegible] again. We do not believe that this young man's [illegible] to Canada would change family circumstances [illegible] to be irremediable at the present time. [illegible]

BOMBER
~~CONFIDENTIAL~~

AIR MAIL

Quote No. 10/Michaud, PE/1

CANADIAN MILITARY HEADQUARTERS

LONDON

8 Mar 45.

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

6-55-M-1621

D.129109 Pte Michaud, P.E.

1. The marginally named soldier is now serving a sentence of 2 years imprisonment awarded 16 Sep 44 for an absence without leave from his unit in France while actively engaged with the enemy which terminated in his apprehension after 21 days. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues so to do is 15 Jan 46.

2. This soldier enlisted 9 May 42 at Sherbrooke, Quebec, after serving under the NRMA from 12 Mar 42 until this date and he is now 23 years of age. This soldier has no recorded offences except the conviction set forth in paragraph 1 hereof. Th

3. This soldier has been medically examined and he is certified fit to undergo detention.

4. The Neuropsychiatrist and Selection of Personnel Officer who have examined this soldier state that he is of average intelligence and apparently both conscientious and responsible, but that he is definitely unfit for operational duty and quite unwilling to consider a return to action. A recommendation that he be placed in Pulhems Grade S3 was made.

5. This soldier at the time of his offence was a corporal leading an infantry section. He frankly admitted at his court-martial that he could not face the prospect of further contact with the enemy particularly after most of the members of his original section had been either killed or wounded. Taking into consideration this soldier's responsibilities as a section leader, the circumstances surrounding his offence and his present attitude, it is considered that he should serve his present sentence in full and thereafter should be discharged for misconduct in accordance with paragraph 8 of Appendix to C.A.R.O. 1029. It is therefore so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 16 Sep 44 and original A.F. A3104 in respect thereof on which this direction has been endorsed.

for (E.G. WEEKS) Major-General
i/c Administration
Canadian Military Headquarters.

Enc.2.

3434

copy on open file

RECORDED AT CMHQ IN AB 160. 40-2

CFA96 (In lieu of AFA3) 40/P & S/1608 (40/30) 4/38B

FIELD GENERAL COURT-MARTIAL

REC'D 24 JAN 1945

Convened by Order of Maj K G Blackader, DSO Comd 8 Inf Bde dated 15 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B/129109	Cpl		Paul Emile	MICHAUD	Le Regiment de la Chaudiere

PROCEEDINGS REVIEWED

PROCEEDINGS OF TRIAL.

Held at the Rd in (country) REHABILITATION OFFICER JAG BRANCH C.M.H.Q. on (date(s)) 15 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 16/41.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 17.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Lt J C Closson as interpreter? Ans No

The Interpreter is sworn.(1) Do you object to S/Sgt Williams, RM as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. as 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	O L Corbett	North Shore (NB) Regt
Member	Capt	J D MacLean	QOR of C
Member	Capt	J Laliberte	Regt de Chaud
Judge-Advocate	Capt	A C Hall	AMA 3 Cdn Inf Div
Prosecutor	Lieut	G Lelande	Regt de Chaud
Defending Offr	Lieut	G Francq	Regt de Chaud

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused B/129109 Cpl Michaud, P E before arraignment make(s) (no) ~~(a)~~ plea

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(separately)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

France I page 71

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form F 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No, sir (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court~~ is closed, ~~and considers~~ the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial ~~will proceed~~ on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. ~~Arguments on submission, answer and reply are recorded~~ per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete ~~part not used.~~ If accused acquitted on all charges use second alternative in para D8.)

~~NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 40(C), 114, 115.)~~

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Give evidence on oath. Do you intend to call witnesses on your behalf? Ans. Yes, sir. Are they witnesses as to character only? Ans. Yes, sir.

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~

~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No, sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes, sir (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. As 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MM p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D129109 Cpl. Michaud, P.E.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Army Act Sec 12(1)			
2nd	Not Guilty	Guilty	with the exception that the absence
3rd			began at 1245 rather than 1215 hrs
4th			8 Aug 44
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~Beginning on (date)~~ .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 0 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for the term of 10 years

(Sgd) [illegible] Capt — Judge-Advocate, if any. 16 Sep 44 — Date awarded. (Sgd) [illegible] — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation

Date 22 Sep 44 — [illegible] Lieut Colonel — Commanding 8 Cdn Inf Bde.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Extracts entered as No. ..... in the Record of Courts-Martial kept in the office of the Judge Advocate-General this ..... day of ..... 19.....

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date Nov 44 — (Sgd) (H.D.G. Crerar) General — Commanding GOC in C First Cdn Army — Confirming Officer.

FOR CONFIRMATION SEE PROCEEDINGS ON REVISION ATTACHED TO P2 DF EPA 96

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 129109 Cpl. Paul Emile Michaud	7 Dec 44	[illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused No D 129109 Cpl MICHAUD, Paul Emile 1st Bn Le Regiment de la Chaudiere, an N.C.O. of the Cdn Army Overseas placed on Active Service, is charged with:

FIRST CHARGE
ARMY ACT
Section 12(1)

WHILE ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S
SERVICE.

in that he,

In the field on 8th Aug 44, did absent himself without leave from 1215hrs until apprehended by a member of the Corps of Military Police, at BASLY, FRANCE, at 1130hrs 30th Aug 44, with intent to avoid action.

Dated in the field
this day. 14. day. of Sept 44.

Paul Mathieu
(PAUL MATHIEU) Lt-Col.,
Commanding
Le Regiment de la Chaudiere

To be tried by FGCM

Blackader
BRIG
Comd 8 Cdn Inf Bde

15 Sep 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
~~D-91022~~	~~Sjt~~		~~Joseph Rene~~	~~LEGENDRE~~	R de Chaud
D-125263	Pte		Paul	BRUNEAU	" "
E-10525	Pte		Aniget	DUBE	" "
D-129109	Cpl		Paul Emile	MICHAUD	" "
D-157729	Pte	L/Cpl	Georges	TRUDEAU	" "
D-163158	Sjt		Jean	BAULU	" "

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, ~~XXX~~ (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Sep 44 endorsed by me, (o[redacted]), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ([redacted])

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I [redacted]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

A/Major (Rank.)	O.L. Corbett (Must be named. RP 106.)	N Shore R (Unit.)

MEMBERS.

Capt	J.D. MacLean	QOR of C
Capt (Rank.)	J. Laliberte (Named or detailed. RP 106.)	R de Chaud (Unit.)

WAITING MEMBER.

Lt. (Rank.)	W.H. Cairns (Named or detailed, if any. RP 106.)	QOR of C (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	A.C. Hall (Must be named, if any. RP 106.)	HQ 3 Cdn Inf Div (Unit.)

On Active Service in the Fd

in FRANCE (Country.)

Date 15 Sep 44

Blackader (Signed personally. RP 105 fn 2.) — Brig (Rank.)

Commanding 6 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFAAS (In lieu of AFA3) 40/P & S/1607 (4601)

R EG DE CHAUDIERE? 16 sept 1944.

D.-129109 Cpl McNaum.P.E.

The a/m soldiar is fit to undergo trial by a court martial.

P. Gauthier Capt.

P.Gauthier. Capt.
M. O.

Plea in mitigation:

The accused made a statement during the trial saying that he lost his sec in battle. Now this man has been fighting in France since "D" Day, doing a good job, and then he loses a sec. Now as a sec leader this affected the morale of the man and since that time Cpl Michaud may have lost some of his nerve, which inclined him to go away. I might say that if a man has no control over his nerves and is badly shaken he might do anything. He might lose his sense of responsibility or he might not be so sure of himself. So I ask the court to consider what happened. That is all.

1st Witness for the Prosecution

R/41952 Sgt Turgeon, J, Regt de Chaud, having been duly sworn gives evidence as follows:

Q Who first noted the absence of Cpl Michaud?

A I noticed the absence of Cpl Michaud at 1245 hrs 8 Aug 44.

Q Do you know if Cpl Michaud knew that we were proceeding on an attack or some op before he went AWL?

A I cannot certify.

Cross-examination:

Q You said a moment ago that you noticed the absence of Cpl Michaud at 1245 hrs?

A Yes, sir.

Q In what capacity did you call the pl on meal parade on 8 Aug 44?

A A/pl comd.

Q How did you notice that Cpl Michaud was missing?

A I noticed myself that he was missing in the pl.

Q You say you noticed the absence of Cpl Michaud. In what way did you notice? Did you have a roll call? Did you call the roll of the pl?

A I didn't make a roll call but I knew the men in the pl sufficiently well to see that Cpl Michaud was missing.

Q At that time did you know there was going to be a move of the bn?

A Yes, sir.

Questioned by the Judge Advocate:

Q Did you make a search yourself at noon on 8 Aug 44?

A Yes, sir.

Q Looking for the accused?

A Yes, sir.

Q What was the extent and nature of your search?

A I looked for him about one hr.

Q Have you been with the unit from 8 to 30 Aug 44?

A Yes, sir.

Q Was the accused present during that time?

A No, sir.

Q If he had been, would you have known it?

A Yes, sir.

2nd Witness for the Prosecution

Capt J P Verge, Regt de Chaud, having been duly sworn states:

I produce herewith certificate in accordance with Sec 163 of the Army Act purporting to be signed by the Commending Officer 243 Pro Coy and I identify the accused as the person to whom it refers.

The certificate is marked Exhibit "A", signed by the president and att to the proceedings.

The defence does not wish to cross-examine.

3rd Witness for the Prosecution

E/9305 Sgt Ouellette, H, Regt de Chaud, having been duly sworn gives evidence as follows:

Q What was your duty in the coy from 8 to 30 Aug 44?

A A/CSM.

Q During this time did you see Cpl Michaud in the unit lines?

A No, sir.

The defence does not wish to cross-examine.

Questioned by the Judge Advocate:

Q If he had been present would you have seen him?

A Yes, sir, because I was always in the coy lines.

Accused

D/129109 Cpl Paul Emile Michaud, Regt de Chaud, having been duly sworn gives evidence as follows:

Q Will you tell the court what happened on 8 Aug 44 at meal parade and continue from there.

A On 8 Aug 44 I was with the unit during the rest period down at Basly. My brother in the Air Force was with me then. He had come over to see me. I was all packed up on stand-to all the time. I thought that one day or another we were going to go away so that is why I was always ready. My brother came over to see me and I had not seen him since I had been in France. He asked me if I was going to be there long and he started to cry. Then I decided not to go with the unit when it went and I decided to pull out. So I went. Afterward I was residing in a house in Basly with a friend. I stayed there for 22 days. I had the intention of coming back to the unit but I did not know where it was then. The day I was coming back to the unit I got a German bicycle. That day the woman where we were residing was sick. So I could not leave the woman alone with one kid of five years. We stayed another day. We tried to find out where the unit was. It was then about 300 miles from there.

Q Could you tell me if you knew that there was going to be a move very soon?

A I did not know exactly. But since we are in the army we are always on the move. I did not know the unit was going to move the day I left.

Q Were you advised by someone in your coy that you were going to move?

A There was talk among the boys that the unit was going to move but nobody knew for sure that the unit was going to move.

Cross-examination:

Q Where were you when the Commanding Officer talked to the whole coy?

A Down to the PMR to find out if I could send some money home. I had some money in my paybook. When I came back the boys came over and told me the Col had given them a talk.

Questioned by the Judge Advocate:

Q Your brother started talking to you and then you say your brother started to cry?

A Yes, sir.

Q Why did he start to cry?

A Because he was happy to see me. He thought I was wounded or dead because he had had no news of me since I had gone to France.

Q Did you stay any time with your brother?

A Just that day.

Q Then why did you go AWL that day?

A Frankly I was knocked out. I was knocked out on account of the war and particularly because I had lost my whole Sec one day. The war can turn a man and make him what he is not.

Character Witness

D/150133 Sgt Dion, F, Regt de Chaud, having been duly sworn gives evidence as follows:

Q Do you recognize the accused?

A Yes, sir.

Q Would you tell the court what you know about Cpl Michaud?

A I met the accused in Bournemouth, England. I was sec comd at the time. His conduct was very good. I was a good friend of his. I knew him pretty well. He always conducted himself as a good soldier. Later in France he conducted himself as a good soldier. He was very good to take orders and very good to execute them.

The prosecution does not wish to cross-examine.

The prosecution does not wish to sum up.

The defence sums up:

Gentlemen, you have seen the witnesses and heard their evidence. You have seen the accused. Some evidence has been given the court proving that Cpl Michaud was absent for 22 days. But there is one thing lacking and that is proof of the intention of Cpl Michaud to desert H M Service. I hope you will understand what Cpl Michaud said a few min ago and will consider his case in that light. That is all I have to say.

The Judge Advocate addresses the court:

The prosecution submits in this case that Cpl Michaud deserted H M Service. Now he who alleges must prove. In this case the prosecution must prove that allegation. They must est two main things to your satisfaction:

(1) They must prove the facts that they allege

(2) They must convince you that those facts constitute an offence against military law, specifically desertion

It is stated in MML that the criterion between desertion and AWL is intention. In other words desertion is AWL having superimposed upon it the element of intention. This intention must be an intention on the part of the offender either

(1) never to return to H M Service or

(2) to avoid some particular important service

Now intention is never capable of positive proof. That is, it cannot be laid before the court as an exhibit or proved by oral testimony of a witness who can say that he observed the mind of the accused. It can only be implied from overt acts. This process of inference would be simple if the overt act were a definite admission by the accused that he intended to desert. But such is not the case here. I do, however, draw your attn to MML, Chap VII, para 23:

> "If a man bound by law to perform any duty does an act which necessarily causes or most probably will cause a failure in the performance of that duty, he will be held in law to have intended to fail, and therefore to have wilfully failed, to perform that duty."

In trying to arrive at a decision as to what was in the mind of the accused you must endeavor to draw inferences from all the facts proved in evidence as they existed at the time of the alleged offence.

Previously I have said that he who alleges must prove. The law presumes, and you must accept this presumption, that every man is innocent until he is proven guilty and the onus of proving that guilt is entirely upon the prosecution. If, therefore, upon any point you have a reasonable doubt, you must give the accused the benefit of that doubt. By reasonable doubt I do not mean the vague ephemeral doubt that a man who is anxious to avoid an unpleasant responsibility can conjure up in his mind. But rather it is that reasonable sensible doubt that a reasonable man in his other daily pursuits of business or military duty considers serious enough to deter him from positive action.

On a charge of desertion you may, under Army Act Sec 56, find the accused not guilty of desertion but guilty of being AWL. You may also find him guilty of attempting to desert but I suggest that in such a case as this that that would not be a reasonable finding. You may of course find the accused not guilty of anything.

Ccb

One further point arises in the present case. The charge alleges that the accused absented himself from 1215 hrs 8 Aug 44. The evidence indicates that the absence started at 1245 hrs. This is a small matter but nevertheless the evidence does not fully support the charge. Under R P 44 (D) you may bring in a special finding. That is, if you are satisfied of the other facts and are further satisfied that they prove either desertion or AWL, you may make the appropriate finding "with the exception that....etc...." and then fill in the clause that would make your finding conform with the evidence. Your form of special finding is set out on MML page 753.

Ccb

CERTIFICATE IN ACCORDANCE WITH SECTION 163 (1)(JJ) A.K.Ho.R.

I certify that No. 129109 Rank. Cpl. Name. MICHAUD, P.E.

Unit. 'D' Coy. Chaudiere Regt. 3rd Canadian Division.

was arrested at. Basly at. 1130 hrs. on 30th

day of. August 1944.

Signature of Provost Marshal or
any other Officer into whose custody
the above named person was taken on arrest.

FIELD.
30 / 8 / 1944.

Kenan Capt
243 H.Q. Provost Coy. C.M.P.

Note:- When this charge has been dealt with the A.F.B. 252 should be forwarded through your usual military channels to the "A" branch of the formation by whom you are administered (i.e. Brigade, Division, District Or Corps). Authy: Kings Regulations 1940, Para 563, or local Command Orders.

CHARGE

J 186 Exh A

Army Form B 252
(See King's Regulations)

Chaudiere Regiment

'D' Battery / Squadron / Troop / Company

CHARGE against No. 129109 Rank Cpl.

Name MICHAUD, F.E.

Place Field. Date of Offence ?

OFFENCE W.O.A.S. Absenting himself without leave from ?? until being apprehended by the Military Police at 1130hrs on the 30th August 1944.

Names of Witnesses :—

Lieut. J.R.W. Curtis. C.M.Police.

Signature of O.C. Battery, Squadron, Troop or Company: Jeman Capt. Commanding HQ Provost Coy

Punishment Awarded: Remanded for F.E.C.M.

By whom Awarded: W Vandeman Maj

8 Sep 44 *Adjutant.*

30188. Wt.W31274/1961. 2,000,000 10/42 K. & H., Ltd. G657/47

P.T.O.

Statement of evidence in the case of:-
No. 129409 Cpl. Michaud, P.E.
'D' Company,
Regt of Chaudiere.
3rd Canadian Division.

At ST AUBIN SUR MER on the 30th August 1944 at about 1130hrs I received information from the French Police that two French Canadians were known to be residing in a house in BASLY and that they were presumed to be absentees.

Accompanied by Sgt. Lees C.M.Police and a Gendarme I proceeded to the house in question where I saw the a/m soldier, who stated that he had absented himself from his Unit.

I obtained his particulars and verified same from his M.B.M.1 arrested him and conducted him to the 6 L of C Sub Area Guardroom where I handed him over to the NCO i/c Guard to be detained.

Handing over slip attached.

Field.
30 Aug 44

Lieut.
C.M.Police.

MILITARY POLICE

No. [illegible] Rank. Pte.
Coy.
Troop.
Batty.
Sqdn.

Name MICHAUD Pte.

Unit CHARRIERE Regt RCR.

Station FIESR

Sir,

I was Commander of the C.L.C.

guard on the 30.8.44

at about here, the above named soldier was handed over to me by the MILITARY POLICE.

He was Sober

Place FIESR Witnesses

Date 30th day 1944

Signature T. Drummond Pte. Guard.

ARMY FORM B.206 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
D 129109	CPL	MICHAUD, P.E.	Regt de la Chaudiere

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, drunkenness being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Field Conduct Sheet ____ times.
For destroyed by enemy action ____ times.
For ____ times.
For ____ times.

Date of first entry in Field Conduct Sheet ____

Date of last entry in Field Conduct Sheet ____

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 4 days in military custody, *i.e.*, 4 days in open arrest, Nil days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 23

6. The date of his attestation / calling up for military service is 12 March 1942

7. The service which the accused is allowed to reckon is 2 years, 6 months

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ C V S M & CLASP

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	CORPORAL	19 July 1942
In the war substantive rank of	N/A	
In the acting rank of	N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(211141) Wt.8670/668 100,000 4/42 S.& E.W.Ltd. Gp.698
(22459) Wt.29258/1874 60,000 9/42 " " Forms B.206(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		Nil		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 14th day of Sep 44

McAuslin Capt Adj
N.A.B. Band

41

TEMPORARY SHEET

No D129109 Name MICHAUD, P.E. Sqn, Battery, or Company D Coy Corps C I C

Date of enlistment 12-3-42 GC Badge N/A Service for Proficiency Pay N/A

MFM 6 AFB 122 (Part 2) 40(P&S)128 (3438)

Date of last entry in Company Conduct Sheet

No and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original destroyed by enemy action.					

(PTO)

SUMMARY OF EVIDENCE

In the case of E 129109 Cpl MICHAUD, Paul Emile 1st Bn Le R giment de laChaudiere, an N.C.O. ofthe Cdn Army, placed on Active Service,

The C.O. directs that the Evidence be taken on Oath.

1st Witness: E 41952 Sgt Turgeon, J. "D" Coy R de Chaud. having been duly sworn states:

I am E 41952 Sgt Turgeon, J. of "D" Coy r de Chaud

On the8th Aug 44 at about 1215hrs, I called the Pl on meal parade, I noticed that D 129109 Cpl Michaud P.E. was missing, I asked the 2 i/c of his section where Cpl Michaud was and he told me that he had not seen him for sometime.

Theaccused declines to cross examine the witness.

Joachim Turgeon Sgt
E 41952 Sgt Turgeon, J

2nd Witness: E-9305 Sgt Cuellette, H.of " D" Coy r de Chaud, having been duly sworn states:

Capt, J.P. VERGE, 2 i/c "D" Coy, Le Regiment de la Chaudiere having been duly sworn states:

I'am Capt. J.P. VERGE, 2i/c "D" Coy, Le Regiment de la Chaudiere - I certify that the exigencies of the service do not permit the attendance of Lieut. J.R.W. CURTIS, C.M. Police. I furthermore certify that the following documents are true - Certificate in accordance with section 163 (1) J.J. AA.- and statement signed by Lieut. CURTIS, J.W.R.

(A/m documents are att as ~~B~~ Exh - mab A)

(J.P. VERGE) Capt.
2 i/c "D" Coy,
Le Regiment de la Chaudiere.

D 129109 Cpl Michaud, P.E.

I certify that the forgoing Summary of Evidence consisting of one page has been taken down by me in writing in the presence and hearing of the accused, and that the Rules of Procedure 4 (C) (D) (E) (F) have been complied with.

In the field
this. ~~8th~~ 14 day of Sept 44.
mab

(G. LALANDE) Lieut.,
Officer detailled
to take this Summary
of Evidence.

SUMMARY OF EVIDENCE

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Theaccused declines to cross examine the witness.

Joachim Turgeon Sgt
E 41952 Sgt Turgeon, J

2nd Witness: E-9305 Sgt Ouellette, H.of " D" Coy r de Chaud, having been duly sworn states:
I am e 9305 Sgt Ouellette, H. of "D" Coy r de Chaud. and I certify having not seen E 129109 Cpl Michaud, P.E. from the 8th Aug 44, until I saw him at Coy H.Q. on the 6th Sept 44 around 1000hrs.

The accused declines to cross examine the witness.

H Ouellette Sgt.
E 9305 Sgt Ouellette, H.

~~3rd Witness: Maut J R.W. Curtis, G M. Police~~

~~Documentary Evidence attached as exhibit "A"~~.

Question to the accused: Desirez-vousfaire une declaration ou rendre temoignage sous serment? Vous n'etes pas oblige de dire quoique ce soit, ni de rendre temoignage a moins que vous ne le desiriez, mais tout ce que vous direz, et toutes depositions que vous ferez sera pris par ecrit et pourra servir de preuves.

Answer by the accused: Non Monsieur (NO SIR)

D-129109 Cpl Michaud PE
D 129109 Cpl Michaud, P.E.

I certify that the forgoing Summary of Evidence consisting of one page has been taken down by me in writing in the presence and hearing of the accused, and that the Rules of Procedure 4 (C) (D) (E) (F) have been complied with.

In the field
this 14 day of Sept 44.

(G. LALANDE) Lieut.,
Officer detailed
to take this Summary
of Evidence.

In the field in Belgium on the 7th day of November 1944 at 1000 hrs the court re-assembled by order of G G Simonds, Lt-Gen, GOC-in-C First Cdn Army, for the purpose of reconsidering the finding (and sentence if necessary).

Present:

President Major O L Corbett, North Shore Regt

Member Capt J D MacLean, QOR of C

Judge Advocate

Capt A C Hall , HQ 3 Cdn Inf Div

Capt J Laliberte, Regt de Chaud, having been evacuated as a battle casualty, was unable to be present.

The letter directing the re-assembly of the court for revision and giving the reasons of the confirming authority for requiring a revision of the finding (and sentence if necessary) is read, marked Exhibit "X", signed by the president and att to the proceedings.

The court having attentively considered the observations of the confirming authority and the whole of the proceedings,

Do now revoke their finding and sentence and find the accused "not guilty" of desertion but "guilty" of absenting himself without leave and sentence the accused to be imprisoned for two years.

Dated in the field in Belgium this 7th day of November 1944.

(A C Hall) Capt
Judge Advocate

(O L Corbett) Major
President

Extracts entered as No 3434 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 29 day of March 1945.

Confirmed

General
GOC-in-C First Cdn Army

1 Dec 1944

PROMULGATED AND EXTRACTS TAKEN IN THE FIELD

Accused	Date	Signature of Offr and Unit
D 129102 Cpl. P.E. Michaud	7 Dec. 44	H Tarbuck Capt. Regt de Chaud.

H.Q.C. 55-M-1622

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MARTIN. GORDON D.144199 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1622

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and write here "With Minute")		
APR 6 1945				J.A.G.	NEW FILE C.A.		MAR 29 1945
				Jag	With Papers C.A. APR 20 1945		
APR 26 1945				Sen.	To note, ab.		25-4-45
APR 27 1945				J.A.G.	PER B.F. MAY 5 - 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1622 (JAG/D/7)

25 Apr 45

District Officer Commanding,
Military District No. 4,
Montreal, Que.

Standing Court-Martial

D-144199 Pte. Gordon MARTIN
No.35 Company, Canadian Provost Corps, C.A.

Receipt is acknowledged of your M.1-M-14193 (J) dated April 18th, 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.
together with form of remission

LJR/ET

(R.J.Orde) Brigadier,
Judge Advocate General.

Note & file
L. H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 27 1945

IN REPLY PLEASE QUOTE No. M.1-M-14193(J)

APR 20 1945

R-132

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 18th April, 1945.

REGISTERED

308367

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
APR 20 1945
File C55-M-1622
Chgd. to
Referred to

STANDING COURT-MARTIAL
D-144199 Pte. Gordon MARTIN
No.35 Company, Canadian Provost Corps, C.A.

Reference your H.Q.C. 55-M-1622 (JAG/D-7) dated 5th Apr 45.

2. Returned herewith, for custody, proceedings of the marginally noted Standing Court-Martial together with form of remission duly completed.

J.E. Renaud Capt

(E.J.Renaud) Major-General,
For. District Officer Commanding,
Military District No. 4.

Enc.

NAT. DEF. B. 440
2500M-4-44 (A320)
H.Q. 1772-29-767

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE
BY COURT-MARTIAL

RECEIVED
APR 13 1945
CENTRAL REGISTRY
H.Q.M.D.4

N.D.H.Q. File No. HQC. 55-M-1622(JAG/D-7)

District File No. M-1-M-14193(J)

PART I

No. D-144199 ....Rank .Private..... Name .MARTIN, Gordon.....
Unit ..No.35 .Company..Canadian .Provost .Corps, C.A.....

PART II

Date of Trial 20th .March .45 .....
Charge(s) Absenting .Himself .without Leave and Leaving by Neglect.....
Sentence forty .days' .detention and $45.07 .stoppage .of .pay.....
Date of Sentence .20th .March .45 .....
Confirmation - (a) Authority: .(E.J.Renaud) .Major-General, D.O.C., MD.4...
(b) Date : .20th .March .45.....

PART III

REMISSION

I, the undersigned, being the competent military authority under Sec. 57 (2) of the Army Act, do hereby remit ~~(commute)~~ ~~(mitigate)~~ x the sum of $20.07.

Signed at ~~Ottawa~~ ...this 9th .. day of Apr. 45
.....
(Appointment) (E.J.Renaud)Maj-Gen. DOC,MD4.
to be signed by the Remitting Authority personally.

PART IV

PROMULGATION

~~(remission or~~ commutation) ~~(mitigation)~~ x promulgated and extracts taken at .....Westmount Barracks..... this 11th.....day of ...April.....1945

(1)
(J.L. St. Jean) Capt.
Officer i/c Documents.
Composite Provost Coys. M.D. 4.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-144199....Rank .....Pte..... Name .....MARTIN, Gordon .....amt. of $45.07.....
The sentence of.....40 .days .detention and placed under .stoppage .of .pay .to .the .pa-
awarded by ~~District~~ General Court-Martial on the .20th .March.....194..5....has
been granted a remission in the amount of $20.07.....
on the .9th..day..of April.....1945...by ..Major General E.J. Renaud, DOC. M.D. 4.
UNIT .Composite .Provost .Coys., M.D. .4.....

Certified true Extract of Daily Orders Part II of
No....73.....Place .Westmount .Barracks.....Date .11 April .45.....
.....
Adjutant (J.L. St. Jean) Capt.
Officer i/c Records.

x Strike out and initial words not applicable.

MEDICAL OFFICER'S REPORT

I certify that No. D-144199 Pte. Gordon MARTIN of No. 35 Provost Coy. C.A. is in a Good state of health, and Fit to undergo Trial by Court martial.

(L. Ostiguy) Major R.C.A.M.C.
Medical Officer
Westmount Barracks.

Station Westmount Barracks

Date 20th March 1945

A. C. G. Kilbray major
President SCM

M. F. B. 246
2M—4-45 (7139-1)
H.Q. 1775-39 445

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No.4 District Depot, C.A., Montreal South, Que.

on the 20th day of March 19 45 at 10.30 hours,

for the trial of: D-144199 (Number) Private (Rank) Gordon MARTIN (Full Name)

No.35 Company, Canadian Provost Corps, C.A. (Unit) (Attachment, if any)

PRESIDENT: Major J.A.G. Dubeau, E.D., Headquarters, Military District No. 4.

PROSECUTOR: Captain H. Primeau, Headquarters, Military District No.4. (Rank, Full Name, Unit, Attachment, if any)

~~COUNSEL~~

DEFENDING OFFICER: Captain J.O.A. Lefebvre, Les Fusiliers Mont-Royal, C.A., attached to No.4 District Depot, C.A. (Rank, Full Name, Unit, Attachment, if any)

FINDING: The court find the accused, D-144199 Private Gordon MARTIN, No.35 Company, Canadian Provost Corps, C.A., guilty of the first and second charges.

SENTENCE: The court sentence the accused, D-144199 Private Gordon MARTIN, No.35 Company, Canadian Provost Corps, C.A., to undergo detention for forty days and to be put under stoppages of pay until he has made good the sum of $45.07, cost of articles lost.

Signed at Montreal South, Que. this 20th day of March 1945

(J.A.G. Dubeau) Major
President, Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-89-2296

Entered as No. 36479 in the Register of Courts-Martial kept in the office of the Judge Advocate General this 31 day of March 1945
DR

Forms of Oaths and Declarations

Oaths

Shorthand Writer

You swear by Almigthy God that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the Court a true transcript of the same.

Answer: I do.

Interpreter

You swear by Almighty God that you will to the best of your ability truly interpret and translate, as you shall be required to do, touching the matter before this court-martial.

Answer: I do.

Witness

You swear by Almighty God that the evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth.

Answer: I do.

Solemn Declarations

The form of declaration will be the same as the form of oaths except that for the words "You swear by Almighty God" will be substituted the words "You (name in full) do solemnly promise and declare"; and that the words "solemnly promise and declare" will be substituted for the word "swear" wherever it occurs.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~*Question to the accused.* Do you object to as interpreter ?~~

~~*Answer:*~~

Question to the accused. Do you object to D-625377 Cpl(A/Sgt)H.Turcot,No.4 Det.C.M.S.C.,C.O. as shorthand writer ?

Answer: No, Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or another Court-Martial~~ ?

Answer: No, Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to ~~both~~ charges the provisions of Rule of Procedure 35 (B) are here complied with.)

J. G. G. Dutton, major
Prosecutor

CHARGE SHEET.

"B2"

The accused, D-144199 Private Gordon MARTIN, No.35 Company, Canadian Provost Corps, C.A., Westmount Barracks, Westmount, Que., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE
Section 15(1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Westmount Barracks, Westmount, Que., at 0800 hours on 20th of December 1944, absented himself without leave from No. 35 Company, Canadian Provost Corps, C.A., until he surrendered to military authorities at Westmount Barracks, Westmount, Que., at 2310 hours on the 6th of March 1945, dressed in military uniform.

SECOND CHARGE
Section 24 (2)
Army Act.

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT AND REGIMENTAL NECESSARIES,

in that he,

at Westmount Barracks, Westmount, Que., on the 7th of March 1945, was deficient of the following articles, viz:-

		100%	75%
Gloves Woollen khaki	1	0.66	0.49
Overalls combination	1	2.52	1.89
Dressing first field	1	0.22	0.17
Mitts leather pullover	1	0.93	0.70
Frogs bayonet WE Patt '37	1	0.18	0.13
Belts waist WE	1	0.76	0.57
Helmets sun	1	1.76	1.32
Blouse battle dress	1	6.50	4.87
Boots ankle	1	5.82	4.36
Drawers cotton short	2	0.84	0.61
Drawers woollen	2	2.80	2.10
Jersey pullover	1	1.65	1.24
Socks army	4	1.84	1.38
Trousers battle dress	1	6.55	4.91
Vest woollen	2	2.40	1.80
Jackets serge drab O/C	1	10.80	8.10
Mufflers khaki	1	0.93	0.70
Shirts cotton khaki	2	3.08	2.31
Shirts under cotton	2	0.86	0.65
Trousers khaki drill short	2	2.62	1.97
Trousers serge drab n/p	1	4.33	3.25
Braces	1	0.28	0.21
Brush cloth	1	0.17	0.13
Brushes hair	1	0.39	0.30
Brushes shaving	1	0.42	0.32
Combs hair	1	0.04	0.03
Razors safety	1	0.42	0.32
Towels hand	1	0.31	0.24
Representing 100% Voc. Rate		$ 59.97	
Total representing 75% Voc. Rate			$ 45.07

Signed at Montreal, Quebec, this 19th day of March 1945.

H. Prineau Capt

Prosecutor, H.Q., M.D. No.4

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the first and second g.c.s.v. charges is found guilty of the said charge[s]. g.c.s.v.

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, Sir.

~~(Statement of the accused to be recorded on a separate page.)~~ g.c.s.v.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. Yes, Sir. (See page CC-3).

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, Sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, Sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

CC-3

STATEMENT BY THE ACCUSED IN MITIGATION OF PUNISHMENT.

I married last August. I lived in Montreal with my wife. My wife took sick and I took her to Dixville. I went there and I came back. I stayed for a while with my wife and I came back home. I went out for another girl for a while and then I put her in a family way. She knew I was married and she told me that she won't bother me until she would be able to work. One day I was coming on the street, I turned around and they told me I had a phone from the doctor. He told me that the girl wanted to see me. I went there. She told me she couldn't work and that she would have to notify her father. Notifying the father would put me in more trouble, my wife would leave me and all that... So I turned around to get work to keep her for the time of the treatment. At that time I deserted the Army and I went to work, and I worked until the 6th of March at seven o'clock at night. Then she would be better and go back to work; so I came back to camp and reported myself to Westmount Barracks. I worked for the Wilson Coal Company. I lived on St.Hubert street, 1726, near Ontario. My wife was up in Dixville, Quebec. My wife is twenty-four and I am twenty-one. I have been in the Army since the 31st of January 1944. I have been in St.Johns and Westmount. In Westmount I was working on the street patrol and station guard. I used to be an electric welder in civilian life. I never did much work, I used to box in the States. The girl is now working but the baby is alive, Sir. While I was working I was keeping her. I told captain Beaudry about it, and he asked me why I did not ask her to go to an hospital or something. She wouldn't go in a hospital. I did not see what else I could do. If I had asked a leave to the Commanding Officer I wouldn't get it. I did not explain my situation before I went A.W.L. I did afterwards.

J.C.R.N.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, Sir, through my Defending Officer.

The Defending Officer addresses the Court:

Private Martin, Sir, went A.W.L. We understand there is no reason for such an action, but Martin during the time he was away worked at $4.00 a day for the sole purpose of helping a girl that he had put in a family way. Well, would any man take his responsibilities as private Martin did? He did the best he could to help that little girl and at the same time hoping that his wife wouldn't find out about that. He does not want his life to be broken into, not only his but also his wife's. If private Martin would go through a long sentence, this would not only make him suffer but also two other people who are not responsible for that.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Certified true copy

(J.L. St. Jean) Captain
Officer i/c Records
Composite Provost Coys. M.D. 4.

"F"

J.G.E. Wilson major
President SCM

PART II ORDERS
By
CAPTAIN J.B. MARTINEAU
Officer Commanding
No. 35 Company, Canadian Provost Corps C.A.

Order No. 1
1st Jan 45
Westmount
Que.,

(Last Order Issued No. 242 dated 31st Dec 44)

HOME WAR ESTABLISHMENT

"A" - OFFICERS

N I L

"B" - OTHER RANKS

1. HOSPITAL
(a) Disch. from Mtl Mil Hosp.....30 Dec 44

D-131306 PTE PAQUETTE A.A.

2. ABSENCE WITHOUT LEAVE
(a) A.W.L. from 0800 hrs 20 Dec 44. Still Absent 0800 hrs 1 Jan 45

D-144199 PTE MARTIN G.

(J.B. Martineau) Capt
(J.B. Martineau) Captain
Officer Commanding
35 Provost Company C.A.

G

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

J. C. J. Aubry, major
President SCM

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W. POULIOTTE, O/C. Composite Provost Companies M.D. 4
(Number) (Rank) (Name) (Unit)

hereby certify that D-144199 Private MARTIN, Gordon
(Number) (Rank) (Name in full)

of the No. 35 Canadian Provost Coy
(Unit and attachment, if any)

Strike out words not applicable } [redacted] (surrendered to) D-62468 Sergeant
(Number) (Rank)

MICHAUD, J. of the Composite Provost Companies M.D. 4
(Name) (Unit or appointment)

at Montreal, Que. at 2310
(Place) (Hour)

on the 6th day of March 19 45

Strike out words not applicable } as a [redacted] absentee without leave), and that at the time of his arrest he was wearing military ([redacted] uniform ([redacted]

Dated at Montreal, Que. this 7th day of March 19 45

JPG...

(R.W. POULIOTTE) Major R.W. Pouliotte Major
(Signature, Number, Rank, Unit or appointment)

O/C. Composite Provost Companies M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (5730)
H.Q. 1772-39-1936

SOLDIER of the ACTIVE ARMY.

Certified true copy of original -17-

J.A.O. [illegible]

J.L.St.. [illegible])Capt.
Officer i/c Records
Comp. Pro. Coys.M.D.4.

OVERSEAS—Militia Book M. 1 Part III
40/P & S/1804 (2570)
CANADA —M.F.C. 800
750M 11-43 (2370)
H.Q. 1772-39-1643
K.P. 93282

H

CANADIAN ARMY
CLOTHING AND EQUIPMENT
STATEMENT

.....CERTIFIED TRUE COPY.

Regt'l. No. D/144199

Rank PTE.

Name MARTIN G.

Date of Attestation JAN. 31st. 1941

Original Unit 4 D.D. Station MTL. SOUTH QUE.

Home Address (Reserve Unit Personnel Only)

ARTICLE	QUANTITY					
Anklets, web, prs.	[illegible]	1				
Blouses, Battle-dress	[illegible]	2				
Bonnet, tam-o'shanter						
Boots, ankle, prs.	21	2				
Boots, rubber, high, prs.						
Boots, leather, high, prs.						
Bonnet, drab, Irish						
Cap, field service	2	2				
Cap, mechanic						
Cap, tank battalion						
Drawers, Cellular (cotton) short, prs.	[illegible]	2				
Drawers, Woollen, prs.	2	2				
Gloves, knitted, drab, prs.	[illegible]	1				
Greatcoat, drab	[illegible]	1				
Initials of Soldier	[illegible]	[illegible]				
Initials of QM or Rep.	[illegible]	[illegible]				

ARTICLE	QUANTITY					
Jacket sweater, or jersey pullover		1				
Overalls, combination	1	1				
Overalls, blouses, denim						
Overalls, trousers, denim						
Shirts, Angola, drab or flannel khaki						
Shoes, canvas, prs.	1					
Socks, prs.	4	3 4				
Trousers, battle-dress, prs.	2	2 2				
Vests, woollen	1	1 2				
Badges, cap	1	1				
Badges, arm, drab, crowns						
Badges, arm, drab, crown in wreath						
Badges, arm, Tank Bn.						
Badges, shoulder, "CANADA", prs.	4	4				
Initials of Soldier	CM	CM				
Initials of QM or Rep.	JB	RC				

ARTICLE	QUANTITY					
Badges, arm, drab, Royal Arms						
Badges, arm, drab, Royal Arms in Wreath						
Bags, kit, universal	EB		1			
Braces	EB	1	1			
Brass, cleaning	EB	1	1			
Brush, button, brass	EB	1	1			
Brush, clothes	EB		1			
Brush, hair	EB		1			
Brush, shaving	EB		1			
Brush, shoe, blacking	EB		1			
Brush, shoe, polishing	EB		1			
Brush, tooth	EB		1			
Cap, comforter	EB	1	1			
Chevrons						
Initials of Soldier	GM	GM	GM			
Initials of QM or Rep.	EB	RC	RC			

ARTICLE	QUANTITY					
Combs, hair	1	1	1			
Discs, identity, sets, with cord	1	1	1			
Dressing, field	1	1	1			
Fork, NS Table	5/3	1	1			
Holdall	5/3	1	1			
Housewife, complete	5/3	1	1			
Knife, clasp	1	1	1			
Knife, table	5/3	1	1			
Lanyard, knife	1	1	1			
Razor, safety, with blade	1	1	1			
Patches, distinguishing, prs	1	1	1			
Shorts, gymnasium	1	1	1			
Spoons, NS dessert	1	1	1			
Vest, cotton, gym	1	1	1			
Initials of Soldier	GM	GM	GM			
Initials of QM or Rep	SB	RC	RC			

ARTICLE	QUANTITY					
Towels, hand	2	2	2			
Unit or Corps titles, prs.						
Attachments, brace						
Bag, ration	1	1	1			
Belts, waist	1	1	1			
Bottles, water	1	1	1			
Braces, WE (Right)	1	1	1			
(Left)	1	1	1			
Carriers, cartridge	1	1	1			
Carriers, waterbottle	1	1	1			
Cases, binoculars	1	1	1			
Cases, pistol	1	1	1			
Covers, breech, rifle	1	1	1			
Initials of Soldier	GM	GM	GM			
Initials of QM or Rep.	JB	RC	RC			

7

ARTICLE	QUANTITY					
Cover, mess tin			1			
Frogs, web, bayonet	1		1			
Haversack	1	1	1			
Helmet, steel	1	1	1			
Net camouflage helmet	1		1			
Packs	1		1			
Pockets Compass						
Pouches, amm, pistol						
Pouches, basic	2		2			
Pouches, utility { Front / Rear						
Slings, rifle, web						
Straps, shoulder, haversack { left	2		2			
Straps, shoulder, haversack { right	2		2			
Straps, web, supporting	1		1			
Tins, mess, TP						
Initials of Soldier	GM	GM	GM			
Initials of QM or Rep	JB	RC	RC			

ARTICLE	QUANTITY					
Veil, face, camouflage						
Yoke						
HAVERSACK CLEANER	57					
CLEANER KHAKI	57					
Capes, A/G						
Respirators, A/G, complete with haversack	57	1				
Outfits, A/D	57	1				
Ointment, A/G						
Eyeshields, A/G, pk of 6	57	1				
Detectors, Individual prs						
Wallet, A/G						
Blanket						
Mug, drinking						
Sheet, ground	5	1				
Initials of Soldier	GM	GM				
Initials of QM or Rep	JB	RC				

9

ARTICLE	QUANTITY					
(Regt'd No.)						
Rifle No.....(.....)						
Bayonet No.....w/scabbard						
Bottles, oil						
Pullthroughs, single						
Rods, cleaning, pistol (Regt'd No.)						
Carbine, Mach. (.....)						
Magazines, Carbine						
Pistol Revolver (Regt'd No.) No.....(.....)						
Ctges, SA, revolver .380 in.						
Ctges, SA, .303 in Mk VII						
Initials of Soldier						
Initials of QM or Rep.						

10

ADDITIONAL ISSUES — CANADA ONLY

ARTICLE	QUANTITY					
Belts, waist, leather, brown or web 1½"	1	1	1			
Boots ankle, felt, prs.	1	1	1			
Boots, insoles, prs.	1	1	1			
Boots, lumberman's rubber prs.	1	1	1			
Buttons, G.S., large	4	1	1			
Buttons, G.S., small	4	1	1			
BUCKLES BRASS	1	1	1			
Cap, winter, melton cloth	1	1	1			
Coat waterproof	1	1	1			
	1	1	1			
Helmet, sun	1	1	1			
Jackets, Khaki drill	1	1	1			
Jackets, serge, drab, O.C.	1	1	1			
	1	1	1			
Initials of Soldier	GM	GM	GM			
Initials of QM or Rep.	JB	RC	RC			

ARTICLE	QUANTITY					
Mitts, pullover, leather, prs.			1			
Muffler, khaki			1			
Necktie, black			1			
Pin, collar, safety			1			
Puttees, prs.						
Rubbers, prs.			1			
OVERSHOES			1			
Shirts, khaki, cotton	32	2	3			
Shirts, undercotton		1	2			
Shoes, leather, black, prs.			1			
Socks, black, prs.		1	2			
Trousers, khaki drill, prs.			1			
Trousers, khaki drill, short, prs.	2	2	2			
Trousers, serge, drab, N.P. prs.		1	1			
Initials of Soldier	GM	GM	GM			
Initials of QM or Rep.	JB	RC	RC			

ARTICLE	QUANTITY						
Badges, shoulder, Canada, drill, prs.	SB						
Blacking, tins	SB	1					
Boot dressing, tins	SB	1					
Bootlaces, prs.	SB	3					
Protectors, ear							
Sponge, pipeclay							
Lanyard, pistol							
Initials of Soldier	GM	GM					
Initials of QM or Rep.	SB	RC					

INSTRUCTIONS TO SOLDIER
(OVERSEAS ONLY)

1. You will always carry this book on your person and are responsible for its safe custody. (Officers need not carry this book on their person but will be responsible for its safe custody).

2. You will initial at the bottom of each page to signify that you understand its contents and have received the quantities entered.

3. Do not alter or make entries in this book. Disobedience of this order will be treated as a serious offence and disciplinary action will be taken.

4. You will at once report the loss of this book to your Commanding Officer.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS ONLY)

1. Unit equipment (e.g. compasses, binoculars, special clothing for cooks, m/cyclists, etc.) will not be recorded on this statement.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS AND CANADA)

1. This statement will be used to record articles of personal clothing and equipment issued to each soldier.

2. All entries will be made in ink. Blank spaces in columns will be ruled through. All columns used will be initialled in the space provided by soldier and by the QM. or his representative.

CERTIFICATE TO BE SIGNED BY INSPECTING OFFICER [redacted] EACH KIT INSPECTION

Certified that the record detailed in this statement has been checked with the articles in possession of the soldier and found correct.

SIGNATURE	DATE	SIGNATURE	DATE
G.S. SHELDER, CAPT.	5/9/44		
L. CONWAY CQMS	23/10/44		

J. C. G. Kulcan major
President SCM

M.F.R. 355
30M—11-41 (2272)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-144199	Private	Gordon MARTIN No. 35 Coy. Canadian Provost Corps	C.A.

1. The following is a fair and true summary of the entries in the [redacted] Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, [redacted] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Absence without leave	One times	Absence without Leave	One times
For	Losing by Neglect	One times	Losing by Neglect	One times
For		times		times
For		times		times

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

[redacted]

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 14 days in military custody, making a total of 14 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 22 years 5 months

6. [redacted]

7. [redacted]

8. [redacted]

9. [redacted]

10. [redacted]

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Name..... of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of March 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

J.C.G. Whitby Maj
President FCM

(J.L. St. Jean) Captain
Officer i/c Records
Composite Provost Coys. M.D. 4.

Canadian Provost Corps C.A.

M.F.M. C
(A.F.B. 122)
500M—11-41 (3498)
H.Q. 1772-39-1032

No.	Name	Sqn., Battery, or Company	Corps	Date of enlistment	G.C. Badges	Tradesmen's Rates of Pay	Character
D-144199	Martin G.			31 Jan 44			

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	5 Oct 44	Pte		A.A. Sec 15 (1) A.W.L. from 0715 hrs 11 Sep 44 to 0200 hrs 2 Oct 44 (20 days 18 hrs 45 mins).	DOCUMENTARY	14 days C.B.			
				A.A. Sec 24 (2) Losing by negl his cloth equip and regtl necess. Kit def $25.10		14 days Sum Forf Sotp of pay $30.12	5 Oct 44	Colonel Schenberg	Forf autom 21 days pay Art 149 FRal
				Cost of apprehn. $4.02					

CERTIFIED TRUE COPY

(R.W. Pouliotte) Capt
Officer i/c Records
Composite Provost Coys
Military District No. 4.

J.C. Bks

(P.T.O.)

H.Q.C.55-M-1622 (JAG/D-7)
Your File - M.1-M-14193

April 5th, 1945.

District Officer Commanding,
Military District No. 4,
Montreal, Que.

STANDING COURT-MARTIAL

D-144199 Pte. Gordon MARTIN
No.35 Company, Canadian Provost Corps, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LJR/BT

69.

THIS COPY FOR: H.Q. C.55-M-1622
M.D. A.1--14193

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D.144199 Name MARTIN, Gordon

Rank Pte Unit No. 35 Coy C.Pro C. C.A.

Charge (1st) A.A. 15 (1) - A.W.L.

(2nd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 20-12-44; (2) 7-3-45

Date of Arrest (1) 6-3-45 Charge Signed 19-3-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. Montreal S Que 20-3445

Sentence Det 40 days; stoppages $45.07

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36479

Date 31-3-45

MEMO

M.D. 4 - No. 35 Coy C PRO C CA

Absent	Sentence
2½ mos	Det. 40 days

D.Ryan Lt
for Judge Advocate-General

10M-1-45 (M-4629)

No serious irregularities observed

R J Ryan RE

Apr. 5/45

IN REPLY PLEASE QUOTE No. M. 1-M-14193 F.D.1

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Quebec, 27th March 1945.

CENTRAL REGISTRY Army
CONF. SEC.
MAR 29 1945
File 55-M-1622
Sent to
Returned to

CONFIDENTIAL.

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

STANDING COURT MARTIAL.
D-144199 Private Gordon MARTIN,
No.35 Company, Canadian Provost Corps,C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

(a) Proceedings of the court
(b) Medical officer's report d/20 Mar 45.

2. Submitted for your information, consideration and approval, please.

J.A.G. Dubeau

(J.A.G. Dubeau)Major
Headquarters, Military District No. 4,
President of Standing Court-Martial.

36179

NAT. DEF. B. 440
250M-4-44 (4320)
H.Q. 1772-39-767

COUNTER NUMBER 11703

HOUR 12:30

OPERATOR'S INITIALS HG

RELIEVING OPERATOR _____

H.Q.C. 55-M-1623

CONFIDENTIAL

M.F.R. 207B
10M—4-43 (0625)
H.Q. 301-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MCKENZIE. D.A. L.51478 PTE.

CONFIDENTIAL
H.Q.C.55-M-1623

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute") J.A.G.	NEW FILE	D.R.	MAR 2 1945
MAR 30 1945 APR 4 1945	4 Apr 45	P.A.		Admin	For note		29.3.45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQ 405-M-45895
Adm 2(a)3

Ottawa, Ont. 4 Apr 5

District Officer Commanding,
Military District No. 12,
REGINA, Sask.

L.51478 - Pte. McKENZIE D.A.

Ref Circular R.801 d/12 Mar 45 under HQ 54-27-47-1 FD 101 (Adm 2).

2. Att are two copies of letter from CMHQ recommending the discharge of this soldier under RO 1029 (8) which are fwd for your consideration as outlined in the above mentioned circular. If possible you will be warned of this soldier's arrival in advance bywire.

(A.E. WALFORD)
Major-General.
Adjutant-General.

encl.
GMG/JP

MEMORANDUM

TO:
Adm 2(a)3

Department of National Defence
(Army)

H.Q.C 55-M-1623 Adm 3(b)2

OTTAWA, Ont. 2 Apr 45

L.51478 Pte McKENZIE, D A

It will be noted that the sentence awarded this soldier will expire 9 Mar 45. He will be despatched on the first convenient draft, thereafter.

2. For your disposal, pls.

WOParlee

(W O Parlee)
Captain
Adm 3(b) 2

WOP:da

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/McKenzie DA/2

CANADIAN MILITARY HEADQUARTERS

LONDON 6 Mar 45

CENTRAL REGISTRY Army
MAR 20 1945
C.55-M-1623
Referred to

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

L.51478 Pte McKenzie, D.A.

1. The marginally named soldier enlisted 15 Dec 41 at Regina, Saskatchewan, and he is now 21 years of age. Since enlistment he has been found guilty of 5 offences under AA Sec 15(1), of 3 offences under AA Sec 10(4), of 2 offences under each of AA Secs 9(2) and 18(4), and of 1 offence under AA Sec 40. This soldier was tried by FGCM 21 Aug 43 when he was awarded a sentence of 12 months detention for 2 offences of theft from comrades and an absence without leave of 39 days duration. On 21 Feb 44 it was directed that this sentence be suspended and he was released from detention 22 Feb 44. He was posted to a field unit 3 Mar 44 and a report from his C.O. shortly afterwards indicates that he was "a difficult soldier". On 20 May 44 his C.O. awarded a 28 day pay forfeiture for 3 offences: disobeying a command, breaking out of camp while in arrest and 2 days absence without leave, on 7 Jun 44 he committed an offence under AA Sec 40 and was awarded 4 days confinement to barracks, on 23 Jun 44 he was again charged with 2 minor offences and on this occasion his C.O. recommended that the suspended sentence be put into execution. Pending a decision on this recommendation this soldier went absent without leave. He was apprehended 23 Sep 44 and on 3 Oct 44 he was sentenced by a civil court to 3 months imprisonment with hard labour for theft and for 8 offences of receiving stolen property. After his release from civil imprisonment on 10 Jan 45 the suspended sentence awarded 21 Aug 43 was put into execution.

2. This soldier was reboarded 31 Jan 45 and placed in Pulhems Grade 85 on a diagnosis of psychopathic personality, anti-social.

3. The Neuropsychiatrist who has examined this soldier states that he is irresponsible with a history of impulsive and anti-social behaviour from child-hood, that he shows no shame or remorse for his offence and that he is wholly unfit for army service.

4. Taking into consideration this soldier's serious civil convictions, his entire army record and his failure to make any serious attempt to redeem himself when his last sentence was suspended, it is considered that he should not be discharged on medical grounds but that he should be classified as an incorrigible and be discharged for misconduct in accordance with paragraph 8 of Appendix to C.A.R.O. 1029. It is therefore so recommended. It is not considered that this soldier has misconducted himself for the purpose of obtaining his discharge.

5. It has accordingly been directed that this soldier be returned to Canada for disposal by the Adjutant General. His present sentence will expire on or about 9 Mar 45 and he will be despatched on the first convenient draft thereafter.

for (E.G. WEEKS) Major-General
i/c Administration
Canadian Military Headquarters.

L-51478 Pte. Douglas Albert MCKENZIE
Edmn. Regt. - 1 C.I.R.U.

NN-29

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 20th day of AUGUST, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "G" GROUP CANADIAN REINFORCEMENT UNITS CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint—~~
~~*(1. Three Officers to form the Court.)~~
~~*(2. A Field Officer as President.)~~
~~for the following reasons, namely—]~~

Proceedings Approved
Skillen Major
for 27 Sep 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	A.S. PETTAPIECE	C. H. of O.

Members.

Rank.	Name.	Regiment.
A Captain	to be detailed by O.C.	1 C.I.R.U.
A Lieutenant	to be detailed by O.C.	1 C.G.R.U.
A Lieutenant	to be detailed by O.C.	5 C.G.R.U.
Waiting Member		

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J. R. Stewart Lough
Brigadier
Commanding "G" Gp Cdn Rft Units
Convening Officer.

Arthur S. Pettapiece, Maj'r

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L-51478 Pte. Douglas Albert MCKENZIE, Edmn Regt, 1 C.I.R.U.	First Charge A.A. Sec 15(1)	Guilty	Guilty	I confirm the finding & sentence of the Court but remit six (6) months detention
	Second Charge A.A. Sec 18(4)	Not Guilty	Guilty as charged except that he stole one bicycle only.	
	Third Charge A.A. Sec 40	Not Guilty	Not Guilty	
	Fourth Charge A.A. Sec 18(4)	Guilty	Guilty	
	SEE CHARGE SHEET ATTACHED		Sentenced to undergo detention for a period of one (1) year and six (6) months and to be put under stoppages of pay until he has made good the sum of 72.84. in respect of the cost of apprehension and return. 8 Aug 43.	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— No.

(Signed) J. Stewart Lough, Brigadier — Commanding "M" Gp Cdn Rft Units
Convening Officer (e)

(Signed) Arthur S. Pettapiece, Major
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~*(3. The Interpreter)~~
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 21st day of August 1943.

Arthur L. Pettgrew, Maj'or
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this~~ ~~day of~~ ~~19~~ .

~~*President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 21st day of August 1943.

D.O. 157.
23 Aug 43

J. Esteraith Lough
Brigadier,
Confirming Officer. Commdg "B" Sp. Cas. Rft. Units.

Promulgated and extracts taken in the case of L-[illegible] Pte. McKenzie, D.A.
Promulgated in Part II D.O. 157 dated 23 Aug 43.

(a) (Dated) 21. Aug 43. (Signed) [illegible] Colonel, Commanding, 1 C.I.B.U.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

1) W1.4617/X-500 50,000 2-43 A.& E.W.Ltd Gp.698
2) W.1.1192/71 100,000 5-40 " "

CHARGE SHEET

accused, No. L-51478 Private Douglas Albert MCKENZIE of the Edmonton Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:

FIRST CHARGE
Section 15(1)
ARMY ACT

When on Active Service, absenting himself without leave,

in that he,

At No. 1 Canadian Base Reinforcement Depot, absented himself without leave from 2359 hours on the 5th day of June 1943 until apprehended by the Military Police at Slough at 1600 hours on the 23rd day of July 1943 thereby incurring expense to the public in the amount of £0-7-8, the cost of apprehension.

Absent 47 days 16 hours 1 minute.

SECOND CHARGE
Section 18(4)
ARMY ACT

When on Active Service, stealing property belonging to persons subject to Military Law,

in that he,

At No. 1 Canadian Engineers Reinforcement Unit, on the night of 4th and 5th of July 1943, stole three bicycles, Black Hercules Bicycle, No. YS 12505, the property of F22417 Sapper Jessome, W.J.; Raleigh Bicycle No.35108E, the property of B-2605 Sergeant Close J.; Sunbeam Racing Bicycle, no knownnumber, the property of C28525 Corporal Bullock G.C., all of No. 1 Canadian Engineers Reinforcement Unit, persons subject to Military Law.

(or in the alternative)

THIRD CHARGE
Section 40
ARMY ACT
(alternative)

When on Active Service, conduct to the prejudice of good order and military discipline,

in that he,

at No. 1 Canadian Engineers Reinforcement Unit, on the night of 4th and 5th of July 1943, was in the improper possession of three bicycles, Black Hercules Bicycle, No. YS 12505, the property of F22417 Sapper Jessome W.J; Raleigh Bicycle No. 35108E, the property of B-2605 SergeantClose J; Sunbeam Racing Bicycle, no known number, the property of C28525 Corporal Bullock G.C.; all of No. 1 Canadian Engineers Reinforcement Unit, persons subject to Military law.

FOURTH CHARGE
Section 18(4)
ARMY ACT

When on Active Service, stealing public property,

in that he,

at No. 1 Canadian Engineers Reinforcement Unit, on the night of 4th and 5th of July 1943, stole two kit-bags, property of the Canadian Army.

Colonel
(C.W. Devey) Commander,
No. 1 Can. Inf Rft Unit.

Barossa Barracks,
Aldershot, Hants.

18th day of August 1943.

P.T.O.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

J.R. Stewart Lough

(J.R. Stewart Lough) Brigadier,
Commanding,
"G" Group Cdn Rft Units.

20 Aug 43

Convening Officer.

Arthur S. Pettapiece Maj
President

Medical Officers certificate
K.R. can. Para 557

I certify that I have this morning examined No L-51478 ...Pte.....

McKenzie D.A. ..... and in my opinion he is ~~Fit~~ ~~xxxxx~~ to undergo trial by court martial.

Station....1 C.I.R.U.....

Date.....21.Aug.43.....

B. Murphy Capt
(Medical Officer)
Major

1.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT Corona Barracks, Aldershot, Hants.
ON THE 21st DAY OF August 1943

The accused 5142928 Pte McKenzie H.A. Unit 1 C.I.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Maj. A.A. Pettigrew, Unit H.Q. C.I.R.U.

Members Capt A.J.A. Mackenzie Unit 1 C.I.R.U.
Lt. E.J.A. Misselt Unit 1 C.I.R.U.

The officers under instruction are duly sworn:-
2Lt. J.H. Jaquiery - 5 C.I.R.U.
2Lt. R.B. Allen Unit 1 C.I.R.U.
2Lt. P.W. Cofer Unit 1 C.I.R.U.

Prosecutor Lt. R.C. Gay-Smith Unit 1 C.I.R.U.

Defending Officer Capt. C.V. Bryant Unit 1 C.I.R.U.

The charge sheet is signed by the President and the accused is arraigned.
~~The accused pleads guilty to the charge(s) and R.P. 35(B)~~ is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) Calls witnesses as to character.
(c) Calls witnesses in mitigation of punishment.
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS ~~OF ACCUSED OR HIS DEFENDING OFFICER~~

The accused pleads "Guilty" to the First and Fourth charge.

The accused pleads "Not Guilty" to the Second and Third charges.

R.P. 35(B) is complied with.

R.P. 39(A) is complied with

The Prosecutor proceeds to call witnesses.

1st Witness for Prosecution

F76949 Sgt. Collis, A.R., 9th A.P.M. office, C.R.H. having been duly sworn states.

Some time ago I had occasion to question the accused, when I now recognise. He was under arrest and after having duly cautioned him, I obtained this statement from him which he signed in my presence. (Statement filed as Exhibit A). He did not attempt to conceal anything from me and he started to give me the statement.

No cross-examination

2nd Witness for Prosecution

F22417 Sgt. Jessome, U.J. 9th Cy. 1C.C.R.U. having been duly sworn, states.

I produce the bicycle No V.S.12505 Hercules. This is my bicycle. On July ~~4th~~ 5th at about 1200 hrs I noticed my bicycle was missing

from its usual place. I reported the matter to an guard room and I did not see it again until about 10 days later when Sgt. Collis showed it to me in a hut at our Command Post. (Bicycle filed as Exhibit "B")

Cross-examination

I usually kept this bicycle in the spider hallway where I slept with other. It was locked at the time I missed.

4th Witness for Prosecution

F49815 Sgt. Moffatt R.R. of No 9 Pris. Cy. having been duly sworn, states:-

About 0920 hrs 12 Jul 45, I went to a civilian man's house with Pte Gallant. There he showed me this bicycle which I took into my custody and turned over to the Provost Officer. Exhibit "B" is one of those bicycles.

Cross-examination

Pte Gallant showed me where the bicycle was.

The Prosecution is closed

R.P. 40 is complied with

The Defence proceeds to call witnesses.

The accused, having been duly sworn, states:-

Pte Gallant and "Danny" and I went to ICERY on 4 Jul 43 about 2320 hrs. We went into the camp and after many things got quiet, "Danny" went into a cupboard but 3 times and each time came out with a bike. He then broke the locks on the bikes and went into the hut a fourth time. He then brought out 3 kit bags and I took 2 of the kit bags and rode off on one of the bikes. Gallant took one with him and "Danny" took two. I went about 2½ miles past Black Water station. We then ransacked the kit bags and then went about 3 more miles and we got off and "Danny" put the bike in a swamp. We then went to Guildford. I cannot tell which one of the bikes was the one I rode away on.

Cross-examination

I did take and ride off on one bicycle but I do not know which one it was.

The Defence is closed.

The Prosecutor makes a final address. (attached hereto)

The Defending officer makes a closing address (attached hereto)

The Court is closed for consideration of finding.

The Court is re-opened and it is announced that the accused has been found "Not Guilty" of the Third charge. Overseas R.O. 3262 is complied with.

The Summary of Evidence is read in so far as it relates to the charges to which the accused has pleaded "Guilty".

The Prosecutor produces the MFB355 and MFM6 of the accused.

The Defending Officer addresses the Court (attached hereto) Overseas R.O. 3262 is complied with.

The Court is closed for consideration of sentence.

Arthur S. Pettapiece
Major

Prosecution

The crux of the case hinges, in my opinion, upon the wording of the charges (2) and (3). The accused has signed a statement which has been presented to the court admitting that he put one of the bicycles to his own uses. Now three men took three bicycles; and the other two men in question have been proven to have taken two of the bicycles - it leaves only one bicycle for the accused. The accused, in my opinion, is guilty of illegal possession of one bicycle; but not guilty to the illegal possession of three bicycles.

L. C. Day-Smith,
Lieut,
(Prosecutor)

21 Aug 43

Defence.

Pte McKenzie has pleaded NOT GUILTY to the second (2) and third (3) charges. Rules of Procedure 13 sub para (3) states "Larceny of goods" "the property of several different owners should not" "be included in one charge." The accused could not ride away on 3 cycles. In his evidence he has stated that "Sammy" went in & got 3 cycles from the hut, broke the locks & that each of them rode away". In view of R.P. 13(3) & the evidence of the accused the defence asks that this charge be struck out.

21/8/43
Aldershot, Hants.

E. D. Bryant Capt.
Defending Officer.

Defence Plea in Mitigation.

Pte McKenzie volunteered for ACTIVE SERVICE in the Canadian Army in December, 1941, at the age of 18. He completed his basic & advanced training in Canada, as required, and was drafted overseas in February of 1943. His record of service to that time was good. It continued for some time after his arrival in England & up to this time his most serious offence has been an AWL, charge of 21 hours.

He enlisted in December 1941. Received his first leave in June 1942, after 6 months service. In June 1943 he had received no further leave, with the exception of midnight passes. He was in June of this year attached to #1 CBRD, and he decided he wanted some leave. Now I know that you will say that he shouldn't have taken it without permission. I'm sure he didn't realize the seriousness of it. He's a young soldier — not yet 20. He hasn't been used to being confined without some change from the usual routine of Army life. He is not yet fully acquainted with Army Rules & Regulations, like many of our Canadian Soldiers, with 3+4 years of Active Service to their credit.

But he's learning! True, he has taken this step which makes it just a little harder, but quicker. You might say — this is his first offence. In his heart he has resolved to make it his last.

In view of the lads youth — his lack of knowledge of Regimental Rules & Regulations. The fact that in two of these charges he was influenced by a soldier, older than himself & with a record already established, I ask this court to consider, on behalf of the accused, this statement in mitigation of punishment.

21 Aug 43
Aldershot, Hants.

E. J. Bryant Capt
Defending Officer

28.7.43
Pte McKenzie

I am Reg No L 51448 D.A. now of No 2 C.I.R.U. I have been warned that I need not say anything unless I wish to do so. I know I have nothing to fear from any threat and nothing to fear from any favour and that if I do say anything it will be taken down and used as evidence. So that I understand this I sign herself

D McKenzie

A Hallis

On the night of 4 July 43 I was with Pte Gallant and a bdl who I called Sammy. He was was serving 1st Div. or Corps R.C.S. Hastes. We left Guildford at 2230 hrs for Blackwater. He paid for the ticket for me. We walked from Blackwater station

Exhibit "A"

About 2 miles to a camp where Tommy said he had been stationed before. We then laid on the top of the air raid shelter and waited until the hut quieted down. Tommy removed his boots and went into a hut and came out three times each time with a cycle. He went into another hut and brought out four hit bags and a full battle dress. We then rode on my on the cycles with the hit bags past Blackdale where we opened the hit bags, and went thro them & threw four of them away & continued to a swamp where we threw the cycles in. We retained one hit bag containing various articles from the four hit bags and we caught the 09.20 train

OHP

[illegible] to Guildford to the Church Army where we had a wash up. All I received from this job at this camp was 4 packets cigarettes and a tooled leather wallet but no money. I did take some sox and underpants and shirt. I later sold this wallet for 5/- to Pte Churchill at No 2 C.R.U on 11th July-43

I have read this statement through and it is given of my own free will and is the truth.

A.T. [illegible] D.G. McKenzie

Ex. D.

Exhibit "B"

Received from the court a black Hercules bicycle No. YS 12505, the property of F22417 Spr Jessome W. J. on the strength of "A" Coy S.M.E.T.T. Wing this 21st day of August 1943

L. C. Day-Smith
(Lieut)
Prosecutor. [illegible]

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 43.

I CERTIFY that No. L.51478 . . Rank Pte. . . Name McKenzey . D.A. . . . .

Unit .No. 20.L.R.V. . . . . was arrested at .SLOUGH. . . . .(Place)

at 1600 . . .(hour) on 23 Nov. 43. .(date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian Clothes~~) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
24 July 43.

Ex B
WR.

. . . . . Capt.
(W. Fern) D. A. P. M.,
London Area

Received from the court two army kitbags, issued by the Canadian Government to army personnel, and identified as such by K 47160 C.O.M.S Stewart, C. L. of the Westminster Regiment, on the strength of No 1 Canadian Infantry Reinforcement Unit, a Soldier of the Canadian army overseas, this 21st day of August, 1943.

L. C. Day-Smith, Lieut
Prosecutor.

Exhibits "H" and "I"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 2 51478 Rank Pte. Name McKenzie, E. D. Unit No 4 C.I.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to his ~~Unit From~~ London from Windsor.

Date	Particulars 1/3 portion.	Amount		
24 July 43	Escorts return fare from LONDON To Windsor		2	5
	Prisoners single fare to LONDON From Windsor		1	9
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (1/3 portion		2	6
	Total £		7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

E+C K.R. Capt.

Officer Issuing Railway Warrant and Expense monies
No. 8 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/F & S/483

Record of the Declaration of a Court of Inquiry assembled at 2nd Bn 1 CBRD on the 27th day of June 1943 for the purpose of investigating and recording, the absence without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or clothing of No. L51487 Pte McKenzie, D.A., of "B" Coy, 2nd Bn, 1 CBRD.

DECLARATION

The Court declare that No. L51478 Pte McKenzie, D.A. of "B" Coy, 2nd Bn, 1 CBRD illegally absented himself without leave (or otherwise) in the Field at 2359 hrs on the 5th day of June 1943 and that on the 27th June 43 he was deficient, and that he is still deficient of the following articles:-

Articles	Value	Articles	Value
9 Blouse B.D. 1.7.8.	1- 0 - 9	1 Razor 1.10½	1-4½
1 Trousers BD 1.7.11	1- 0 -10	1 P.T. Shorts 1.11	1-5
1 Pr Boots Ank. 1.1.6	16 - 6	1 Ration Bag .2	-1
1 Cap F.S. 3.8	2 - 6½	1 Net Camouflage .8	-6
1 Drawers Woollen 5.3	3 -11	1 Sheet Ground 10.9	8-0
1 Sweater 6.0	4 - 6	1 Mug Enamel .7	-5
1 Shirt Angola 9.2	6 -10½	Total	£6-1-1
1 Pr Braces 1.3½	1 - 0	Less 25 o/o	£4-10-7½
1 Brushes Button 0.0.8	- 6		
1 Comb Hair .2	- 1		
1 Set Discs Identity 1.1	- 9		
1 Holdall .9	- 7		

Signed at In the Field

this 27th day of June 1943

D.M. Owen Lieut President

G.D. Hutton Lieut Member

E.L. Nerland Lieut Member

Signature of Commanding Officer C.W. Campbell Major

Certified True Copy. W.J.C. Johnston

(W.J.C. Johnston) Lieut.
Officer i/c
Cdn Sec. G.H.Q., 2nd Echelon Det at Can Records.

E + A.
WR.

AHP

SUMMARY OF EVIDENCE

In the case of L-51478 Pte. D.A. McKenzie, of the Edmonton Regiment on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, this Summary of Evidence is taken on oath:

FIRST WITNESS for the PROSECUTION

Capt. W. Rorke, of the Calgary Highlanders, on the strength of No. 1 Canadian Infantry Reinforcement Unit, having been duly sworn states:
I am Capt. W. Rorke of the Calgary Highlanders on the strength of No. 1 Canadian Infantry Reinforcement Unit. I produce Record of a Declaration of a Court of Inquiry, purporting to be signed by C.W. Campbell, Major, which relates to the accused, whom I now recognize. This document is marked Exhibit "A" and is duly initialled by me for purposes of identification. I produce certificate in accordance with P.C. 2797 of 10 Apr 42, purporting to be signed by W. Fern, Capt. D.A.P.M., London Area, which relates to the accused, whom I now recognize. This document is marked Exhibit "B" and is duly initialled by me for purposes of identification. I produce C.M.H.Q. 1000:55, expense voucher, purporting to be signed by W. Fern, Capt., Officer issuing Railway Warrant and Expense monies, No. 6 Provost Company, Canadian Provost Corps, London, which relates to the accused, whom I now recognize. This document is marked Exhibit "C" and is duly initialled by me for purposes of identification.

The accused declines to cross-examine this witness.

W Rorke Capt.
(W. Rorke)

The accused having been duly cautioned in accordance with Rule of Procedure 4 (e) reserves his defence.

I certify that the foregoing Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

J M Bird Lieut.
(J.M. Bird)
Officer taking Summary.

Albuhera Barracks,
Aldershot, Hants.

13th day of August 1943.

ADDITIONAL SUMMARY OF EVIDENCE

In the case of L-51478 Pte McKenzie D.A., of the Edmonton Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, the Additional Summary of Evidence is taken on oath:

SECOND WITNESS for the PROSECUTION

F76949 Sgt Collis A.R., S.I.S., D.A.P.M.s Office, H.Q. C.R.U., a soldier of the Canadian Army Overseas, having been duly sworn states:
As a result of an investigation I saw Pte. McKenzie D.A., whom I now recognize, in the Guard room at No. 2 C.I.R.U. He was then under arrest. I explained the reason for my visit to him and I carefully warned him. He gave me a statement in writing after this warning, and he signed it in my presence and which I produce herewith. (marked Exhibit "D").

The accused declines to cross-examine this witness.

A R Collis
F76949 Sgt Collis A.R.

THIRD WITNESS for the PROSECUTION

F22417 Spr. Jessome, W.J. on the strength of "A" Coy. S.M.E.T.T. Wing, a soldier of the Canadian Army Overseas, having been duly sworn states:
I am the owner of Hercules Black bicycle No. YS 12505. I produce a Registration form used by No. 1 C.E.R.U. and receipt for cash paid. (Marked Exhibits "E" & "F"). At the time of the theft I was on the strength of No. 1 C.E.R.U. I identify Exhibit "G" as my bicycle.
The accused declines to cross-examine this witness.

W J Jessome
F22417 Spr. Jessome W.J.

FOURTH WITNESS for the PROSECUTION

F49815 Sgt Moffatt R.R., No. 9 Canadian Provost Corps, a soldier of the Canadian Army Overseas, having been duly sworn states:
I received instructions to proceed to a swamp between Sandhurst and Crowethorne. On arriving at the swamp I found three bicycles sub-merged under water. I retrieved them and turned them over to the D.A.P.M.s office.

The accused declines to cross-examine this witness.

R R Moffatt
F49815 Sgt Moffatt R.R.

The accused having been duly warned in accordance with Rules of Procedure 4(e) reserves his defence.
I certify that the foregoing Additional Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c) (d) (e) (f) have been complied with.

W Rorke
(W. Rorke) Capt.
Officer taking Summary

Albuhera Barracks,
Aldershot, Hants.

18th day of August 1943.

ADDITIONAL SUMMARY OF EVIDENCE

In the case of L-51478 Pte McKenzie D.A. of the Edmonton Regiment on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, the Additional Summary of Evidence is taken on oath:

FIFTH WITNESS for the PROSECUTION

K47160 C.Q.M.S. Stewart C.L., Westminster Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:
I identify Exhibits "H" & "I" as being army kit-bags, issued by the Canadian Governement to Army personnel.

The accused declines to cross examine this witness.

C. L. Stewart
K47160 C.Q.M.S. Stewart C.L

The accused having been duly cautioned in accordance with Rule of Procedure 4 (e) reserves his defence.

I certify that the foregoing Additional Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

W Rorke.
(W. Rorke) Capt.
Officer taking Summary

Albuhera Barracks,
Aldershot, Hants.

18th day of August 1943.

Arthur S. Pettapiece
Major

M.F.M. 6
(A.F. B.122)
40/P & /9136 (3965)

No. L51478 Name McKENZIE D.A. Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment 15-12-41 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet 1-4-42 | No. and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Previous sheet destroyed on completion of 6 months service 15-6-42.							
Winnipeg	30-9-42	Pte		AA Sec 40 - used obscene leanguage to picquet when asked for pass.	Cpl Farion	5 days C.B.	1-10-42	Major P.V. Torrance	
Winnipeg	7-10-42	Pte		AA Sec 10(4) attempting to break out of barracks	Pte.A.Daigneault	5 days C.B.	8-10-42	Major P.V. Torrance	
Winnipeg	8-11-42	Pte		AA Sec 10(4) breaking out of barracks-Cpl AA Sec 10(4) breaking into barracks	Farion	7 days C.B.	9-11-42	Major P.V. Torrance	
2 CIRU	2-5-43	Pte		AA Sec 15(1) AWL from 0900 hrs 2 May 43 to 0600 hrs 3 May 43. Absent 21 hours	Cpl Geddie Cpl Summerville	7 days C.B.	4-5-43	Lt.-Col. Bingham	1 days Pay FR&I 149(1)a

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17-5 43	Pte		AA Sec 15 (1) AWL from 0600 hrs 17 May 43 to 1100 hrs 17 May 43. Appre. by Mil. Police in London Absent 5 hrs.	L/Cpl Lowe	10 days forf. of pay.	18 May 43	Capt. C.G. Barnes	
Field	18 May 43	Pte		AA Sec 15(1) AWl from 2200 hrs 18 May to 0600 hrs 19 May 43. Absent 8 hours	Sgt Baker A Sgt Newnham	5 days forf of pay	19 May 43	Capt. C.G. Barnes	1 days pay FR&I 149(1)a)

Certified True Copy consisting of One Sheet - 12-Aug-43.

H Y Atkinson Capt.
(Officer Having custody of Original Documents)

Arthur S. Pettapiece, Major

M.F.R. 335
22M—5-41 (572-3)
H.Q. 1772-99-620
A.F.H. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L51478	Pte	McKenzie D.A.	1 C.I.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. Sec 15(1)	3 times	3 times
For A.A. Sec 40	1 times	1 times
For A.A. Sec 10(4)	3 times	3 times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of ~~summary awards under~~ ~~A.F.A. 73~~ Section 47 of the ~~Air Force Act~~ Army Act ~~and dispensations with~~ trial under A.A. 73 are set out in the Schedule ~~annexed to this statement~~.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ..... ~~beginning on the~~ ..... ~~day of~~ .....

4. The accused has been in confinement awaiting trial on the present charges, for ..... days in civil custody, and 29 days in ~~Air Force~~ military custody, making a total of 29 days in custody, of which 12 days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 19 yrs 253 days.

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 15-12-41

7. The service which the accused is allowed to reckon towards discharge is 1 yrs. 232 days

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward ~~(or is in~~ possession of or entitled to). State any air force decoration or reward. military military military

10. (If the accused ~~is a warrant officer.~~) The accused before he was made a warrant officer last held ~~the~~ Air Force regimental rank of .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21 day of Aug 43

[illegible] Lt R.C.A.F.
REGIMENTAL OFFICER

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Arthur S. Rettquis, Major

I hereby acknowledge that I have been served with a true copy of the summary of Evidence taken at Albuhera Barracks, Aldershot, HANTS, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-martial.

Dated at Aldershot, HANTS.
this...18...day of
...August..19.43.

D.A McKenzie
.....

I hereby acknowledge that I have been served with a true copy of an additional summary of Evidence taken at Albuhera Barracks, Aldershot, HANTS, preliminary to my Court martial.

Dated at Aldershot, HANTS,
this...18...day of
..August.....1943.

DA. McKenzie
.....

I hereby request that the convening Officer appoint an Officer to represent me at my trial.
I desire the services of.....
if he is available.

H.Q.C. 55-M-1624

CONFIDENTIAL

M.F.R. 1878
(55M—4-42 (1618)
H.Q. 301-1-46

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

DISTRICT COURT-MARTIAL

MCKIBBIN. RAYMOND D.648754 GNR.

CONFIDENTIAL
H.Q.C.55-M-1624

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				J. A. G.	NEW FILE	C.R.	MAR 29 1945
APR 4 1945	4/4/45	P.A.		ICM	To note & ret		Apr 3/45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1624 (JAG/D-7)

April 3rd, 1945.

The General Officer Commanding,
Canadian Troops, Newfoundland.

District Court-Martial
D. 648754 Gnr. Raymond McKibbin,
25th A.A. Regt., R.C.A.,C.A.

Receipt is acknowledged of your WF/Mc-166 dated 21st March 1945, under cover of which you forwarded, for registration and custody, the proceedings of the marginally-noted District Court-Martial.

2. As the accused pleaded Guilty to the charge and the Sentence is legal, the proceedings are being retained for custody.

R.J.R.

(R.J.Orde), Brigadier,
Judge Advocate-General.

LJR/MM

Noted
L.H. Clayton

L. H. CLAYTON
Lieut.-Colonel
Inspector of Courts-Martial
APR 4 1945

ORIGINAL IS ON: H.Q. C.55-M-1624
M.D. WF/PO-19-24
WF/Mc-166
WF/C-433

NRMA

MEMORANDUM - DISTRICT COURT-MARTIAL

No. D.648754 Name McMEEIN, Raymond

Rank Gnr Unit H.Q. 25th A.A. Regt R.C.A. CA

Charge A.A. 40 - An act to the prejudice ...

Date of Crime 29-9-44

Date of Arrest Charge Signed 26-2-45

Orders for D.C.M. G.O.C. Can Tps Nfld

Place and Date of Trial H.Q. 25th A.A. Regt R.C.A. CA Calver's Field St John's Nfld 7-3-45

Sentence Det 28 days; stoppage as Pl.CO; F.B.P. 56 days

Date of Confirmation 15-3-45

Date of Promulgation 16-3-45

Entered in Records of J.A.G. as No. 36493

Date 31-3-45

MEMO

R.J. Regan Lt
for Judge Advocate General

10M-1-45(M-4629)

THIS COPY FOR H.Q. C.55-M-1624
M.D. NF/20-10-21
NF/Mc-166
NF/C-433

NRMA

MEMORANDUM - DISTRICT COURT-MARTIAL

No. D.648754 Name McKIBBIN, Raymond

Rank Gnr Unit H.Q. 25th A.A. Regt R.C.A. CA

Charge A.A. 40 - An act to the prejudice ...

Date of Crime 29-9-44

Date of Arrest Charge Signed 26-2-45

Orders for D.C.M. G.O.C. Can Tps Nfld

Place and Date of Trial H.Q. 25th A.A. Regt R.C.A. CA Calver's Field St John's Nfld 7-3-45

Sentence Det 28 days; stoppages $21.00; F.D.P. 56 days

Date of Confirmation 15-3-45

Date of Promulgation 16-3-45

Entered in Records of J.A.G. as No. 36493

Date 31-3-45

MEMO

R.J. Ryan Lt.
for Judge Advocate General

10M-1-45(M-4629)

IN REPLY PLEASE QUOTE
No. WF 20-19-21
WF/Mc-166
WF/C-433

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters Canadian Troops,
CAPO #1, St. John's, Nfld.,
21st March, 1945.

R182.

CENTRAL REGISTRY ARMY
CONF. SEC.
MAR 22 1945
File No. M-1424
Chkd. to
Referred to

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

MAR 28 1945

District Courts-Martial
D.648754 Gnr Raymond McKIBBIN
B.558039 Gnr Frank Julius CSULLOG
25th A.A. Regiment, R.C.A., C.A.

Herewith proceedings of the marginally noted Courts-Martial, duly confirmed and promulgated, forwarded for your custody.

(H.N. GANONG) Major-General,
General Officer Commanding,
Cdn. Troops in Newfoundland.

Encls.2
GN:atm

36493

N.D. 22
3 MM—11-42 (2579)
H.Q. 1772-101-23

MEDICAL OFFICER'S REPORT

Accepted with Pres., D.C.M.

I certify that No. D648754 McKilbin R.
of 25 AA Regt. is in a good state of health,
and is fit. to undergo Trial by Court martial.

Medical Officer
25th A/A Regt. RCA

Station M.R. Colwell's Fd

Date 7 Mar 45.

M. F. B. 246
25M—6-12 (4744)
H.Q. 1773-20 480

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for ~~General and~~ District Courts-Martial

Proceedings of a District Court-Martial held at Headquarters 25th A.A. Regiment, R.C.A., C.A., Calver's Field, on the 7th day of March, 1945, by order of St. John's, Nfld. Major-General H.N. Genong, C.B.E., V.D., Commanding, Combined Canadian and General Officer Newfoundland Military Forces in Newfoundland. dated the 27th day of February, 1945.

President.

Major C.D. Sampson,
Pictou Highlanders, C.A.

Members.

Captain C.W Christie,
25th A.A. Regiment, R.C.A., C.A.

Lt (A/Capt.) A.M.H. Graham,
103rd Coast Battery, R.C.A., C.A.

Lt (Anc) (A/Major) G.A.M. Nantel, , Judge Advocate.
Headquarters N Force, C.A.
Trial of* D.648754 Gunner Raymond McKIBBIN, 25th A.A. Regiment, R.C.A., C.A.

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to , waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.*

The accused is brought before the Court.

Prosecutor,† Lt. R.O. Craig, C.I.C., Headquarters N Force, C.A.

~~Counsel‡ or~~ defending officer† (See document marked "X")

Capt. (A/Major) T.E. Dunn, 25th A.A. Regiment, R.C.A., C.A.

At 1000 hours the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Q1: Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. A1:

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

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* Here insert No., Rank, full Name, Unit, Attachment (if any), and Appointment (if any).

† Here state Rank and Name, Unit (if any), and Attachment (if any).

‡ Qualification to be stated.

(Strike out and initial when not applicable.) *I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge (charges) before the Court-Martial.

(1) C.D. Sampson, Major
Pres., DCM.

Mil. Form B. 271
50M-3-43 (9036)
H.Q. 1772-39-224

2

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction, having been duly detailed, are duly sworn. (See Exhibits "G" and "H" (letter signed by Lt-Col. Capel and Force Order 135) re detail of officers under instruction)

H/Capt. W. Harrison, 25th A.A. Regiment, R.C.A., C.A.
Capt. J.P. Shooner, W Force Headquarters, C.A.
Capt. H. Todd, 154th H.A.A. Battery, R.C.A., C.A.
Lt. G.R.M. Rusk, 154th H.A.A. Battery, R.C.A., C.A.
Lt. N.S. McKechnie, 49th A.A. Battery, R.C.A., C.A.
(See document marked "H1" re Court stenographer)

Charge-Sheet

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon the ~~[each]~~ charge in the above-mentioned charge-sheet.

Q3: Is that your number, rank, name and unit? *Question to the accused.*
A3: Yes. *Answer.*

(For objection to Charge Sheet under Rule of Procedure 32 by the Defending Officer and replies by Prosecutor and Judge Advocate see document marked "I" and "J").

Q4: Are you guilty or not guilty of the ~~[first]~~ charge against you, which you have heard read? *Question to the accused.*

A4: Guilty, sir. *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

B2

Thompson, Maj
Pres., DCM.

CHARGE SHEET

The accused D-648754 Gunner Raymond McKibbin, Headquarters, 25th A.A. Regiment, RCA., C.A., an N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:

CHARGE
SEC. 40
ARMY ACT

AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at St. John's, Newfoundland on the 29 September, 1944 used without lawful authority public property, being D.N.D. vehicle 74-996 occasioning damage to the said vehicle to the extent of $63.53.

R F Capel

(R. F. CAPEL) Lieut-Col.,
Officer Commanding,
25th A.A. Regiment, R.C.A., C.A.

St. John's, Newfoundland,
26 February, 1945.

To be tried by District Court-Martial

H N Ganong

(H. N. GANONG) Major-General,
General Officer Commanding,
Canadian Troops, Newfoundland.

St. John's, Nfld.
27 February, 1945.

(This page to be removed from proceedings when plea to all charges is Not Guilty.)

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused D.646754 Gunner Raymond McKIBBIN, 25th A.A. Regiment, R.C.A., C.A., is found guilty of of the charge.

*The summary ~~(or abstract)~~ of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Q5: Do you wish to make any statement in mitigation of punishment?

A5: No sir.

Answer. ~~The accused in mitigation of punishment says:~~

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction. *If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Q6: Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

A6: Yes, one character witness, Capt. Montgomery. *Answer.*

Captain T.R. Montgomery, Adjutant, 25th A.A. Regiment, R.C.A., C.A., being duly sworn, is examined by the Defending Officer: *Evidence as to character.*

Q7: Capt. Montgomery, do you know Gnr McKibbin?

A7: Yes.

Q8: How long have you known him?

A8: Approximately seven months that he has been at this Headquarters, but he has been with the regiment approximately twelve months.

Q9: Will you briefly remark how his conduct has been since you've known him?

A9: Since he has been at Regimental Headquarters as driver, he has a willing co-operative worker and has always done his work well and satisfactorily.

Q10: He was employed as driver?

A10: Yes, and also partly as motor-mechanic but mainly as a driver.

Q11: You have never had any cause to be dissatisfied with him?

A11: No.

The Prosecutor declines to cross-examine.

President: Was he employed as a driver up to the time of the accident?

A12: At the time of the accident he was employed as a driver.

Judge-Advocate: Has he been employed since then as a driver?

A13: Yes.

In the opinion of the Court and the Judge-Advocate, compliance with R.P. 83 (b) is not necessary.
The Witness withdraws.

E

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

Finding*

The Court is closed for the consideration of the finding.

The Court find that the accused

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence*

*The Court being re-opened, the accused is again brought before it.

Evidence of character, etc.

Capt. T.R. Montgomery, Adjutant, 25th A.A. Regiment, R.C.A., C.A., is duly sworn.

Question by the President.

Q14 Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

Yes, M.F.B. 355 and M.F.M. 6.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked "67" signed by the President, and annexed to the proceedings.

Question by the President.

Q15: Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* A15: Yes

Question.

Q16: Have you compared the contents of the above statement with the regimental books? *Answer.* A16: Yes.

Question.

Q17: Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* A17: Yes.

Cross-examined by the Defending Officer (accused) (Counsel for the accused).

The Defending Officer declines to cross-examine.

In the opinion of the Court and the Judge-Advocate, compliance with R.P. 65 (b) is not necessary.

The Witness withdraws.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Q18 Do you wish to address the Court?

Answer.

(For address by Defending Officer, see document marked L).

The Court is closed for the consideration of the sentence; the sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later, and the proceedings in open court are accordingly terminated.

8

F

Sentence

The Court sentence the accused, D.648754 Gunner Raymond McKIBBIN, 25th A.A. Regiment, R.C.A., C.A., to undergo detention for twenty-eight (28) days, to forfeit all ordinary pay for a period of fifty-six (56) days, and to be put under stoppages of pay until he has made good the sum of twenty-one dollars ($21.00) representing approximately one-third of cost of repairs to DND Vehicle 74-996.

Sentence.

Detention: 28 days

Forfeiture of pay: 56 days

Stoppages of pay: $21.00

Signed at St. John's, Newfoundland, this 7th day of March, 1945.

Gerard Mantel Major
Judge-Advocate

C. Sampson, Major
President: DCM

Confirmed.

H.N. Gwong

St. John's, Nfld.
15th March, 1945.

(H.N. GWONG) Major-General,
General Officer Commanding,
Com. Troops in Newfoundland.

Promulgated and Extracts taken at C.A.P.O. No. I St. John's, Newfoundland, this 16th day of March, 1945.

T.R. Montgomery
(T.R. Montgomery) Captain
Adjutant, 25th A.A. Regiment, R.C.A., C.A.

Extracts entered as No. 36493 in the Record of Courts Martial kept in the office of the Judge Advocate General, this 31 day of March 1945

"X"

ORDERS BY Major-General H. N. Ganong, C.B.E., V.D., General Officer Commanding combined Canadian and Newfoundland Military Forces in Newfoundland.

St. John's, Newfoundland
27 February, 1945.

District Court-Martial
D-648754 Gunner RAYMOND McKIBBIN
25th A.A. Regiment, R.C.A., C.A.

The detail of Officers as mentioned below will assemble at Headquarters 25th A.A. Regiment, R.C.A., C.A., Calver's Field, St. John's, Newfoundland at 1000 hours on Wednesday the 7th day of March, 1945 for the purpose of trying by District Court-Martial the accused person named in the margin (and such other person or persons as may be brought before them).

PRESIDENT:

Major C.D. Sampson, Pictou Highlanders, C.A. is appointed President

MEMBERS:

Captain C. W. Christie, 25th A.A. Regiment, R.C.A., C.A.
Lieut. A/Captain A.M.H. Graham, 103rd Coast Battery, R.C.A.,C.A.

WAITING MEMBERS:

Captain H. J. Todd, 25th A.A. Regiment, R.C.A., C.A.
Captain D. F. Campbell, 103rd Coast Battery, R.C.A., C.A.

JUDGE-ADVOCATE:

Lieut. (Anc) A/Major G.A.M. Nantel, A.J.A.G., Headquarters W Force, C.A.

PROSECUTOR:

Lieut. R.O. Craig, C.I.C., Headquarters W Force, C.A.

DEFENDING OFFICER:

Lieut. J. A. Viau, Le Regiment de Quebec, C.A.

OFFICERS UNDER INSTRUCTION:

To be detailed by the A.A. & Q.M.G. and the Officer Commanding, 25th A.A. Regiment, R.C.A., C.A.

2. The accused person will be warned and all witnesses duly required to attend.

3. The Officer Commanding, 25th A.A. Regiment, R.C.A., C.A. will arrange for the necessary accommodation, stationery, and Court Orderly and will also ensure that the necessary escort has been provided.

4. The proceedings will be forwarded to the General Officer Commanding, Canadian Troops in Newfoundland.

Signed at St. John's, Newfoundland this
27th day of February, 1945.

H N Ganong

(H. N. GANONG) Major-General,
General Officer Commanding,
Canadian Troops, Newfoundland.

"X" 1

ORDERS

BY

MAJOR-GENERAL H.N. GANONG, C.B.E., V.D.,
COMMANDING COMBINED NEWFOUNDLAND AND CANADIAN
MILITARY FORCES IN NEWFOUNDLAND.

Nos. 138 to 145

6 Mar 45

GENERAL STAFF

No.138 BLACKOUT HOURS

Blackout hours for the St. John's Area from 10 Mar 45 to 16 Mar 45 will be from 1927 hours in the evening until 0651 hours the following morning. (W.F.S.2-4-1)

No.139 .303-in BREN LMG - FAULTY FEED STOPPAGES

Extensive trials of the .303-in Bren LMG have indicated that the use of the larger gas-ports, giving high rates of fire, is a contributory factor in causing stoppages from faulty feed.

2. In the past, there has been a gen tendency to utilize the No. 3 gas-port as the normal setting of the gas regulator.

3. Attn of all concerned should be drawn to SAT Vol 1 Pam No. 4, Lesson 3 para VI, in which the firer is instr to use the smallest gas-port which gives reliable performance. (Auth: DMT Circular Letter 1497) (W.F.S.4-4-2)

No.140 RESULTS - TESTING OF DVRS I/C

In accordance with Force Order No. 680 the undermentioned has been tested and has qualified as a Driver I/C and is entitled to receive "Standing Orders".

Number	Rank	Name	Unit
G.54371	Cfn	Merritt, C.F.	W Force Coy RCEME.

(W.F.S.4-1-103)

No.141 TRADE TEST BOARD - AMENDMENT

Reference Force Order No. 263 d/13 May 44, substitute Capt. K.W. Edwards, R.C.O.C. for Capt. A.R. Tilley, R.C.O.C., as President of Standing Trade Test Board for personnel of R.C.O.C., effective 1 Mar 45. (W.F.S.4-8-19)

for (J.B.T. Lewis), Lt.-Col.,
G.S.O. I
Canadian Troops in Newfoundland.

ADMINISTRATIVE STAFF

No.142 PRIVILEGE LEAVE

(a) Capt. C.H. Shaver, R.C.A.M.C., is granted 14 days privilege leave from 6 Mar 45 to 19 Mar 45, plus travelling time. (W.F./S-229)

(b) Lt. R.W. Gildert, R.C.A.S.C., is granted 14 days privilege leave from 5 Mar 45 to 18 Mar 45, plus travelling time. (W.F./G-299)

No.143 DISTRICT COURT-MARTIAL - Amendment
D.648754 Gunner Raymond McKIBBIN
25th A.A. Regiment, R.C.A., C.A.

Force Order No. 132 d/2 Mar 45 in connection with the marginally noted District Court-Martial is amended as follows:

UNDER DEFENDING OFFICER:

Delete:

Lieut. J.A. Viau, Le Regiment de Quebec, C.A.,

And substitute:

Captain (A/Major) T.E. Dunn, 25th A.A. Regt., R.C.A., C.A.
(W.F./Mc-166)

No.144 CHANNELS OF COMMUNICATION

Instances of direct communication between heads of branches and services at District or Force Headquarters and corresponding heads of branches and services at NDHQ are occurring.

2. Care will be taken that correspondence from District or Force Headquarters will be addressed to Secretary, Dept of National Defence.

3. The provisions of KR (Can) para 111, as set out hereunder, 1452 iv and App 11 whereby heads of branches and services are authorized to communicate directly on technical matters only, will be strictly construed. All other correspondence will follow usual channels.

KR (Can) para 111

"(a) Heads and officers of services in a district are under the district officer commanding for all purposes of discipline and command. They may correspond on subjects connected solely with their technical duties with the head of their service or branch at National Defence Headquarters, and vice versa, as defined in para. 1452 (iv) and Appendix II.

(b) They will, however, always keep their district officer commanding acquainted with any instructions they may receive, and any proposals directly connected with their technical duties they desire to put forward. Should the district officer commanding dissent from any such proposals, the proposal will be forwarded by him with his comments thereon."
(W.F.25-14-6)

No.145 REPLACEMENT POOL VEHICLES

All pool vehicles are to be taken to Unit Ledger charge when received on temporary issue from Ordnance.
(W.F.S.9-6-0)

(J.E.D. Jones) (Capt)
Jv (J.B.D. Jones), Captain,
A/A.A. & C.M.G.
Canadian Troops in Newfoundland.

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Exhibit "G"

B. Thompson, Maj.
Dir., DCM.

OFFICERS UNDER INSTRUCTION
DETAILED BY LT.-COL. R.F. CAPEL

H/Capt. W. Harrison

Lt. N.S. McKechnie

Lt. G.R.M. Rusk

Capt. H.J. Todd

R F Capel

(R.F. Capel) Lt.-Col.
Commanding,
25 A.A. Regt., R.C.A.

Calver's Field,
St.John's, Nfld.
7 Mar 45

Exhibit "H"

O R D E R S — Nos. 128 to 137

B Y — 2 Mar 45

MAJOR-GENERAL H.N. GANONG, C.B.E., V.D.,
COMMANDING COMBINED NEWFOUNDLAND AND CANADIAN
MILITARY FORCES IN NEWFOUNDLAND.

G E N E R A L S T A F F

N I L

for (J.B.T. Lewis), Lt.-Col.,
G.S.O. I
Canadian Troops in Newfoundland.

A D M I N I S T R A T I V E S T A F F

No.128 PRIVILEGE LEAVE

(a) Capt. G.R. Chambers, R.C.O.C., is granted 14 days privilege leave from 1 Mar 45 to 14 Mar 45, plus travelling time. (W.F./C-427)

(b) Capt. K.W. Langford, R.C.E., is granted 14 days privilege leave from 3 Apr 45 to 16 Apr 45, plus travelling time. (W.F./L-141)

(c) Capt. L.E. Norman, R.C.E., is granted 14 days privilege leave from 9 Apr 45 to 22 Apr 45, plus travelling time. (W.F./N-45)

No.129 FIRE PREVENTION OFFICER - AMENDMENT

Reference Force Order No. 119 d/27 Feb 45 appointing Capt. S.F. Willett Fire Prevention Officer.
For: Fire Prevention Officer, H.Q. W Force.
Read: Fire Prevention Officer, W Force.
(W.F./W-142)

No.130 ALLOWANCE IN LIEU OF QUARTERS

Lieut. C.J. Wray, R.C.O.C., is authorized to draw allowance in lieu of quarters, effective 1 Mar 45. (W.F./W-187)

No.131 STRENGTH DECREASE - S.A.W.S. SUPERVISOR

Supervisor F. Howlett, S.A.W.S., S.O.S. to No. 2 District Depot, effective 27 Feb 45. (Auth: NDHQ Message AG9415 d/25 Jan 45). (W.F./H-131)

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No.132 DISTRICT COURT-MARTIAL
D.648754 Gunner RAYMOND McKIBBIN
25th A.A. Regiment, R.C.A., C.A.

The detail of Officers as mentioned below will assemble at Headquarters 25th A.A. Regiment, R.C.A., C.A., Calver's Field, St. John's, Newfoundland at 1000 hours on Wednesday the 7th day of March, 1945 for the purpose of trying by District Court-Martial the accused person named in the margin (and such other person or persons as may be brought before them).

PRESIDENT:

Major C.D. Sampson, Pictou Highlanders, C.A. is appointed President.

MEMBERS:

Captain C.W. Christie, 25th A.A. Regiment, R.C.A., C.A.
Lieut. (A/Captain) A.M.H. Graham, 103rd Coast Battery, R.C.A., C.A.

WAITING MEMBERS:

Captain H.J. Todd, 25th A.A. Regiment, R.C.A., C.A.
Captain D.F. Campbell, 103rd Coast Battery, R.C.A., C.A.

JUDGE-ADVOCATE:

Lieut. (Anc) (A/Major) G.A.M. Nantel, A.J.A.G., Headquarters W Force, C.A.

PROSECUTOR:

Lieut. R.O. Craig, C.I.C., Headquarters W Force, C.A.

DEFENDING OFFICER:

Lieut. J.A. Viau, Le Regiment de Quebec, C.A.

OFFICERS UNDER INSTRUCTION:

To be detailed by the A.A. & Q.M.G. and the Officer Commanding, 25th A.A. Regiment, R.C.A., C.A.

2. The accused person will be warned and all witnesses duly required to attend.

3. The Officer Commanding, 25th A.A. Regiment, R.C.A., C.A., will arrange for the necessary accomodation, stationery, and Court Orderly and will also ensure that the necessary escort has been provided.

4. The proceedings will be forwarded to the General Officer Commanding, Canadian Troops in Newfoundland.

(W.F./Mc-166)

No.133 DISTRICT COURT-MARTIAL
D.558039 Gunner FRANK JULIUS CSULLOG
24th A.A. Battery, 25th A.A. Regiment, R.C.A., C.A.

The detail of Officers as mentioned below will assemble at Headquarters 25th A.A. Regiment, R.C.A., C.A., Calver's Field, St. John's, Newfoundland at 1000 hours on Wednesday the 7th day of March, 1945 for the purpose of trying by District Court-Martial the accused person named in the margin (and such other person or persons as may be brought before them).

PRESIDENT:

Major C.D. Sampson, Pictou Highlanders, C.A. is appointed President.

MEMBERS:

Captain C.W. Christie, 25th A.A. Regiment, R.C.A., C.A.
Lieut. (A/Capt) A.M.H. Graham, 103rd Coast Battery, R.C.A., C.A.

WAITING MEMBERS:

Captain E.J. Todd, 25th A.A. Regiment, R.C.A., C.A.
Captain D.F. Campbell, 103rd Coast Battery, R.C.A., C.A.

JUDGE-ADVOCATE:

Lieut. (Ane) (A/Major) G.A.M. Mantel, A.J.A.G. Headquarters W Force, C.A.

PROSECUTOR:

Lieut. R.O. Craig, G.I.C., Headquarters W Force, C.A.

DEFENDING OFFICER:

Captain (A/Major) T.E. Dunn, 25th A.A. Regiment, R.C.A., C.A.

OFFICERS UNDER INSTRUCTION:

To be detailed by the A.A. & Q.M.G. and the Officer Commanding, 25th A.A. Regiment, R.C.A., C.A.

2. The accused person will be warned and all witnesses duly required to attend.

3. The Officer Commanding, 25th A.A. Regiment, R.C.A., C.A. will arrange for the necessary accomodation, stationery, and Court Orderly and will also ensure that the necessary escort has been provided.

4. The proceedings will be forwarded to the General Officer Commanding, Canadian Troops in Newfoundland.
(W.F./C-433)

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2 Mar 45

No.134 DISTRICT COURT-MARTIAL

D.638619 Gunner FERNAND TREMBLAY
24th A.A. Battery, 25th A.A. Regt., R.C.A., C.A.

The detail of Officers as mentioned below will assemble at Headquarters 25th A.A. Regiment, R.C.A., C.A., Calver's Field, St. John's, Newfoundland at 1000 hours on Wednesday the 7th day of March, 1945 for the purpose of trying by District Court-Martial the accused person named in the margin (and such other person or persons as may be brought before them).

PRESIDENT:

Major C.D. Sampson, Pictou Highlanders, C.A. is appointed President.

MEMBERS:

Captain C.W. Christie, 25th A.A. Regiment, R.C.A., C.A.
Lieut. (A/Capt) A.M.H. Graham, 103rd Coast Battery, RCA, C.A.

WAITING MEMBERS:

Captain H.J. Todd, 25th A.A. Regiment, R.C.A., C.A.
Captain D.F. Campbell, 103rd Coast Battery, RCA, C.A.

JUDGE-ADVOCATE:

Lieut. (Ane) (A/Major) G.A.M. Nantel, A.J.A.G., Headquarters W Force, C.A.

PROSECUTOR:

Lieut. R.O. Craig, C.I.C., Headquarters W Force, C.A.

DEFENDING OFFICER:

Captain (A/Major) T.E. Dunn, 25th A.A. Regiment, RCA, C.A.

OFFICERS UNDER INSTRUCTION:

To be detailed by the A.A. & Q.M.G. and the Officer Commanding 25th A.A. Regiment, R.C.A., C.A.

2. The accused person will be warned and all witnesses duly required to attend.

3. The Officer Commanding, 25th A.A. Regiment, R.C.A., C.A. will arrange for the necessary accomodation, stationery, and Court Orderly and will also ensure that the necessary escort has been provided.

4. The proceedings will be forwarded to the General Officer Commanding, Canadian Troops in Newfoundland.

(W.F./T-159)

No.135 OFFICER UNDER INSTRUCTION

Reference Force Orders Nos. 132, 133 and 134 of 2 Mar 45, concerning Court Martials. Captain J.P. Shooner, Headquarters W Force, C.A., has been detailed as Officer Under Instruction.

(W.F./S-274)

No.136 INSTALLATION OF SIDE CURTAINS CARS, 5-cwt.

Authorization is now granted for the installation of side curtains on Cars, 5-cwt. provided such curtains are improvised by the individuals concerned and no expense to the public is incurred.

2. Any installation so made will adhere to the following general specifications:

(a) Colour will be khaki suitably matched to the colour of the vehicle.

(b) No parts are to extend beyond the body limits.

(c) No parts will obscure any portion of the windshield.

(d) All windows are to be made of talc or similar non-shattering material.

(e) The area of the rear window is not to be less than that of the window on the original top.

(f) Side windows will be not less than 9" x 12" and will be located to give unobstructed view of the rear vision mirror.

3. As stated, installations may be made by individuals without expense to the public. In particular, the facilities of Local Purchase, Ordnance Depot Stocks and Non-Technical Workshops (Textile Shops), are not to be utilized.

4. This authority is a temporary departure from the provisions of C.A.R.O. 3493 and is intended as an interim measure only until the policy has been laid down of issuing standard equipment for this purpose. (W.F.25-7-7)

No.137 FREIGHT SHIPMENTS

Any Units making freight shipments to Canada will contact Ordnance regarding correct procedure.
(W.F.9-5-0)

(J.B.D. Jones), Captain,
A/A.A. & Q.M.G.

Q2: Do you object to No. L.22879 S/Sgt. Moberg, A.T., W Force Headquarters, C.A., acting as shorthand writer?

A2: No sir.

No. L.22879 S/Sgt. Moberg, A.T., W Force Headquarters, C.A., is duly sworn as shorthand writer.

At 1030 hours on 7th March, 1945, the Court adjourned until 1400 hours on the same day.

On 7th March, 1945, at 1400 hours the Court reassembled pursuant to adjournment, present the same members as when adjourned.

"I"

Thompson, Major
Pres., DCM.

OBJECTION TO CHARGE SHEET UNDER RULE OF PROCEDURE 32 BY THE DEFENDING OFFICER IN THE TRIALS BY COURT-MARTIAL ON THE 7 MARCH, 1945 IN ST. JOHN'S, NEWFOUNDLAND OF THE UNDERMENTIONED

D.638619 Gunner Fernand TREMBLAY - (1st Charge Only)

B.558039 Gunner Frank Julius CSULLOG

D.648754 Gunner R. McKIBBIN

The Charge objected to is laid under Section 40 of the Army Act and is common to the three Gunners above mentioned. It reads:-

"AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at St. John's, Newfoundland on the 29 September 1944, used without lawful authority public property being D.N.D. vehicle No. 74-996, occasioning damage to the said vehicle to the extent of $63.53."

It is alleged in the statement of particulars that each accused "used without lawful authority public property being D.N.D. vehicle No. 74-996". This would appear to be an offence in itself and contrary to C.A.R.O. 4558 - Use of Army Vehicles (Q.M.G. and M.G.O. Vehicles).

It is submitted that any unlawful use or use without lawful authority of a D.N.D. vehicle could result in a charge being laid regardless of whether an accident or damage occurred to the vehicle. Now, if we assume that while the vehicle is being used without lawful authority, an offence in itself, and an accident or damage to the vehicle occurs this constitutes a second or separate offence and may provide the basis of a second charge or accusation. Again, on the other hand, if a D.N.D. vehicle is used with lawful authorization and damage to it occurs through the neglect or omission of the driver a charge could properly be laid for the alleged offence.

It would appear that each accused is being charged, not with "An act to the prejudice, etc." buth with "Acts to the prejudice, etc," and as a result the charge is bad in law.

.....To Page 2

In substantiation of the foregoing reference is made to the Manual of Military Law which states:-

Rule of Procedure No. 13 page 624

(a) EACH CHARGE SHOULD STATE ONE OFFENCE ONLY, AND IN NO CASE SHOULD AN OFFENCE BE DESCRIBED IN THE ALTERNATIVE IN THE SAME CHARGE.

Footnote No. 2 E.g., a single charge under A.A. 8 (2) of using threatening and insubordinate language to his superior officer would be a bad charge as it disclosed two separate offences; similarly a single charge under A.A. 18 (4) or 41 of stealing and receiving would be a bad charge. An accused, however, may legally be charged under A.A. 41 with burglary and larceny or housebreaking and larceny, as under the Larceny Act, 1916, burglary and larceny is made a single offence, as is also housebreaking and larceny.

Footnote No. 3 E.g., a single charge under A.A. 8 (2) of striking or offering violence to his superior officer would be a bad charge, as it discloses two separate offenses. But the use of the word "or" in a charge, i.e. in the statement of the offence, is permissible where the charge discloses only one offence; e.g., a charge under A.A. 15 of "when in garrison being found beyond the limits fixed by general orders without a pass or written leave from his commanding officer" would be a good charge, because the accused is not charged with one of two offenses, but with a single offence, which is constituted by his having neither a pass nor written leave. If in the charge the words "beyond the limits fixed by general or garrison orders" were used, the charge would be a bad charge because it might be one offence to be beyond the limits fixed by general orders, and another offence to be beyond the limits fixed by garrison orders.

Reference is made herewith to Digest of Opinions and Rulings from the office of the Judge Advocate General, March 31 1944 edition, page 97,

COURTS-MARTIAL - CHARGES - Particulars - to be in accord with

Particulars should refer to the charge which they are alleged to support. They should not overlap or conflict with the charges or the particulars thereto; much less should they refer to cha charges not laid against the accused. Each charge and the particulars thereto should be confined to one offence. So on a charge of "neglecting to obey such standing orders," the particulars should not contain two separate instances of disobedience. Even if they both occurred in the one tour of duties they could not be considered a "single transaction within the meaning of R.P. 13 Note 3. Also, the particulars to one charge should not recite two separate occasions of absence without leave. And in a case where the charges of "using violence", "offering violence" and "using threatening language" are possible, each charge laid should be stated with the appropriate particulars in support, not with the particulars suitable to another charge. And where the charge and particulars recite "when in lawful custody escaping" the particulars should not go on to allege an absence without leave from the time of escape to the time of apprehension.

T.E. Dunn,
(T.E. Dunn) Major
Defending Officer

Thompson, Major
Pres. DCM.

REPLY BY PROSECUTOR

I answer to the submission of the Defending Officer, I will refer the Court to Article 137 of the Army Act and to footnote 4 including the amendment of June, 1942, and also to JAG Circular Letter No. 10, dated 10 January, 1944, paragraph three which states: "Charge No. 1 on the attached sheet deals with the unauthorized use of a D.N.D. vehicle and includes in the charge the costs of damage done to the vehicle, if any. It is felt that the inclusion of the cost of damage does not make for a duplicity of charges in the one charge and that it is authorized by Note 4 of Section 137, Army Act."

The Court is closed to consider their decision.

The Court is reopened and the following decision is made known to the accused by the Judge-Advocate:

Considering the provisions of Article 138 of the Army Act, Section 3, and note 4 to Section 137, together with JAG Circular Letter No. 10 dated 10th January, 1944, the Court disallows the objection.

The Court proceeds with the trial.

"K"

Brampton Major
Pres. DCM.

SUMMARY OF EVIDENCE

in the case of

No. 648754 Gnr. Raymond McKibbin, H.Q. 25th AA Regiment, R.C.A., C.A., a soldier of the Canadian Army placed on active service.

Charge ---

1. An act to the prejudice of good order and military discipline.

The Commanding Officer directs that the evidence be taken on oath.

First Witness

Lt. D.J. Rutherford, 24th AA Bty, 25th AA Regt, R.C.A., C.A., having been duly sworn states:--

I am M.T. Officer of the 24th AA Bty. Shortly after 2300 hrs. 29 Sep 44 I was informed that a Jeep had been involved in an accident on New Gower St. In company with Capt. P.G. Campbell I visited the scene of the accident and saw a Jeep with the tactical sign of H.Q. 25th AA Regt. R.C.A. lying on its left side at the corner of Princes and New Gower Sts. The rear wheels were against a building and the top and windshield were badly damaged. The occupants had been removed before I arrived. There were tire marks near the centre of New Gower St. at the intersection. There was a manhole cover approximately 1½" below the level of the pavement on New Gower St. over which the skid mark passed, but the tire marks continued. I saw Capt. Campbell turn the steering wheel and the front wheels seemed to be operating satisfactorily. By an entry in Battery Part I Order No 36 dated 21 Sep 44 all drivers were instructed that vehicles could not be used without a Transport Work Ticket signed by an Officer authorizing the trip.

The accused declined to cross-examine.

D J Rutherford Lt

Second Witness

Lt. H.H. Bezanson, H.Q. 25th AA Regt. R.C.A., C.A., having been duly sworn, states:--

At the time of the accident, I was acting Transport Officer for H.Q. 25th AA Regt. R.C.A. No vehicle under the control of H.Q. 25 AA Regt. R.C.A. was allowed to leave Calver's Field at any time without the authority of a Transport Work Ticket signed by an Officer. This authority gives the driver permission to drive the vehicle to and from the destination marked on said Work Ticket. After 1800 hrs daily each Work Ticket was to be signed by the Orderly Officer, C.O. or adjutant. This work Ticket had to be shown to the sentry at the only entrance to Calver's Field. No vehicle was to leave the Field without this authority, and it was one of the duties of the sentry at the entrance to check Work Ticket of each vehicle leaving the Field. All drivers of H.H.Q. understood these instructions. I hereby submit Certified True Copy of Transport Work Ticket dated 29 Sep 44 for DND Vehicle No. 74-996. It shows the last authorized trip ended at 1700 hrs.

The accused declined to cross-examine.

H H Bezanson Lt

Third Witness

No P-4479 R.S.M. Catt, A., H.Q. 25th AA Regt. R.C.A., C.A., having been duly sworn, states:--

On the night of the accident, 29 Sep 44, I was Orderly Officer in Calver's Field. At about 2300 hrs., I was informed that there had been an accident with one of the vehicles of the 25th AA Regt R.C.A. Capt. P.G. Campbell told me of the accident and that he was going to the scene of the accident. I then notified RCEME and the C Pro C of the accident. I then went to the guard at the entrance to Calver's Field to see if any of R.H.Q. vehicles had gone out. Gnr. Bona was on duty at the entrance at the time and I asked him if he had seen a vehicle leaving Calver's Field while he was on duty. He said no. I went to see Gnr. Ducharme who was the sentry on duty previous to Gnr. Bona, D. and asked him the same question. He said no. I checked with the log book which is kept in the sentry box for the purpose of checking vehicles in and out of the Field, and there were no entries for any vehicles after 1800 hrs., that date. I had signed no work orders for any vehicle that night after 1800 hrs. I submit Orders for Regimental Police dated 22 Feb 44 which Orders governed the duties of the Picquet at Calver's Field on 29 Sep 44.

The accused declined to cross-examine.

A. Catt R.S.M.

Fourth Witness

No B-558039 Gnr. Csullog, F.J., 24th AA Bty., 25th AA Regt., R.C.A., C.A., having been duly sworn, states:--

On 29 Sep 44 in the evening, I was at the Bofors Hut, Calver's Field, and I met Gnr. Tremblay, F. and Gnr. McKibbin, R. there, and the talk got around to getting something to eat. Someone suggested that we three get something to eat at the Y.M.C.A., on Water Street West. A Jeep pulled up in front of the Gunners' Hut and I got in and we went to the Y.M.C.A. and got sandwiches. We left the Y.M.C.A. and started back to camp in the Jeep. We stopped at a store and got some Cokes and we all got back in the Jeep and started out again. On New Gower St., we made a left hand turn and the next thing I knew I was on the ground beside the Jeep. I was picked up and brought to the General Hospital. Then the Navy Ambulance picked up Gnr. Tremblay, F. and myself and brought us to the R.C.N. Hospital. Gnr. Tremblay was driving the Jeep when it pulled up in front of the Gunners' Hut. He drove all times up to the time of the accident. When the Jeep left Calver's Field, Gnr. McKibbin, R. was in it all the time up to the time of the accident. When the Jeep left Calver's Field, the Jeep did not stop at the gate. I did not notice anything on the road in front, just before the Jeep made the left hand turn on New Gower St., because I was looking back at the time.

The accused declined to cross-examine.

F.J. Csullog

Fifth Witness

No D-638619 Gnr. Tremblay, F., 24th AA Bty., 25th AA Regt., R.C.A., C.A., having been duly sworn, states:--

On the night of 29 Sep 44, I met Gnr. Csullog and Gnr. McKibbin in the Bofors Hut. Sometime after 2100 hrs., we decided to go down to the Y.M.C.A. for a lunch. We all got in a Jeep and left Calver's Field slowly but I didn't stop and didn't have any lights on. I didn't see the picquet. We drove to the Y.M.C.A. and Gnr. McKibbin and Gnr. Csullog went in and brought back some sandwiches.

They got in again and we drove back towards Calver's Field. We stopped for a Coca-Cola on New Gower St. We got in again. I was driving and Gnr. McKibbin was in the back seat and Gnr. Caullog in the front. I decided to go to the No. 4 Site, 24th AA Bty R.C.A. at George St. to pick up the mail. I turned from New Gower St. into Prince St. and after that I don't remember anything until Capt. Campbell and Mr. Rutherford were talking to me in the R.C.N. Hospital.

The accused declined to cross-examine.

Trumbley

Sixth Witness

No V-25678 J.A. Lambert, Shipwright RCNVR having been duly sworn states:--

On the night of 29 Sep 44 at about 2300 hrs., I was walking west on New Gower St. by the Belmont Tavern, when I saw a Jeep going west on New Gower St. As this Jeep turned into Prince St., it seemed to slide and it turned over. I rushed across the street to see if the occupants were hurt and to help if necessary. I found that two Canadian Army soldiers who were in it were hurt and as I was assisting one out, two Civilian Policemen arrived. These policemen put one in a civilian car and one drove away with him. The other Policeman noticed the second soldier and stopped another car and put him in it and I went with him and the Policeman to the General Hospital. When we got there, both injured soldiers were there and they were refused treatment. The Civilian Police then phoned the RCN Hospital for an ambulance, and we all went there. The injured soldiers were taken over by the Duty M.O. Surg. Lt. Comd Viger. From there, I went back to the CID Office and made a statement; I then went home. I hardly think I would recognize the injured soldiers.

The accused declined to cross-examine.

James A Lambert

Seventh Witness

Lt. G.D. Hare, "W" Force Coy R.C.E.M.E., C.A., having been duly sworn states:--

I am Officer in charge M.T. Workshops, R.C.E.M.E., St.John's, Nfld. I hereby submit statement of actual repairs to DND Vehicle No 74-996 totalling $63.53. These prices are based on the accepted arrangement for the pricing of parts and labour in matters of collision damage in Newfoundland. These prices are fair and reasonable.

The accused declined to cross-examine

G D Hare Lieut

Eighth Witness

C-94680 Sgt. Shail, E.G., "W" Force Coy R.C.E.M.E., C.A., having been duly sworn states:

I am N.C.O. in charge Body Shop R.C.E.M.E. Workshop, St.John's. On 2 Oct 44 DND Vehicle No 74-996 was brought into the Body Shop for repairs. The actual repairs made to this vehicle due to accident damage as shown on the statement totalling $63.53, were carried out in the Workshop.

The accused declined to cross-examine.

Sgt Shail E.G.

Question to the Accused---

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to dose, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by Accused---

I have nothing to say.

I certify that Rules of Procedure 4(C), (D), (E) and (F) have been complied with.

Taken down by me in the presence of the accused at St.John's, Newfoundland, this 3rd day of January, 1945.

T.R. Montgomery

T.R. Montgomery, Capt., Adjt.,
25th AA Regt., R.C.A., C.A.
Officer Detailed to take this Summary of Evidence

APPENDIX "A"

The accused is hereby advised that two more witnesses will be called at the trial, viz: Lt-Col. R.F. Capel and Capt. T.R. Montgomery and herewith is an abstract of their evidence:

Lt-Col. R.F. Capel:

On 29 Sep 44, I was Commanding Officer, 25th AA Regt., R.C.A., C.A. Three Officers - myself, the Adjutant and the Orderly Officer were allowed to authorize the use of vehicles from Calver's Field after 1800 hrs. on that day. I did not authorize the use of DND vehicle No. 74-996 during that period.

Capt. T.R. Montgomery:

I am Adjutant, 25th AA Regt., R.C.A., C.A. On 29 Sep 44, three Officers of which I was one, were allowed to authorize the use of vehicles from Calver's Field after 1800 hrs. that day. I did not authorize the use of DND vehicle No. 74-996 during that period. On 24 Sep 44, Regimental Part I Order No. 88 was promulgated and posted, paragraph 12 of which states that an Officer must sign Transport Work Tickets, and that the driver of a vehicle who takes out a Government owned vehicle without the signature of the Officer authorizing the journey will be charged with disobedience of orders. This Order is a reproduction of W Force Order No. 553 dated 19 Sep 44. Copy of Regimental Part I Order No. 88 dated 24 Sep 44 is filed as Exhibit "D".

"L"

Pte. D.C.M.

ADDRESS BY DEFENDING OFFICER

The accused Gnr McKibbin has pleaded guilty a member having taken DND vehicle 74-996 on 29th September, 1944, in conjunction with two other gunners. He was not the driver of the vehicle but the three took the Jeep together down to the Y.M.C.A. for sandwiches. On the way back an accident occurred and D.N.D. Vehicle was damaged. Gnr McKibbin has been willing to share the responsibility for this accident and the cost of repairs to the vehicle with the other two gunners. Captain Montgomery has stated as a character witness that his services with the Unit has been highly satisfactory and that he was employed as a driver and motor mechanic. Since the accident enough faith has been placed in him to have him serve as a driver again. It was a mistake the three of them made but one that could have happened on a perfectly legitimate journey.

48.

M.F.B. [illegible]
30M—(1[illegible])
H.Q. 1772-[illegible]
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-648754	Gunner	Raymond McKibbin, H.Q. 25th AA Regt., R.C.A., C.A	

1. The following is a fair and true summary of the entries in the Field [redacted]

Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, [redacted] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	1 times	A.W.L.	1 times
For	Conduct to the Prejudice	1 times	Conduct to the Prejudice	1 times
For		times		times
For		times		times

[redacted]

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

[redacted]

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and Nil days in military custody, making a total of Nil days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 22 years

6. The date of his [redacted] specified in his [redacted] attestation paper 5 August 1943

[redacted]

[redacted]

9. The accused is in possession of or entitled to no [redacted] military decoration, or [redacted] military reward ([redacted]

[redacted]

10. [redacted]

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Name..... of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		None		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~13th~~ 7th day of ~~December 1944~~ 7th March 1945 J. R. Montgomery (Capt)
Adjutant, 25th AA Regt., R.C.A., C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

Exhibit "Y"

R. Thompson Major
Pres., DCM.

M.F.M. 6
(A.F.B. 128)
5000—11-41 (5695)
H.Q. 1772-39-1632

No. D-648754 Name MC KIBBIN Raymond

Sqn., Battery, or Company } N.R.M.A. Clearing Depot 4 Corps

Date of enlistment } 5-8-43

Sheet No. 1

G.C. Badges } Signature O.C. Company, etc. } D. Gaudette, Lt.

Tradesmen's Rates of Pay } Character

No. and date of last drunk }

Period not reckoning towards freedom from extra fine }

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa	29 Dec 43	Gnr.		AWL, when warned for Special Duty overstaying leave from 2200 hrs 29 Dec 43 until 0600 hrs 5 Jan 44 A.A. Sec 15 (1)	Documentary	14 days CB 14 days ord. pay	5 Jan 44	FVM Hinman, 7 days FR&I	Lt. Col.
St.John's Nfld.	1 Jan 45	Gnr.		A.A. Sec 40 "Conduct to the prejudice of Good Order and Military Discipline"	Documentary	Forfeits 10 Days Pay Stoppages of $12.00 to make Good Damage	10 Jan 45	R.F. Capel. Lt-Col.	

Exhibit "Z" [illegible] DCM.

Certified a true copy.
T.R. Montgomery
(T.R. Montgomery) Capt.
Adjt. 25 A.A. Regt., RCA.

(P.T.O.)

H.Q.C. 55-M-1625

CONFIDENTIAL

M.F.B. 1020
1155—4-43 (6020)
H.Q. 301-1-88

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MORIN. FLAVIEN EMILE MAXIME D.620022 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1625

CENTRAL REGISTRY	DATE	F.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")							
APR 6 1945					NEW FILE	C.R.	
APR 19 1945				J.A.G.	With Papers C.R. APR 15 1945		
APR 18 1945	19/4		DJS	D.C.M.	To note	E.C.M.	12/4/45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1625 (JAG/D-7)

17 Apr 45.

District Officer Commanding,
Military District No. 4,
Montreal, Que.

~~Standing~~ Court-Martial
D-62022 Pte. Flavion Emile Maxime MORIN
No.2 Ordnance Ammunition Coy, RCOC, CA.

Receipt is acknowledged of your M.I-Wn.6153y(J) dated 13th April 194 5, under cover returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

EFM
Capt.
for (R.J. Orde) Brigadier.

LJR/ET

L.H. CLAYTON
Lieut.-Colonel.
Inspector of Courts-Martial
APR 19 1945

IN REPLY PLEASE QUOTE No. M.1-M-6133(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY 306689

Montreal, Que., 13th April, 1945.

REGISTERED

CENTRAL REGISTRY Army
CONF. SEC.
APR 14 1945
File 55-M-1625
Chgd. to
Referred to Jab

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

R13

STANDING COURT-MARTIAL
D-620022 Pte. Flavien Emile Maxime MORIN
No.2 Ordnance Ammunition Coy, RCOC, CA.

Reference your H.Q.C.55-M-1625 (JAG/D-7) dated 5th April 1945.

2. As regards para. 2 in your above quoted letter, the typographical error referred to has been corrected and initialed by the President.

3. Returned herewith, for custody, the proceedings of the marginally named Standing Court-Martial, please.

Justinonceau Capt
for (E.J. Renaud) Major-General,
District Officer Commanding,
Military District No. 4.

Enc.

NAT. DEF. B. AAG
FORM C-AA 1-5201
H.Q. 1772-39-797

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à "Longue Pointe Ordnance Depot" R.C.O.C., CA,

le 19e jour de mars 1945 à 1000 heures,

pour le procès de D-620022, Private Flavien Emile Maxime MORIN
Matricule Grade Nom et prénoms

No. 2 Ordnance Ammunition Company, R.C.O.C., C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major L.-J.-E. BELLEAU, Quartiers-Généraux, District Militaire No.4

PROCUREUR: Capitaine J.-E.-R. LABELLE, Quartiers-Généraux, District Militaire No.4
Grade Nom et prénoms Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Major G.P. BOURGEOIS, R.C.O.C., C.A., att'd to Longue Pointe Ordnance Depot, R.C.O.C., C.A.
Grade Nom et prénoms Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-620022, Private Flavien Emile Maxime MORIN, No. 2 Ordnance Ammuntion Company, R.C.O.C., C.A., coupable à l'égard des deux chefs d'accusation.

SENTENCE: La cour condamne l'accusé, D-620022, Private Flavien Emile Maxime MORIN, No. 2 Ordnance Ammuntion Company, R.C.O.C., C.A., à la détention pendant soixante jours, et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $6.25, le coût des articles perdus.

Extracts entered as No. 36480 in the Record of Courts Martial Kept in the office of the Judge Advocate General this 31 day of March 1945

Signé à Montréal, P.Q. ce 19e jour de mars 1945.

(L.-J.-E. BELLEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
5M-6-44 (4826)
H.Q. 1772-39-3296

Formules de serments et de déclarations

Serments

Sténographe

Jurez-vous par le Dieu tout-puissant que vous inscrirez fidèlement, du mieux que vous pourrez, les témoignages rendus devant la présente cour martiale, ainsi que toutes les autres matières qu'il faudra, et que, quand on vous le demandera, vous en fournirez à la cour une transcription fidèle ?

Réponse: Je le jure.

Interprète

Jurez-vous par le Dieu tout-puissant que vous donnerez, selon toute votre habileté, une interprétation et une traduction fidèles, qu'on pourra exiger de vous, concernant la question dont est saisie la présente cour martiale ?

Réponse: Je le jure.

Témoin

Jurez-vous par le Dieu tout-puissant que le témoignage que vous rendrez devant cette cour sera la vérité, toute la vérité et rien que la vérité ?

Réponse: Je le jure.

Déclarations solennelles

La formule de la déclaration est la même que celle des serments, sauf qu'aux mots: "Jurez-vous par le Dieu tout-puissant" se substituent les mots: "(Nom et prénoms), promettez-vous et déclarez-vous solennellement", et que les mots: "promettez-vous et déclarez-vous solennellement" se substituent aux mots: "jurez-vous", partout où ces derniers se présentent.

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à "Longue Pointe Ordnance Depot" R.C.O.C., CA,

le 19e jour de mars 1945 à 1000 heures,

pour le procès de D-620022, Private Flavien Emile Maxime MORIN
Matricule Grade Nom et prénoms

No. 2 Ordnance Ammunition Company, R.C.O.C., C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major L.-J.-E. BELLEAU, Quartiers-Généraux, District Militaire No.4

PROCUREUR: Capitaine J.-E.-R. LABELLE, Quartiers-Généraux, District Militaire No.4
Grade Nom et prénoms Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Major G.P. BOURGEOIS, R.C.O.C., C.A., att'd to Longue Pointe Ordnance Depot, R.C.O.C., C.A.
Grade Nom et prénoms Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-620022, Private Flavien Emile Maxime MORIN, No. 2 Ordnance Ammuntion Company, R.C.O.C., C.A., coupable à l'égard des deux chefs d'accusation.

SENTENCE: La cour condamne l'accusé, D-620022, Private Flavien Emile Maxime MORIN, No. 2 Ordnance Ammuntion Company, R.C.O.C., C.A., à la détention pendant soixante jours, et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $6.25, le coût des articles perdus.

Extracts entered as No. 36480 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 31 day of March 1945

Signé à Montréal, P.Q. ce 19e jour de mars 1945.

(L.-J.-E. BELLEAU) Major,
Président de la cour martiale permanente

M.F.B. 1486A
5M-6-44 (4826)
H.Q. 1772-39-2296

Formules de serments et de déclarations

Serments

Sténographe

Jurez-vous par le Dieu tout-puissant que vous inscrirez fidèlement, du mieux que vous pourrez, les témoignages rendus devant la présente cour martiale, ainsi que toutes les autres matières qu'il faudra, et que, quand on vous le demandera, vous en fournirez à la cour une transcription fidèle?

Réponse: Je le jure.

Interprète

Jurez-vous par le Dieu tout-puissant que vous donnerez, selon toute votre habileté, une interprétation et une traduction fidèles, qu'on pourra exiger de vous, concernant la question dont est saisie la présente cour martiale?

Réponse: Je le jure.

Témoin

Jurez-vous par le Dieu tout-puissant que le témoignage que vous rendrez devant cette cour sera la vérité, toute la vérité et rien que la vérité?

Réponse: Je le jure.

Déclarations solennelles

La formule de la déclaration est la même que celle des serments, sauf qu'aux mots: "Jurez-vous par le Dieu tout-puissant" se substituent les mots: "(Nom et prénoms), promettez-vous et déclarez-vous solennellement", et que les mots: "promettez-vous et déclarez-vous solennellement" se substituent aux mots: "jurez-vous", partout où ces derniers se présentent.

MEDICAL OFFICER'S REPORT

I certify that No. D-620022 Pte. Morin, F.E.M.

of #2 Ord.Amn.Coy.,RCOC.CA. is in a good state of health,

and fit to undergo Trial by Court martial.

Louis J. Pilon Capt.

Medical Officer

(L.J. Pilon) Capt.,
No.4 District Coy., R.C.A.M.C.
Att'd L.P.O.D., R.C.O.C., C.A.

Station Longue Pointe, Que.

Date 19th March 1945.

M. F. B. 246

50M—12-43 (3222)
H.Q. 1173-30-480

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. [redacted]

Réponse:

Question à l'accusé. Vous opposez-vous à D-126762, S/Sgt. (a/SM WOI) Joseph LaRivière, comme sténographe ? No. 4 Det., C.M.S.C., C.A.,

Réponse: Non, monsieur.

Le sténographe [redacted] est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ? [redacted]

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du troisième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur les deux chefs d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

M Edouard Belleau, Maj., "B2" "5
Pres. CM.

CHARGE SHEET

The accused, No. D-620022 Pte. Flavien Emile Maxime MORIN, No.2 Ordnance Ammunition Company, R.C.O.C., C.A., an N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE: Section 15(1) Army Act.

"ABSENTING HIMSELF WITHOUT LEAVE"

in that he,
at Delson, Quebec, on the 15th day of November 1944, absented himself without leave from 0815 hours on the said 15th day of November 1944 from No.2 Ordnance Ammunition Coy., R.C.O.C.,C.A., until he surrendered himself to the military authorities at Delson, Quebec, at 2230 hours on the 1st day of March 1945, dressed in military uniform.

SECOND CHARGE: Section 24(2) Army Act.

"LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT & REGIMENTAL NECESSARIES"

in that he,
at No.2 Ordnance Ammunition Coy., R.C.O.C., C.A., Delson, Quebec, on the 4th day of March 1945, was deficient of the following articles of his clothing, equipment and regimental necessaries:

ARTICLES	ARTICLES DEFICIENT	TOTAL AMOUNT ARTICLE	AMOUNT CHARGED 75%
Catalogue Section "A"			
Mitts, Pullover Leather prs.	1	$ .93	$ .70
Gloves, Knitted Drab	1	.66	.49
Catalogue Section "B"			
Boots, Ankle	1	5.82	4.36
Catalogue Section "C"			
Brush, Clothes	1	.17	.13
Brush, Hair	1	.39	.31
Fork, Table	1	.08	.06
Knife, Table	1	.18	.14
Spoon, Dessert	1	.08	.06
	TOTALS	$ 8.31	$ 6.25

W.E. Wylie
(W.E. Wylie) Lieut. (A/Capt.), R.C.O.C., C.A.
A/Officer Commanding,
No.2 Ordnance Ammunition Coy., R.C.O.C.,C.A.

Delson, Quebec,
this 15th day of March 1945.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au premier et au deuxième chef d'accusation, il est déclaré coupable desdites accusations.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

(voir la page CC-3 ci-jointe)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION
DE PEINE

Monsieur le président,

Je devais $152.00 dans le civil; alors, je suis allé le payer. Je suis revenu me rapporter ensuite. J'ai des preuves comme de quoi je devais cet argent dans le civil.

J'ai été en dehors de l'armée travailler à bien des places pour faire de l'argent et payer ce que je devais. J'ai fait de l'ouvrage général.

Entre autres, j'ai travaillé à la Fairchilds comme "accoteur drilleur" dans les avions.

J'ai 25 ans et je ne suis pas marié.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Non, monsieur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Exhibit "A" 23

RECORD of the Declaration of a Court of Inquiry assembled at #2 Ord.Amn.Coy.,RCOC., Delson, Quebec. on the 8th day of December 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-620022 Pte. Morin, F.E.M., No.2 Ordnance Ammunition Coy., R.C.O.C., Delson, Quebec.

DECLARATION

The Court declare that No. D-620022 (Regt'l No.) Pte. (Rank) Flavien Emile Maxime MORIN (Full Name) No.2 Ord. Amn. Coy., R.C.O.C., Delson, Quebec. (Unit) illegally absented himself without leave from No.2 Ord. Amn. Coy., R.C.O.C., C.A. at Delson, Quebec (Place) at 0815 hours on the 15th day of November 1944, that he is still so absent, and that on the 18th day of November 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
1 Cap, Badge	$	06	1 Jacket Sweater	$ 1	65
2 Blouses, Serge, Battledress	13.	00	1 Knife, Table		08
1 Boots, Ankle	5.	82	1 Pullover Leather Mitts		93
1 Brasses, Button		04	1 Shirt, Woollen	1	20
1 Brush, Boot Polishing		21	1 Sponge, Pipeclay		08
1 Brush, Cloth		17	1 Trousers, Serge Drab, N.P.	4	33
1 Brush, Hair		39	1 Haversack	2	29
1 Coat, Waterproof, Army	6	91			
1 Comb, Hair		04	Total	$ 64	28
1 Fork, Table		08			
1 Gloves, Woollen Khaki		66			
1 Greatcoat, Drab	15	54			
1 Jacket, Serge Drab, Open Collar	10	80			

L.A. Morin, Lt., #2 O.A.C., RCOC.CA President
(Name) (Rank) (Unit)

Signed at Delson, Quebec. (Name) (Rank) (Unit) Member

this 8th day of December 19 44. (Name) (Rank) (Unit) Member

Signature of Commanding Officer W.E. Wylie, Capt., A/O.C., #2 Ord.Amn.Coy.,RCOC.CA.
(Name) (Rank) (Unit)

Certified true copy W.E. Wylie Capt.
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

(W.E. Wylie) Lt. (A/Capt.)
Officer i/c Records,
#2 Ord. Amn. Coy., RCOC.CA.

M.F.B. 275
A.F.B. 145
16934—10-42 (5530)
H.Q. 1777-39-237

Exhibit 8

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Lieut. (A/Capt.) W.E. Wylie, A/O.C., No.2 Ord. Amn. Coy., R.C.O.C., C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-620022 Pte. Flavien Emile Maxime MORIN
(Number) (Rank) (Name in full)

of the No.2 Ordnance Ammunition Company, R.C.O.C., C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~apprehended~~ (surrendered to) P-12200 C/Q.M.S. (A/W.O.I)
(Number) (Rank)

Sub.-Cpr. Ranger, G.E., No.2 Ord. Amn. Coy., R.C.O.C., C.A.
(Name) (Unit or appointment)

at Delson, Quebec at 2230 hours
(Place) (Hour)

on the 1st day of March 19 45.

Strike out words not applicable } as a deserter (~~[illegible]~~ and that at the time of his ~~[illegible]~~ surrender he was wearing military (~~[illegible]~~) uniform (~~[illegible]~~)

Dated at Delson, Quebec this 15th day of March 19 45.

W.E. Wylie
(Signature, Number, Rank, Unit or appointment)
(W.E. Wylie) Lieut. (A/Capt.)
A/O.C., No.2 Ord. Amn. Coy., RCOC.CA.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (6909)
H.Q. 1772-39-1936

Exhibit C

DAILY ORDERS PART II

by

Capt. J.G. Denault, E.D.
Acting Officer Commanding
No.2 Ordnance Ammunition Company, R.C.O.C.

Order No. 63
17 Nov 44
Delson, Quebec.

(Last Order Issued -- No. 62 d/10 Nov 44).

6. ABSENT WITHOUT LEAVE

(b) A.W.L. from 0815 hrs 15 Nov 44

D-620022 Pte. MORIN, F.E.M.

G. Denault, Capt.
(G. Denault, E.D.) Capt.
A/Officer Commanding,
No.2 Ord. Amn. Coy., R.C.O.C.

CERTIFIED TRUE EXTRACT

W.E. Wylie

(W.E. Wylie) Lieut. (A/Capt.)
Officer i/c Records
No.2 Ordnance Ammunition Coy.,
R.C.O.C.

DAILY ORDERS PART II

by

Capt. J.G. Denault, E.D.
Officer Commanding
No.2 Ordnance Ammunition Coy., RCOC.

Order No. 69
7 Dec 44.
Delson, Quebec.

(Last Order Issued - No.68 d/1 Dec 44)

6. ABSENT WITHOUT LEAVE

(a) A.W.L. from 0815 hrs 15 Nov 44 and still absent 0815 hrs (22nd day) 5 Dec 44

D-620022 Pte. MORIN, F.E.M.

(Signed) G. Denault, Capt.
(G. Denault, E.D.) Capt.
Officer Commanding
No.2 Ord. Amn. Coy., R.C.O.C.

CERTIFIED TRUE EXTRACT

W.E. Wylie

(W.E. Wylie) Lieut. (A/Capt.)
Officer i/c Records
No.2 Ord. Amn. Coy., R.C.O.C.

A.E. Sullivan Major
J.A. Pace. Cm.

"Y" 37

M.F.B. 255
36M—11-41 (3278)
H.Q. 1772-39-020
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-620022	Pte.	Morin, F.E.M.	#2 Ord.Amm.Coy.,RCOC.CA.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act ~~Air Force Act~~ and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For A.W.L.	Three (3) times	A.W.L.	Four (4) times
For Neglect to Prejudice	Two (2) times	Neglect to Prejudice	Two (2) times
For	times	.....	times
For	times	.....	times

~~Number of instances of gallantry or distinguished conduct.~~

~~or,—~~

~~There are no entries in the conduct sheets of the accused.—~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,—~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or,—~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 18 days in military ~~Air Force~~ custody, making a total of 18 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ ~~attestation~~ enrollment paper is 25 years 4 months

6. The date of his ~~commission~~ specified in his ~~record of service~~ ~~attestation~~ enrollment is ~~attestation~~ enrollment paper 20 March 1941.

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.—~~ ~~military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of March 1945. (W.E. Wylie) Lieut. (A/Capt.)
Officer i/c Records
#2 Ord. Trn. Coy., RCOC.CA.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Reg. No. D-[illegible] Name MORIN, M. #2 Ord.Amm.Coy.,RCOC Date of enlistment or enrolment 20-3-41 Date of Birth M.F.M. 8

Signature O.C. Company, etc. M.McMann, Capt. Corps

Sheet No. One of *1 [illegible]

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order disposing with trial	By whom awarded	Remarks
	4 D.D.		J.C.	Rks. Sheet No.2 destroyed after two (2) years service		20 Mar 43		M. McMann, Capt.	
2 Ord.Amm.Coy. DELSON, Que.	20 Jan 44	Pte.		A.A.Sec.15(1) Absenting himself without leave (A.W.L. from 0930 hrs 20 Jan 44 to 0930 hrs 21 Jan 44(1 day))	Cpl.Scrutton,SM	4 days C.B.	21 Jan 44	Lt.R.A.E. Boire	Autom.Forf. 1 days pay
2 Ord.Amm.Coy.RCOC DELSON, Que.	27 Mar 44	Pte.		A.A.SEC 40 NEGLECT TO THE PREJUDICE (disobeyed an order to go on Kitchen fatigue)	L/Cpl.Hermanovitch, N.	three days C.B.	29 Mar 44	Lt.R.A.E. Boire, A/O.C.	
2 Ord.Amm.Coy.RCOC DELSON, Que.	27 Mar 44	Pte.		A.A.SEC.40 NEGLECT TO THE PREJUDICE (left place of employment without permission)	L/Cpl.Hermanovitch, N.	five days C.B.	29 Mar 44	Lt.R.A.E. Boire A/O.C.	
2 Ord.Amm.Coy. DELSON, Que.	15 Jun 44	Pte.		A.A.SEC.15(1)ABSENTING HIMSELF WITHOUT LEAVE (AWL 4 days)from 0815 hrs 15 JUN 44 to 0815 hrs 19 JUN 44.	L/Cpl.Mongeau,R.	three days C.B.	19 Jun 44	Capt.R.A.E. Boire, A/O.C.	Autom.Forf. 4 days pay.

M.F.M. 5—500M—8-44 (3368) H.Q. 1273-39-1052

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Delson, Que. #2 Ord.Amm.Coy.	19 AUG 44	Pte.		A.A.Sec.15(1) A.W.L. FROM 0815 hrs 19 AUG 44 to 0815 hrs 21 AUG 44.total absence 2 days.	L/Cpl.Trudeau A.	7 days C.B.	28 AUG 44	Capt. G. Denault,OC	2 days aut.forf. F.R.& I. 149
No.2 C.A.Coy.	14 SEP 44	Pte.		A.A.Sec.15(1)(A.W.L. from 0815 hrs 14 SEP 44 to 1015 hrs 25 SEP 44. Absent 11 days 2 hrs.)	S/Gnr.Ranger G.E.	7 days C.B.	25 SEP 44	Lt.-Col.GAL Lasner	Aut.forf.12 days pay Art.149 FRal

CERTIFIED TRUE COPY

(W.E. Wylie) Lieut. (A/Capt.)
Officer i/c Records
#2 Ord. Amm. Coy., ROOC.CA.

Exhibit "C"

Militia Book M. 1 Part III
MP & S/1894 (2570)
Form G.C.R. 800
(17526-164)

Certified true copy
H.G.Granger, Cpl/A/S/Sgt
Company Quartermaster Sergeant
No 2 Grd.Amm.Coy RCOC
Nelson, Que.

CANADIAN ARMY
CLOTHING AND EQUIPMENT
STATEMENT

Regt'l. No. D-620022

Rank Pte

Name Morin M.

Date of Attestation

Original Unit Station

Home Address (Reserve Units Personnel Only)

ARTICLE	QUANTITY					
Anklets, web, prs.	2					
Blouses, Battle-dress	2					
Bonnet, tam-o'shanter						
Boots, ankle, prs.	2					
Boots, rubber, high, prs.						
Boots, leather, high, prs.						
Bonnet, drab, Irish						
Cap, field service	2					
Cap, mechanic						
Cap, tank battalion						
Drawers, Cellular (cotton) short, prs.	2					
Drawers, Woollen, prs.	2					
Gloves, knitted, drab, prs.	1					
Greatcoat, drab	1					
Initials of Soldier	[illegible]					
Initials of QM or Rep.	[illegible]					

ARTICLE	QUANTITY					
Jacket sweater, or jersey pullover	1					
Overalls, combination	1					
Overalls, blouses, denim						
Overalls, trousers, denim						
Shirts, Angola, drab or flannel khaki	2					
Shoes, canvas, prs.	1					
Socks, prs.	3					
Trousers, battle-dress, prs.	2					
Vests, woollen	2					
Badges, cap	1					
Badges, arm, drab, crowns						
Badges, arm, drab, crown in wreath						
Badges, arm, Tank Bn.						
Badges, shoulder, "CANADA", prs.						
Initials of Soldier						
Initials of QM or Rep.						

ARTICLE	QUANTITY						
Badges, arm, drab, Royal Arms							
Badges, arm, drab, Royal Arms in Wreath							
Bags, kit, universal	1						
Braces	1						
Brass, cleaning	1						
Brush, button, brass	1						
Brush, clothes	1						
Brush, hair	1						
Brush, shaving	1						
Brush, shoe, blacking							
Brush, shoe, polishing	1						
Brush, tooth	1						
Cap, comforter	1						
Chevrons							
Initials of Soldier	[illegible]						
Initials of QM or Rep.	[illegible]						

ARTICLE	QUANTITY					
Comb, hair	/					
Discs, identity, sets, with cord						
Dressing, field	/					
Fork, NS Table	/					
Holdall	/					
Housewife, complete	/					
Knife, clasp						
Knife, table	/					
Lanyard, knife						
Razor, safety, with blade	/					
Patches, distinguishing, prs						
Shorts, gymnasium						
Spoons, NS dessert	/					
Vest, cotton, gym						
Initials of Soldier						
Initials of QM or Rep						

ARTICLE	QUANTITY					
Towels, hand	2					
Unit or Corps titles, prs						
Attachments, brace						
Bag, ration	1					
Belts, waist	1					
Bottles, water	1					
Braces, WE (Right)	1					
(Left)	1					
Carriers, cartridge						
Carriers, waterbottle	1					
Cases, binoculars						
Cases, pistol						
Covers, breech, rifle						
Initials of Soldier	[illegible]					
Initials of QM or Rep	[illegible]					

ARTICLE	QUANTITY					
Cover, mess tin	1					
Frogs, web, bayonet	1					
Haversack	1					
Helmet, steel	1					
Net camouflage helmet						
Packs	1					
Pockets Compass						
Pouches, ammo, pistol						
Pouches, basic	2					
Pouches, utility { Front / Rear						
Slings, rifle, web						
Straps, shoulder, haversack { left / right	2					
Straps, web, supporting	2					
Tins, mess, TP	1					
Initials of Soldier	[illegible]					
Initials of QM or Rep	[illegible]					

30

ARTICLE	QUANTITY						
Veil, face, camouflage							
Yoke							
Capes, A/G							
Respirators, A/G, complete with haversack	1						
Outfits, A/D	1						
Ointment, A/G							
Eyeshields, A/G, pk of 6	1						
Detectors, Individual prs							
Wallet, A/G							
Blanket							
Mug, drinking							
Sheet, ground	1						
Initials of Soldier	[illegible]						
Initials of QM or Rep	[illegible]						

ARTICLE	QUANTITY					
Rifle No. (Regt'd No.) (.....)						
Bayonet No. ..... w/scabbard						
Bottles, oil						
Pullthroughs, single						
Rods, cleaning, pistol						
Carbine, Mach. (Regt'd No.) (.....)						
Magazines, Carbine						
Pistol Revolver No. (Regt'd No.) (.....)						
Ctges, SA, revolver .380 in.						
Ctges, SA, .303 in Mk VII						
.....						
.....						
.....						
.....						
Initials of Soldier						
Initials of QM or Rep.						

32

10

ADDITIONAL ISSUES — CANADA ONLY

ARTICLE	QUANTITY					
Belts, waist, leather, brown or web 1½"	1					
Boots ankle, felt, prs.						
Boots, insoles, prs.						
Boots, lumberman's rubber prs.						
Buttons, G.S., large	5					
Buttons, G.S., small	4					
Buckles, Brass	1					
Cap, winter, melton cloth	1					
Coat waterproof	1					
Helmet, sun	1					
Jackets, Khaki drill	1					
Jackets, serge, drab, O.C.	1					
Initials of Soldier	[illegible]					
Initials of QM or Rep.	[illegible]					

ARTICLE	QUANTITY					
Mitts, pullover, leather, prs.	1					
Muffler, khaki	1					
Necktie, black	1					
Pin, collar, safety	1					
Puttees, prs.	1					
Rubbers, prs.	1					
Razor	1					
Shirts, khaki, cotton	2					
Shirts, undercotton	2					
Shoes, leather, black, prs.	1					
Socks, black, prs.	2					
Trousers, khaki drill, prs.	1					
Trousers, khaki drill, short, prs.	2					
Trousers, serge, drab, N.P. prs.	1					
Initials of Soldier	[illegible]					
Initials of QM or Rep.	[illegible]					

34

ARTICLE	QUANTITY					
Lanyard, lanyard	1					
Badges, shoulder, Canada, drill, prs.						
Blacking, tins						
Boot dressing, tins						
Bootlaces, prs.						
Protectors, ear						
Sponge, pipeclay						
Lanyard, pistol						
Initials of Soldier						
Initials of QM or Rep.						

INSTRUCTIONS TO SOLDIER
(OVERSEAS ONLY)

1. You will always carry this book on your person and are responsible for its safe custody. (Officers need not carry this book on their person but will be responsible for its safe custody).

2. You will initial at the bottom of each page to signify that you understand its contents and have received the quantities entered.

3. Do not alter or make entries in this book. Disobedience of this order will be treated as a serious offence and disciplinary action will be taken.

4. You will at once report the loss of this book to your Commanding Officer.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS ONLY)

1. Unit equipment (e.g. compasses, binoculars, special clothing for cooks, m/cyclists, etc.) will not be recorded on this statement.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS AND CANADA)

1. This statement will be used to record articles of personal clothing and equipment issued to each soldier.

2. All entries will be made in ink. Blank spaces in columns will be ruled through. All columns used will be initialled in the space provided by soldier and by the QM, or his representative.

CERTIFICATE TO BE SIGNED BY INSPECTING OFFICER AT EACH KIT INSPECTION

Certified that the record detailed in this statement has been checked with the articles in possession of the soldier and found correct.

SIGNATURE	DATE	SIGNATURE	DATE
[illegible]			

H.Q.C.55-M-1625 (JAG/D-7)
Your File - M.1-M-6135

April 5th, 1945.

District Officer Commanding,
Military District No.4,
Montreal, Que.

STANDING COURT-MARTIAL
D-620022, Pte. Flavien Emile Maxime MORIN
No. 2 Ordnance Ammunition Coy, RCOC, CA

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The date at the head of the proceedings and on the Medical Certificate is March 19 but the signature of the President appears under date of March 16. May this typographical error be corrected, please.

3. The proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

LJR/ET

(R.J.Orde) Brigadier,
Judge Advocate-General.

THIS COPY FOR: H.Q. C.55-1-1625
M.D. M.1-M-5133

NRMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. D.620022 Name MORIN, Flavien Emile Maxime

Rank Pte Unit No. 2 Ordnance Amm Coy R.C.O.C. CA

Charge (1st) A.A. 15 (1) - A.W.L.

(2nd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 15-11-44; (2) 4-3-45

Date of Arrest (1) 1-3-45 Charge Signed 15-3-45

Orders for D.C.M.

Place and Date of Trial L.P.O.D. R.C.O.C. CA 19-3-45

Sentence Det 60 days; stoppages $6.25

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36480

Date 31-3-45

MEMO

M.D. 4 - No. 2 Ord Amm Coy RCOC CA

Absent	Sentence
3½ Los	Det. 60 days

D. Ryan Lt
for Judge Advocate General

10M-1-45 (M-4629)

Passed, as per letter

D. Ryan Lt.

Aug. 5/45

IN REPLY PLEASE QUOTE
No. M.1-M-6183

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Montreal, P.Q., March 26, 1945

REGISTRY Army
CONF. SEC.
MAR 29 1945
File 6.55-M-1625
Check to
Referred to

CONFIDENTIAL

Judge-Advocate General
National Defence Headquarters
OTTAWA, Ont.

STANDING COURT-MARTIAL
D-620022, Pte. Flavien Emile Maxime MORIN
No. 2 Ordnance Ammunition Coy, RCOC, CA

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court

b) Medical Officer's Report, dated March 19, 1945.

2. Submitted for your information, consideration and approval, please.

L. E. Belleau

(L.J.E.BELLEAU) Major,
Headquarters, Military District No.4
President, Standing Court-Martial

encl.

36480

NAT. DEF. B. 448
2 000 M—4-42 (432D)
H.Q. 1772-39-767

H.Q.C. 55-M-1626 CONFIDENTIAL

N.F.B. 1578
(3M—4-43 (5618))
H.Q. 101-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

DISTRICT COURT-MARTIAL

MORLEY. MABEL MAE W.100212 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1626

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
APR 3 1945	Apr. 2/45	PA		J. A. G.	NEW FILE	C.R.	MAR 29 1945
APR 6 1945	Apr 6/45	PA		JAG	For Reconsideration C.R. APR 6 1945		
MAY 1 0 1945					With Papers C.R. MAY 4 1945		
					With Papers C.R. MAY 17 1945		
MAY 21 1945	22 5/45	PA		DJL	DCM To note, file	DM	21-5-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC.55-M-1626 (JAG/D)

19 May 45

District Officer Commanding,
Military District No. 10,
WINNIPEG, Man.

....Standing.....Court-Martial

W.100212, Pte. MORLEY, M.M.

Receipt is acknowledged of your W.65-M-59 (J) dated 15th May, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

/AB

EK M capt

for (R.J. Orde), Brigadier,
Judge Advocate-General.

Noted OK
for L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
MAY 22 1945

IN REPLY PLEASE QUOTE

No. W.65-M-59 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CANADA

Winnipeg, Manitoba. 15th May, 1945

CENTRAL REGISTRY ARMY
CONF. SEC.
MAY 17 1945
File C55-M-1626
Chgd. to
Referred to JAG

Judge Advocate-General,
Department of National Defence (Army),
OTTAWA, Ontario.

314846

STANDING COURT-MARTIAL
W-100212, Pte. MORLEY, M.M.

Reference H.Q.C.55-M-1626 (JAG/D-9) dated 9th May, 1945.

2. The proceedings of the marginally-noted Court-Martial, having been reviewed, are returned herewith as requested.

3. No administrative action is deemed necessary in this case.

(E.A. Fletcher) Major,
Assistant Judge Advocate-General,
M.D. No. 10.

vea
enc.

N.D. 23
3000M—1944 (5769)
H.Q. 1772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Headquarters, Shilo Camp, Manitoba,

on the 18th day of April 19 45 at 1100 hours,

for the trial of: No. W.100212, Private Mabel Mae MORLEY, A35 Canadian Parachute Training Centre, C.A., attached to No. 32 Administrative Unit, Canadian Women's Army Corps, C.A., for all purposes except duty, rations and pay.

(Number, Rank, Full Name, Attachment, if any)

PRESIDENT: Major F.J.Killeen, District Headquarters, M.D. 10

PROSECUTOR: Captain D.R.Chapman, District Headquarters, M.D. 10

(Rank, Full Name, Unit, Attachment, if any)

~~DEFENDING~~ DEFENDING OFFICER: Captain C. Meuller, A3 Canadian Artillery Training Centre, C.A.

(Rank, Full Name, Unit, Attachment, if any)

FINDING: The Court find the accused, No. W.100212, Private Mabel Mae MORLEY, A35 Canadian Parachute Training Centre, C.A., attached to No. 32 Administrative Unit, Canadian Women's Army Corps, C.A., for all purposes except duty, rations and pay, guilty of both charges.

SENTENCE: The Court sentence the accused, No. W.100212, Private Mabel Mae MORLEY, A35 Canadian Parachute Training Centre, C.A., attached to No. 32 Administrative Unit, Canadian Women's Army Corps, C.A., for all purposes except duty, rations and pay, to forfeit all ordinary pay for a period of twenty-eight (28) days.

Signed at Shilo Camp, Manitoba this 19th day of April 1945

F.J. Killeen Major

(F.J.Killeen) Major, President, Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 3767 in the Record of Proceedings kept in the office of the Judge Advocate-General this 9 day of May 1945

Forms of Oaths and Declarations

Oaths

Shorthand Writer

You swear by Almigthy God that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the Court a true transcript of the same.

Answer: I do.

Interpreter

You swear by Almighty God that you will to the best of your ability truly interpret and translate, as you shall be required to do, touching the matter before this court-martial.

Answer: I do.

Witness

You swear by Almighty God that the evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth.

Answer: I do.

Solemn Declarations

The form of declaration will be the same as the form of oaths except that for the words "You swear by Almighty God" will be substituted the words "You (name in full) do solemnly promise and declare"; and that the words "solemnly promise and declare" will be substituted for the word "swear" wherever it occurs.

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to No. H.194904, CSM(A/WO11) H.R.Maltby, District Headquarters, M.D. 10, as shorthand writer?

Answer: No, Sir.

The shorthand writer is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial?

Answer: No, Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Answer: Not guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer. Not guilty, Sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B2"

F. J. Killeen Major
President, S. C. M.

CHARGE SHEET

The Accused, No. W.100212, Private Mabel Mae MORLEY, A35 Canadian Parachute Training Centre, C.A., attached to No. 32 Administrative Unit, Canadian Women's Army Corps, C.A., for all purposes except duty, rations and pay, a Volunteer of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE
Sec. 40
Army Act.

AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

- in that she -

at Shilo Camp, Manitoba, on the ~~20th~~ 30th day of December, 1944, stole Five Dollars ($5.00) from a registered letter the property of No. H.613511, Private Clarence KELBERT, a person subject to Military Law.

SECOND CHARGE
Sec. 40
Army Act.

AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

- in that she -

at Shilo Camp, Manitoba, on the ~~20th~~ 30th day of December, 1944, improperly altered the figures "$15.00" to "$10.00" in a letter addressed to H.613511, Private Clarence KELBERT.

D R Chapman

Shilo Camp, Manitoba,
10th April, 1945.

(D.R. Chapman) Captain,
Permanent Prosecutor,
Courts-Martial, M.D. 10.

ALTERATION OF CHARGE SHEET

In accordance with Canadian Army Routine Order 4565, Paragraph (14), the Court alter the charge sheet to read "the 30th day of December, 1944" instead of "the 20th day of December, 1944".

Shilo Camp, Manitoba,
19th April, 1945.

F. J. Killeen
(F.J. Killeen) Major,
President,
Standing Court-Martial.

C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. No. W.100313, Private (A/Corporal) Marguerite M. SHEPPERD, A35 Canadian Parachute Training Centre, C.A.,

being duly sworn, is examined by the Prosecutor.

Question Will you tell the Court your regimental number, rank, name and Unit ?

A W.100313, Private (A/Corporal) Marguerite M. Shepperd, A35 C.P.T.C., C.A.

Q You are attached to No. 32 Administrative Unit, C.W.A.C. are you ?

A Yes, Sir.

Q And what is your usual employment in the Army ?

A In the post office.

Q What are you in the post office ?

A In charge of the post office at A35.

Q That is at Shilo Camp is it ?

A Yes, Sir.

Q Now where were you in the month of December, 1944 ?

A I was away on leave, Sir.

Q When ?

A On the 28th.

Q From when ?

A From the 28th.

Q From the 28th of December until when ?

A I think it was around the 7th.

Q 7th of what ?

A January.

Q 1945 ?

A Yes, Sir.

Q Well then when you went away what did you do about the post office ?

A I left Private Morley in charge of it, Sir.

Q And who is Private Morley, the accused here ?

A Yes, Sir.

Q How long have you known her ?

A Over a year, Sir.

Q How have you known her ?

A She has been working in the post office for about a year.

Q The same post office as you ?

A Yes, Sir.

Q Now do you know anything about a letter addressed to one Private Kelbert ?

A Just what I have in the book, Sir.

Q Tell the Court what you have, will you ? -- What book have you ?

A The register book.

Q What is the purpose of it ?

A We enter all registered letters in it.that come into A35.

Q That is at A35 unit post office is it ?

A Yes, Sir.

Q Now what are you going to show the Court ?

A This letter was received on 30-12-44.

Q There is a record you say of a letter on that date ?

A Yes, Sir.

Q Addressed to whom ?

A Private Kelbert, C.

Q And how was that entry made there ? -- You didn't write itdid you ?

A No, Sir.

Q In whose custody is this book kept ?

A A35 Unit post office.

Q Who in particular is in charge of it ?

A I am, Sir.

Q But you say this entry you are mentioning is the 30th of December, 1944 and you have also stated you were away. In whose charge was he book in then ?

A Private Morley's.

Q That is the accused's is it ?

A Yes, Sir.

Q How was this entry made ? -- It is not typed is it ?

A No, Sir.

Q How was it written ?

A Written with ink.

Q Do you recognize the handwriting ?

A Yes, Sir.

Q Whose is it ?

A Private Morley's handwriting.

Q It is her handwriting ?

A Yes, Sir.

Q How do you know ?

A Because I saw her signature before.

Q Just her signature ? You said she has been with you in the post office for a year ?

A Yes, Sir.

Q What do you know about her handwriting ?

A I can recognize her writing any time.

Q Will you show that to the Court you have there ?

A (Witness indicates entry in register book to Court).

Q How much of that would be the accused's hand writing ?

A All except the signature of the person to whom it was delivered.

Register book, together with extract therefrom, is handed to the Court. The President compares the extract with the original, which is read, marked "E", signed by the President and attached to the proceedings.

Q Have you any other further evidence in connection with this matter?

A No, Sir.

Cross-examined by the Defending Officer :

Q You refer to an entry here - 30-12-44. Will you point it out to me please ?

A (Witness indicates entry to Defending Officer).

Q What does that entry mean in this register ?

A Received a letter from the camp post office.

Q Is that the procedure with all registered letters or would you explain what the procedure is ?

A We enter all registered mail in that register book.

Q Then what happens ?

A We write out a chit and send it out to the different companies and they bring the chit in, show their identification card and sign for the registered letter.

Q So the signature in here means that Private Kelbert was notified by a chit that there was a registered letter in the post office for him and that he called for it later on ?

A Yes, Sir.

Q There is nothing to indicate the date they receive the letters ?

A Not on that page, Sir.

Q Can you say this writing "30-12-44, St. Owens, 154, C. Kelbert" is the accused's handwriting ?

A Yes, Sir.

Q How many different handwritings are there in this book ?

A Private Morley's and my own handwriting.

Q Only two handwritings ?

A Yes, Sir.

The Prosecutor declines to re-examine.

By the Court:

Q Do you say that you recognize the handwriting in this book as being the handwriting of the accused because she was supposed to be in charge of the post office when you were away ?

A No, Sir.

Q Do you say itfor any other reason ?

A Yes, Sir. I saw her handwriting before.

Q How many times ?

A Ever since she has been in there for over a year, Sir.

The witness withdraws.

Second Witness for Prosecution) No. H.613511, Private Clarence KELBERT, A35 Canadian Parachute Training Centre, C.A., being duly sworn, is examined by the Prosecutor :

Q Will you give your regimental number, rank, name and unit to the Court ?

A H.613511, Private Kelbert, C.

Q To what unit do you belong ?

A A35.

Q C.P.T.C. is it ?

A Yes, Sir.

Q Shilo Camp ?

A Yes, Sir.

Q Do you know W.100212, Private Mabel Mae Morley ?

A Yes, Sir.

Q Where is she now ?

A She is right here, Sir (pointing to the accused).

Q Do you recollect seeing her before ?

A It was some time in December.

Q About what date ?

A Well I got a letter. I signed for it on the 30th of December.

Q 1944 ?

A Yes, Sir.

Q Where did you see her then ?

A In the post office.

Q What post office ?

A A35 C.P.T.C.

Q That is at Shilo Camp ?

A Yes, Sir.

Q Tell the Court how you happened to see her in the post office ?

A I went for my registered letter and I signed for it and she gave it to me when I signed for it.

Q I show you Exhibit "F". Do you recognize that ?

A Yes, Sir.

Q What do you recognize ?

A That is where I signed for my registered letter.

Q That is your signature is it ?

A Yes, Sir.

Q That is opposite where it says "30-12-44, St. Owens, 154, C.Kelbert"?

A Yes, Sir.

Q What does the "St. Owens" signify ?

A St. Owens post office, Manitoba.

Q What about it ?

A That is where the wife mailed the letter.

Q It was a letter from your wife was it ?

A Yes, Sir.

Q Will you tell the Court what this is ?

A This is the registered letter my wife sent me with fifteen dollars in it.

Q That is the one you received ?

By the Court:

That is an envelope.

By the Prosecutor :

Q That is the envelope is it ?

A Yes, Sir.

Q What else do you see there ?

A The letter --

By the Court:

How do you know it is a letter ? --You haven't even examined it.

By the Prosecutor :

Q Will you look at that letter ?

A (Witness examines letter) Yes, this is the letter, Sir.

Q How do you know ?

A I can tell her writing.

Q What else did you see in the letter ?

A I noticed there had been some changes in it.

By the Court:

What else did you see in the letter was the question.

A Two $5.00 bills.

By the Prosecutor :

Q That is a total of $10.00.?

A Yes, Sir.

Q What else did you notice about the letter ?

A I noticed that there had been some changes made.

Q Will you show the Court what changes you are talking about ?

A (Witness indicates on letter) On page two, last paragraph there was a $15.00 changed into a $10.00 and a $10.00 into a $5.00.

By the Court:

Q That is there had been two changes made in the figures ?

A Yes, Sir.

Letter dated 24th December, 1944, and envelope addressed to Private C. Kelbert are read, and marked "B", signed by the President and attached to the proceedings.

By the Prosecutor :

Q When did you say you received this letter ?

A I received a slip saying there was a registered letter at the post office for me so I went down and got the letter on the 30th of December.

Q Who gave you the letter ?

A Private Morley.

Q That is the accused is it ?

A Yes, Sir.

Cross-examined by the Defending Officer :

Q You say you noticed changes in the writing. When did you notice those changes ?

A When I opened the letter and read it, Sir.

Q You noticed the changes right away ?

A Yes, Sir.

Q You received that letter on the 30th of December, 1944 ?

A Yes, Sir.

The Prosecutor declines to re-examine.

The witness withdraws.

Third Witness for Prosecution) Detective (Acting Corporal) Thomas Edward Henry PEACH, Royal Canadian Mounted Police, Brandon, Manitoba, being duly sworn, is examined by the Prosecutor :

Q Will you tell your full name, description and occupation to the Court?

A Detective (Acting Corporal) Thomas Edward Henry Peach, of the Royal Canadian Mounted Police, Brandon, Manitoba.

Q Do you know W.100212, Private Mabel Mae Morley ?

A I do, Sir.

Q Where is she now ?

A Sitting in the middle there (pointing to the accused).

Q What is the first time you recollect seeing her ?

A On March 15th, 1945.

Q Will you tell the Court what happened then ?

A Yes, Sir. I was making some investigations concerning a registered letter, No. 154, which had been handed to me that morning by Private Kelbert, A35 C.P.T.C.

Q I show you Exhibit "G". What is that exhibit ?

A That is the letter that Kelbert handed to me on the 15th of March, 1945, along with this slip he had at the time.

Q He gave you this slip also ?

A Yes, Sir.

By the Prosecutor :

I would like to file this slip as an exhibit also, Sir.

By the Court:

There is nothing to tie it up with the accused yet.

By the Prosecutor :

Q Will you proceed ?

A The letter bore certain alterations which were pointed out to me and Kelbert stated that he had not altered it himself and it must have been altered by some person during the time the letter was in transit to him.

Q Will you point out to the Court what alterations you are speaking of ?

A (Witness indicated on letter) The bottom paragraph on page two, two alterations, Sir. One here and one here.

By the Court:

Q There is a change where it now reads $10.00 and a change where it now reads $5.00 ?

A Correct, Sir.

By the Prosecutor :

Q So you were investigating. Will you go on ?

A I traced that letter from the time it was handed into the central post office in Camp Shilo. It was there a short time when their records show that it had been handed over to Private Morley who was employed as a postal clerk at the Paratroops post office. I went into the angle as to whether the letter could have been possibly changed in the central post office and I seized their ink for possible comparison purposes. Then I went to the Paratroops and when I was there I seized the ink from the post office there. In the meantime I had found that the letter arrived at the Paratroops post office on the afternoon of the 30th December, 1944, and remained there all night until handed over to Private Kelbert on the 31st of December, 1944. During that time the post office was in the sole charge of Private Mabel Mae Morley. I had some conversation with her. I told her that I was distinctly suspicious that she had been responsible for opening this letter. She then told me that she was sorry for the whole thing and she wished to make a statement. I told her then she was not obliged to say anything unless she wished to do so but whatever she did say would be taken down in writing and may be produced as evidence against her. I explained to her that she had nothing to fear from any threat or anything to hope from any promise that may have been held out to induce her to make a statement. She then made a statement concerning the letter which I wrote down, read over to her and which she signed.

Q What is this you are producing ?

A That is the statement as I wrote it down, Sir.

Q You say she signed it. Where is her signature ?

A Right there, Sir (indicating on statement).

Q Who wrote the statement ?

A I wrote it out, Sir.

Q And what happened just after you wrote it ?

A It was read over to her and she signed it.

By the Prosecutor :

I would like to file this statement as an exhibit, Sir.

By the Court:

Captain Meuller, before the Court examines this document you have the right if you wish to cross-examine this witness as to the circumstances under which this statement was obtained.

By the Defending Officer :

I would like to cross-examine the witness at this time, Sir.

By the Court:

You may proceed.

Cross-examined by the Defending Officer :

Q You say you went to the A35 unit post office and seized the ink ?

A That is correct, Sir.

Q At that time who was in the unit post office ?

A Corporal Shepperd and the accused.

Q I understand you seized the ink and left the post office ?

A Correct, Sir.

Q And that several hours later you returned to the post office ?

A Correct, Sir.

Q And at that time you asked to see the accused alone ?

A I did, Sir.

Q And Corporal Shepperd left the post office ?

A She did.

Q The first time you were there you made general enquiries as to the handling of registered letters ?

A Correct, Sir.

Q And made certain enquiries concerning the letter we have here as Exhibit "G" ?

A Yes, Sir.

Q You then took the ink and left and returned several hours later ?

A I did so.

Q Then when Corporal Shepperd had left the post office you told the accused you were not quite satisfied with the answers to the questions you had given her the first time and you would like her to make a statement ?

A That is not so.

Q Then you asked her name, number, rank and employment ?

A No.

Q You told her you were taking the statement down in writing ?

A I did not. She told me she was sorry for the whole thing.

Q The caution that you have given to the Court, is that the verbatim caution you gave at the time ?

A No, Sir.

Q Did you read it out to her ?

A No, Sir.

Q You then proceeded to ask her questions -- her name, rank and so on ?

A Yes, I asked her name and age to start with.

Q And you took this down ?

A Exactly. I took down what she said.

Q You asked her other questions concerning the letter ?

A No. She gave me her story just as she wanted to say it.

Q After you gave her the caution you then asked her age and her name ?

A Yes, Sir.

Q Did you ask any other questions after that ?

A Yes, Sir. Following the statement we had quite a lot of conversation.

Q Previous to her making the statement did you ask any further questions ?

A Not that I can recollect.

Q After you had given her the caution and asked her name, age, address, she made this complete statement we have here ?

A I may have asked her to explain a certain point.

Q What point for instance ?

A In the course of her conversation if there was something that I did not understand I would stop her and say "What do you mean by that?" "Do you mean to say so and so?".

Q Outside of that this is a verbatim statement she made without any questions being asked whatsoever ?

A Yes, Sir.

Q And this complete statement is what she said in her own words ?

A That is her own story. As I say I may have asked her to explain certain things that I did not understand.

Q There were no other questions ?

A Yes, following that statement.

Q Until such time as this was written down you never asked any other questions ?

A No, Sir, not that I can recall. She wanted to get the thing off her mind and she went ahead and did it. That is the sum and substance of it.

Q After you took this down then did you not say to her that she had better sign otherwise the letter and ink would have to be sent to the Regina laboratories for analysis ?

A No, Sir. I didn't say anything like that concerning the signing of the statement. She signed the statement. The accused asked what I wanted to take the ink for and I explained exactly what I wanted it for.

Q Did you tell Captain Greene, the adjutant, that you had told the accused that the ink and the letter would be sent to the Regina laboratories for analysis ?

A No, Sir. I told him that I didn't think it would be necessary in view of the statement made by the accused for me to go to that expense and for that reason it wasn't sent to Regina.

Q You didn't tell the accused that if she didn't make the statement the letter and the ink would be sent to Regina ?

A I definitely did not.

Q Did you not also tell her that if she made the statement it would save the waste of a lot of time and trouble and that the matter would be settled much more quickly ?

A It is quite possible I did say something along those lines. As a matter of fact in discussing the case before --

Q Did you tell her that if she did sign the statement it would save time and trouble and that the matter would be settled more quickly ?

A No, I did not. You stopped me. Just answering your question as you put it to me I did not.

Q And tell her that it would save time and trouble and that the matter would be dispensed with more readily ?

A No, Sir. It is possible I did say something of that kind but not concerning her signing the statement.

Q Was that at the time the statement was being taken ?

A Before the statement was ever taken.

Q That was said when ? -- On the second occasion that you spoke to her ?

A On the second occasion I spoke to her. I advised her to tell me the truth and I told her what I was going to do.

Q After she had signed the statement did you say something along these lines "That's fine. It will go a lot easier with you now that you have made a statement." ?

A I don't recollect that I did.

Q You may have said that ?

A I don't recollect that I did.

Q And this is all your handwriting ?

A That is my writing.

Q After you had taken this down you read it over to the accused ?

A I did.

Q Did you give her a chance to read it herself or did you just read it over to her ?

A I just read it over to her. We were sitting at the table like this and she could see it.

The Prosecutor declines to re-examine.

By the Court:

Captain Mueller, are you satisfied that this statement was made voluntarily ?

By the Defending Officer :

No, Sir. I would like to call the accused as a witness.

By the Court:

You object to the statement going in at the present time ?

By the Defending Officer:

Yes, Sir.

By the Court:

What do you wish to do ?

I wish to call the accused as a witness just on that one point, Sir.

By the Court:

Do you wish to give evidence concerning this statement ?

By the Accused :

Yes, Sir.

By the Court:

Very well, Captain Mueller. You may proceed.

No. W.100212, Private Mabel Mae MORLEY, A35 Canadian Parachute Training Centre, C.A., being duly sworn, is examined by the Defending Officer :

Q On the 15th of March, 1945, Corporal Peach of the R.C.M.P. came to the A35 post office ?

A That is right, Sir.

Q About what time was that ?

A It was about eleven o'clock in the morning.

Q Who was with you at the time ?

A Corporal Shepperd was in the post office with me.

Q And did Corporal Peach return to the post office later ?

A He came back around three o'clock, Sir.

Q In the afternoon ?

A That is right, Sir.

Q What did he tell you then ?

A He asked to see me alone so Corporal Shepperd went out.

Q Yes ?

A He said that he thought that I knew more about the business than what I had said and he wanted to talk it over. So we sat down and talked it over and he did ask me questions through the statement.

Q Did he give you the caution that you were not bound to say anything but whatever you did say would be taken down in writing and used in evidence at your trial ?

A I don't remember rightly, Sir, but he could have.

Q You don't remember ?

A I don't remember.

Q He then asked you a number of questions -- your name and age and employment ?

A That is right, Sir.

Q What else did he ask you ? -- Did you then make a statement or did he ask you questions ?

A Most of the statement was made up of answers to questions he asked me.

Q About how many questions did he ask you ?

A I don't know. There was possibly eight or ten. I am not sure.

Q Were these questions he asked you merely to clarify some points which arose or were they direct questions ?

A In a way some of them were.

Q Some of them were direct questions ?

A That is right, Sir. Some of them were direct and some were just parts he wanted to make sure of himself.

Q And out of these eight or ten questions how many would be direct questions ?

A I don't remember, Sir, but most of them were.

Q Then in answer to these questions, direct or indirect, he wrote out this statement ?

A That is right, Sir. He wrote it out as we went along.

Q Did he say anything to you then before you signed the statement ?

A I believe he asked me if I would sign it and I said I would and after I signed it he said something to the effect that it would be much easier on me that way since he had got the statement.

Q Is there any other statement he made to you before you signed the statement ?

A I don't remember, Sir. I remember part of him saying something to the effect that the letter and the ink would have to go to the Regina laboratories for further investigation.

Q He told you that before you signed the statement ?

A I don't remember exactly when he said it. It was some time during our conversation.

Q Do you know whether that was before or after you signed the statement ?

By the Court:

She said she didn't know.

A I can't be sure, Sir.

By the Defending Officer :

Q Was there any other conversation before you signed this statement ?

A No, I don't think there was, Sir.

Q Corporal Peach wrote this statement as a result of a statement you made and questions and answers ?

A That is right, Sir.

Q And then he read it over to you ?

A That is right, Sir.

Q Did you read it yourself ?

A No, I didn't, Sir.

Q What conversation then did you have before you signed it ?

A He just asked me if I would sign it, Sir.

Q And there was no further conversation ?

A No, Sir.

Q There was not ?

A No, I don't think so, Sir.

Cross-examined by the Prosecutor :

Q When Corporal Peach of the Mounted Police saw you on the 15th of March, 1945, you recognized him as belonging to the police force did you ?

A No I didn't, Sir, until he told us.

Q When did he tell you ?

A He came in and explained his business to us.

Q As soon as he came in ?

A When he came in.

Q And told you who he was ?

A He told us who he was and what he was there for.

Q He told you he was connected with the R.C.M.P. did he ?

A That is right, Sir.

Q You heard him say in his evidence here this morning that he warned you before getting your statement and that he warned you that you did not have to say anything if you didn't wish to but that anything you did say would be taken down in writing and used as evidence against you ?

A I did, Sir.

Q You don't dispute that is a true statement do you ?

A No, Sir.

Q You believe what he said here ?

A I don't exactly remember him saying it, Sir, but he could have said it.

Q And when he was writing down this statement you saw what he was writing didn't you ?

A I didn't watch him, Sir.

Q How far away from him were you ?

A We were just sitting alone the same table.

Q Side by side at the table ?

A That is right, Sir.

Q Was it after making this statement or before making this statement that Corporal Peach suggested you were trying to shield somebody else ?

A It was after, Sir.

Q And you still maintained then you wanted to stick by this statement you had made didn't you ?

A That is right, Sir.

The Defending Officer declines to re-examine.

By the Court:

Q When the constable completed the statement did you have an opportunity to read it ?

A No I didn't, Sir.

Q Could you have read it if you had wanted to ?

A I may have been able to glance at it, Sir, but I couldn't have read it right through.

Q Was the statement put in front of you to sign ?

A That is right, Sir.

Q Consequently you could have read it ?

A Corporal Peach held the statement. It was in a book of his and he held out the book to me and I signed it. It was at the bottom of the second page, Sir.

Q That was after he read it over to you ?

A That is right, Sir.

Q Now the conversation about the ink and the envelope and letter -- did that take place before you signed the statement or afterwards ?

A That took place in the morning when he was in, Sir.

Q Did he direct that statement to you or did he just make a general declaration as to what he was going to do ?

A He just asked us if we would mind him taking it for a while. He wanted to make some analysis of it.

The witness resumes her seat.

The Court in accordance with Rule of Procedure 86 (D) recalls Detective (Acting Corporal) PEACH, who on his former oath states in reply to the President as follows:

By the Court:

Q Witness, the conversation about having the ink in the post office and the letter analysed, did that take place when you took the ink from the post office ?

A Yes, Sir, in the first instance at the time Corporal Shepperd was present and it is possible that there was more conversation about the ink afterwards. I won't be positive. In fact they wanted to know why I wanted the ink. The accused said "Everybody in Shilo has ink like this", but I said I wanted it anyway.

Q Could the accused have read over that statement before she signed it ?

A She was right beside me. She could see what was being written down and she knows what she said. She knows there is nothing down there she didn't say.

The Defending Officer declines to have further questions asked through the Court.

By the Court:

The Court sees nothing to lead it to believe that this was not a free and voluntary statement. From both the evidence of the constable and the accused it seems to the Court that the statement was obtained fairly and within the rules. The statement will therefore be admitted.

Statement of the accused is read, and is marked "H", signed by the President and attached to the proceedings.

The Prosecutor proceeds with the examination of the witness.

By the Prosecutor :

Q What about these samples of ink that you took ?

A I still have them, Sir.

Q Nothing more was done about them ?

A No, Sir. I didn't think I was justified in going to the expense of taking them to Regina which I would have done personally and it would have cost a lot of money.

7 The Defending Officer declines to cross-examine.

The witness withdraws.

By the Prosecutor :

That is the evidence for the Prosecution, Sir.

At 1200 hours on the 18th day of April, 1945, the Court adjourns until 1400 hours on the 18th day of April, 1945.

On the 18th day of April, 1945, at 1400 hours, the Court is re-opened.

The Defence submits that a prima facie case has not been established by the Prosecution with respect to both charges.

(See document marked "I" attached).

The Prosecutor answers.

(See document marked "J" attached).

The Court disallows the submission of the Defence and the decision is announced.

The Court proceeds with trial.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to submit a written statement, Sir.

(See document marked "K" attached).

Question to the accused. Do you intend to call any witness in your defence?

Answer. Yes, Sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. Yes, Sir.

First Witness for Defence) Lieutenant Merle V. MILLER, No. 32 Administrative Unit, Canadian Women's Army Corps, C.A., being duly sworn, is examined by the Defending Officer :

Q Will you give the Court your rank, name, unit and employment ?

A Lieutenant M.V. Miller, No. 32 Administrative Unit, C.W.A.C., C.A., Platoon Officer of A35 Wing.

Q Do you know the accused Private Mabel Mae Morley ?

A Yes, Sir, I do.

Q How long have you known her ?

A I came to Shilo on May 2nd, 1944. At that time I took over the Platoon of A35 Wing. Private Morley was in that platoon.

Q And you have known her since May, 1944 ?

A Yes, Sir, I have.

Q Would you tell the Court what type and character of girl you have found her to be since she has been in your platoon ?

A Since I took over A35 Platoon I have had no trouble at all with Private Morley. She has been very quiet and as far as I know has done her work while at A35. I have had no trouble at all with her.

Q You haven't had any complaints about her ?

A None whatever.

Q She always did her work well and conscientiously ?

A Yes, Sir.

The Prosecutor declines to cross-examine.

The witness withdraws.

Second Witness for Defence) No. H.204432, Private (Lance-Corporal) M. HARASKA, A35 Canadian Parachute Training Centre, C.A., being duly sworn, is examined by the Defending Officer :

Q Will you give the Court your regimental number, rank, name and employment ?

A H.204432, Private (Lance-Corporal) M. Haraska. I am employed at A35 in the Orderly Room.

Q Do you know the accused, Private Morley ?

A Yes,Sir.

Q How long have you known her ?

A I have known her for quite a number of years. Practically all my life, Sir.

Q Where did you know her ?

A Well I knew her in civilian life. We went to school together.

Q Do you come from the same town ?

A Yes, Sir.

Q You attended the same schools ?

A That is right, Sir.

Q How far back is that ?

A Approximately ten years.

Q You have known her more than ten years ?

A Yes, more than that. The way it was the Morley family lived in the same town as we did until about 1935 and they moved about twenty miles away but we kept in touch with them.

Q You first knew the accused before 1935 ?

A Yes, Sir.

Q And you went to the same school ?

A Yes, Sir.

Q And when they moved away you kept in touch with the family ?

A Yes, Sir.

Q You have known her approximately fifteen years ?

A Yes, Sir.

Q Have you ever heard anything against the accused's character ?

A No, I haven't, Sir. Nothing whatever.

Q After you joined the Army did you see her again ?

A Not until December, 1943, Sir.

Q Where did you meet her then ?

A She used to work at A35 canteen when I transferred to the Paratroops.

Q Then did you ever hear anything against her character ?

A No, Sir.

Q Did you ever have occasion to work with her ?

A Yes, Sir. I was working with Private Morley in the A35 mail room.

Q That is the post office ?

A The post office. August and September, 1944.

Q How did you find the accused then in so far as her work and character were concerned ?

A Very good, Sir.

Q Did you find she seemed to be doing her work properly ?

A Yes, Sir.

Q Did you ever hear any complaints against her work or her character ?

A No I didn't, Sir.

Q Or her honesty ?

A None whatever.

Q So far as you know she has always been a conscientious, hard working girl ?

A Yes, Sir.

The Prosecutor declines to cross-examine.

The witness withdraws.

The Defending Officer declines to make a Closing Address.

The Prosecutor makes a Closing Address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. No, Sir.

(The Defending Officer speaks on behalf of the accused. See document marked "L" attached).

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"F"

F J Miller Major
President, S C M.

REGISTERED ARTICLES DELIVERED ON ROUTE NO.

Date	Office of Origin	Registration No.	Name of Addressee	Signature of person to whom delivered
30-12-44	St Owens	154	C Kelbert	C Kelbert

BOOK 31

I certify that I have compared this extract with the original book and find it to be a true extract therefrom.

F J Miller Major,
President,
Standing Court-Martial.

CANADIAN YMCA

G. J. Mullen
President, E.C.

Mail

53

ON ACTIVE SERVICE

Dec. 29/44.

Dearest beloved Darling

Hello Darling, here I am dropping you a few lines as this is all I can do since you had to leave me again.

Diane is well and happy now plays nicely and sleeps good at nite. I have her sleep with me now since you're gone. It was so very cold these last two nites without you I just had to take the hot water bottle in bed with me.

Well we got home alrite that day. Bus ye was there with the team to get me. I got my cheque that nite also and a X mas card.

for another month Mother insist that the $5 I should not give to Margaret. Then I said Marg. may not like it, you's may not give her the money for a long time and if I give it I'll pay for all next month. So she said she'll talk to Margaret as they're going to city tomorrow with Hastmann.

I'm going to register both letter today One to you and one to the furniture company.

And as for Arthur Quick you write and explain to him about the money I feel terrible over it all.

One card was from Elfreda and the other Aunt Minna So yesterday I went along to town with George to cash my cheque It was all of 20 below was it ever cold, I'll never go again for I was just about frozen. I changed my cheque and got Daisy 2 pairs of sleepers so now she'll be warm at nite.

So now to day I'm sending you $10 in this letter $5 is your X mas present Santa Claus is kind of late but you'll have to forgive me. And $5 Eddie. Then I've got to give Art $19. and $10 furniture then I'll be clear

I didn't see you to day. My
swollen up and hurt when
I touch it.

So how did you make out
with Ralph after you left
me. I feel like running
after you and grabbing you
before you got off the
last step off the train.
But I guess I'll have to
grin & bear it as the old
saying goes.

I sure hope & pray you
punishment wasn't
too ~~[illegible]~~ severe. Cos I
tried my best. And you
know I enjoyed have you
home with all my heart.
Only time goes too fast &
swift me lover.

Well news are very
scarce out here.

H. T. Hallman
President, S. C. M.

1002-12 - Ola Hallman Morley
Box 7 Ashton Manitoba.
March 15-1945

I am 23 years old
I have been employed
as Postal Clerk in the
Postal service since Feb. 1944,
On Dec 30th, 1944 - I
received from the Main
Post office in Lond
Ont, a registered letter
for Pte Hallman, asked
to signed for and
I signed for the letter. Postal
Post Office, I was
working alone at that
time, I opened the
registered letter, and
I read it, it contained
$15.00, and I took
$5.00, and I kept

altered certain figures
& substituting 1 or 10
over a 5, making the
letter read $10.00 instead
of $15.00. I also
made - $5.00 over a
figure 10, making the
letter read $15.00 instead
of $10.00 - I then
managed to put the
letter and the $10.00
back in the envelope
and shut it down
without leaving any
glue of any kind.
I gave the letter to
Ed Kelbert the next
day. The letter now
shown me by the
Police as the letter
I altered

E. J. Kelbert
Witness

M Morley

F. J. Bellman Major
President, S. C. M.

63.

DEFENDING OFFICER'S SUBMISSION OF 'NO CASE'

Sir, I submit that the Prosecution has not established a prima facie case against the accused and that she should therefore be dismissed.

I make the motion on the grounds that the Prosecution has not brought out any evidence to support the charge that she did on the 20th day of December, 1944, steal $5.00 from a registered letter or that she did on the 20th day of December, 1944, improperly alter figures in a certain letter. At no time during the case for the Prosecution has the date "20th December" been mentioned. The evidence of Corporal Shepperd and the records show that the letter was not received by the post office until the 30th of December, and I move for dismissal on those grounds.

F. J. Gillen Major
President, S.C.M.

" J "

PROSECUTOR'S ANSWER TO DEFENDING OFFICER'S SUBMISSION OF 'NO CASE'

Sir, the error in the date was noticed by the Prosecution earlier today and I submit that it is not so material as to go to the root of the matter and that there is a prima facie case against the accused supporting the two charges that have been laid.

I will ask the Court to look at Rule of Procedure 44 (D) in which it says: "Where the Court are of the opinion as regards any charge that the facts which they find to be proved in evidence differ materially from the facts alleged in the statement of particulars in the charge, but are nevertheless sufficient to prove the offence stated in the charge, and that the difference is not so material as to have prejudiced the accused in his defence, they may, instead of a finding of "Not guilty" record a special finding." Then there is the reference in Note 6, which is as follows: "The special finding here referred to relates only to the particulars of the charge, and not to the statement of the offence""--Before recording a special finding under this paragraph, the court must be satisfied that the facts which they find to be proved, subject to certain exceptions and variations, amount to the substance of the charge, otherwise they must acquit". "--An immaterial variation of the date may be made by special finding but in cases of desertion or absence without leave the substitution of a date which would have the effect of lengthening the period of absence alleged in the charge would not be permissible." The Court will note that the first sentence in the note which I read says that a special finding can be made with reference to the things that are in the particulars. There is the whole substance of the matter.

The charges are "An act to the prejudice of good order and military discipline". Both charges are the same. In the particulars there is an error and it is that the date was put in as the 20th instead of the 30th. I might say that this charge sheet has been in many hands before it reached me but the blame is on me because I was the last to deal with it.

This is just a little matter of the particulars and at the same time that the charge was drawn the summary of evidence was made up and the accused or her representative had a copy of the summary of evidence as well as the charge sheet. Therefore the accused was not prejudiced by this error. It can be easily understood that somebody typing the charge sheet struck a "2" on the typewriter instead of a "3", although it is funny to see the same mistake in the particulars of both charges. It could have been that there was some handwriting that made a "3" look like a "2". In any event the intention was to make the particulars relate to the 30th.

Referring again to the same Note :"An immaterial variation of date may be made by special finding". That is the root of the matter that is before this Court. "--but in cases of desertion or absence without leave the substitution of a date which would have the effect of lengthening the period of absence alleged in the charge would not be permissible." That is the only exception that they state. The substitution of a date which would aggravate the offence, make it more serious than that charged, would not be allowed, but I submit that altering the date here by special finding would not aggravate the charge in any way.

I submit that it is not material and that it comes within this Note here. "An immaterial variation of the date". It is immaterial because the change does not prejudice the accused because the accused knew from the summary of evidence, and that includes a copy of the substance of the evidence to be given by the R.C.M.P., that it was the 30th of December and it is not the charge itself that I am asking the Court to vary but only a little thing in the particulars.

We find with regard to the date in the particulars that in Appendix 1, Page 701, paragraph (19), it is stated "The 'particulars' should always state the date on which the offence was committed. If the exact date or time is unknown, the offence may be stated as having been committed 'on or about' a particular day or time. This must never be done where the time is of the essence of the offence, as, for example, the case of absence without leave or being drunk on a post". Paragraph (20)"In some cases the offence may be stated with most accuracy as having been committed between two days or between two times; as, for instance, in the case of absence without leave, or of quitting a post; in other cases 'between' may be used in consequence of the exact day or exact time not being known". and paragraph (21) "The words 'or near' and 'or about' and 'between' should never be used unless it is impossible to express the exact place or time, or the exact place or time is clearly unimportant, or unless the word 'between' is the most accurate expression of the place or time." Paragraph (22) "In many cases, as, for instance, where the defence is an alibi, the time and place may be of the utmost importance in proving that alibi, although they are not the essence of the offence." There does not seem to be anything else in here. So I should say the remarks that appear in the Appendix do not alter the Note I have read.

By the Court:

Except that they emphasize the fact that the date should be set out in the particulars of the charge if the date is known.

By the Prosecutor :

The date is set out here, Sir, but as the date is wrong there should be a special finding as it is not material.

By the Defending Officer :

I contend, Sir, that the date in this particular offence is very material. The whole charge revolves around that particular date and as there is nothing which mentions the 20th in the evidence I think it is very material.

At 1500 hours on the 18th day of April, 1945, the Court adjourns until 1000 hours on the 19th day of April, 1945.

On the 19th day of April, 1945, at 1000 hours, the Court is re-opened.

By the Court:

Captain Mueller, with respect to your motion of 'no case', the Court has decided that under the Routine Order 4565, paragraph (14) the Court has power to make the necessary amendment or alteration to the charge sheet and such amendnemt will be made. The date will be altered to read "the 30th day of December, 1944" instead of "the 20th day of December, 1944".

7 J.M.

"J" T. J. Fullerton Major
President S.C.M.

STATEMENT made by W.100212, Pte Mabel Mae MORLEY, at Shilo Camp, Manitoba:-

1 I am a CWAC private presently attached to No 32 Coy, CWAC, Shilo Camp.

2 From 16 Feb 44 to 15 Mar 45 I was on strength of A35 CPTC, Shilo Camp, and employed in the unit post office.

3 On Thursday, 15 Mar 45, at about 1100 hrs, A/Cpl Peach of the RCMP came to the A35 unit post office where I was working with Cpl Marguerite M Shepperd (CWAC NCO in charge of the post office). He informed us that he was making inquiries regarding the theft of some money from a letter that passed through our post office in December, 1944. He stated that some changes had been made to certain figures in the letter and wanted our bottle of ink to compare with that used to make these changes. He made general inquiries as to the method of handling mail and recording of registered letters. He then took our bottle of ink and left.

4 At about 1500 hrs the same day, 15 Mar 45, A/Cpl Peach returned to the post office and stated he wanted to see me alone. When Cpl Shepperd had left us he said "I think you know more about this letter than you've told me. I want you to make a statement which I will take down--you just answer my questions". He then proceeded to ask me my number, name, age, employment, etc., and questioned me regarding the theft of $5.00 from a registered letter addressed to Pte C Kelbert at A35 on 30 Dec 44. He asked me many questions and I was rather confused and may have admitted to him that I had taken the money and made certain changes in the letter, but he kept putting questions at me and I was not quite sure of what I was saying.

5 A/Cpl Peach took notes of what I said and wrote it all down in a narrative form though the information he obtained was the result of numerous questions and answers.

6 When he had written the story down he read it over to me but did not give me a chance to read it. He then handed me a pen and said "I'd sign this if I were you, otherwise the ink and letter will have to be sent to the RCMP laboratory in Regina for analysis. This will waste a lot of time, cause more trouble and the matter will be left hanging over your head so much longer". I could visualize myself being kept in confinement for an indefinite period with no passes or leaves and being held in ridicule by the other members of the CWAC so I signed the statement. After I had signed it, Cpl Peach said "That's fine, it will go a lot easier with you now than if we had had to go through with the investigation".

7 On Monday, 19 Mar 45, I was called to Camp HQ where I was told that a Summary of Evidence was being taken. Cpl Marguerite Shepperd came and made a statement under oath and I was asked if I wanted to cross-examine her, which I declined to do. Pte C Kelbert of A35 was supposed to be there also but he did not show up and I was told I did not have to wait for him but that they would contact me as soon as they found him. Before I left I was cautioned and asked if I wanted to make a statement. I answered that I had nothing to say and that I did not desire to call any witnesses on my own behalf.

8 I was later shown a copy of the Summary of Evidence wherein it states I was present when Pte. Kelbert made his statement and that I declined to cross-examine him. I had not known that Kelbert had made a statement until I read the Summary of Evidence.

SIGNED at Shilo Camp, Manitoba, this 16th day of April, 1945.

Pte M M Morley.
(W.100212 Pte.Mabel Mae Morley)

75.

"Y"

Maj.
President, S. C. M.

M.F.B. 355
SM—5-43 (1002)
H.Q. 1772-30-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
W 100212	Private	Mabel Mae MORLEY	A35 Canadian Parachute Training Centre Att. to #32 Adm. Unit., C.W.A.C.

1. The following is a fair and true summary of the entries in the Field ~~Service and Court Register and Squadron Letter~~ Conduct sheets ~~Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~under the Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For Conduct to the Prejudice	1 time	One time
For A.W.L.	2 times	Two times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

~~The conviction in the conduct sheet of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Particulars of the award by a court martial or civil court, of summary award under Section 47 of the Army Act or of a dispensation with trial under A.O. 78 are set out in the table hereunder~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of ..... beginning on the ..... days of ..... 19..~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 0 days in military custody, making a total of 0 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to her attestation paper is Twenty-three years (23)

6. The date of her attestation specified in her attestation paper 3 May 43

7. ~~The service which the accused is alleged to have completed ..... days~~

8. ~~The accused is entitled to reckon ..... years for the purpose of determining his pension rate.~~

9. The accused is in possession of ~~a medal for bravery or other reward~~ military (or is in possession of or entitled to). State any military decoration or reward.

Canadian Volunteer Service Medal

10. ~~If the accused is a warrant officer, the accused date he was made a warrant officer last held the rank of ..... days.~~

76.

11. ~~(a) (non-commissioned officer) The accused books in the Royal Canadian Air Force the rank of~~ Pensioner Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

2. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Name..... of..... Regiment Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th April, 1945 ~~depot~~ Mark H. Miller Lieut
Officer i/c Records, 32 Admin Unit OADC

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

J. J. Kiee Major
President, S.C.M.

No. W.100212 Name MORLEY, Mabel Rae | Sqn., Battery, or Company: No. 110 Depot Coy., C.W.A.C. Corps | Date of enlistment: 3-May-43 | G.C. Badges | Tradesmen's Rates of Pay | M.F.M. 6 (A.F.B. 121) 75034—18-42 (7537) H.Q. 1779-39-1632

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. one | Signature O.C. Company, etc. | Evelyn I Lane (L) | Character

Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Shilo Camp 24 Jun 44	Pte.		A.A. Sec. 40 (Conduct to the Prej. etc.) (did break barracks at 2315 hours)	Lt. B.A. STRONACH	14 days C.B.	26 Jun 44	Maj. C.C. BOXER	
Shilo Camp 30 Jul 44	Pte.		A.W.L. from 0230 hrs 30 Jul 44 to 0730 hrs 30 Jul 44. Tot. abs. 5 hrs. A.A. Sec. 15	Doc'y. W.10093 Pte. McAULEY	Restricted priv. 3 days extra duties	2 Jul 44	Capt. P.M. WILBY	
Shilo Camp Manitoba 20 Feb 45	Pte.		A.W.L. from 2230 hours 19 Feb 45 until 0620 hours 20 Feb 45. T.A. 7 hours 50 mins. A.A. Sec. 15 (1) a	Sgt. Griffiths	Cancellation of all passes for 2 weeks	20 Feb 45	Lieut. E.A. HOLMES	Aut. forf. 1 days pay FR &I 149 (1) a

CERTIFIED TRUE COPY: Phyllis M. Wilby Capt

(Phyllis M. Wilby) Capt.,
Commanding,
No. 32 Admn. Unit C.W.A.C.

Myrtle J. Miller
O.C. Records
32 Admin. Unit CWAC

(P.T.O.)

" L " A J Killeen Major
President. S C M.

DEFENDING OFFICER'S STATEMENT IN MITIGATION

Sir, in making a plea in mitigation of punishment I would ask the Court to bear in mind that this girl is only 23 years of age, coming from a farm district near Clear Lake, Manitoba. She volunteered on her own on the 3rd of May, 1943, to join the C.W.A.C. Canadian Active Force. She completed her basic in June and July and came to Shilo Camp on the 3rd of July, 1943. She has been in Shilo Camp ever since then. She was at Camp Headquarters for a little while as a waitress and then she worked at A35 canteen until January, 1944, after which she was transferred to the unit post office at A35.

According to all information from her superiors and people she has worked with she has been a good willing worker, conscientious, appears to do her best and tries as hard as possible to do what she is asked to do within her ability.

If she is to get the extreme penalty that the Court might impose she would be left alone and have to forego the benefits of the service for which she volunteered.

I have a memorandum here from the acting Officer Commanding of the No. 32 Administrative Unit, C.W.A.C. with a note from the District Placement Officer that if this girl was given some lighter sentence that they are quite willing to take her into District and give her other employment. They are quite satisfied that she is a good, conscientious worker and would like to keep her in the service and will find some proper employment for her.

On the charge of the theft of $5.00, Private Morley saw fit to return the $5.00 to Private Kelbert some time in the early part of this month. Restitution has been made.

There has been no other serious charge against this young girl at any time during her more than two years service with the C.W.A.C. excepting the few minor AWL charges, which I maintain are not serious.

The accused has been employed as a waitress and was working in the canteen and since then worked in the post office so I imagine her duties would come under the heading of general duties. She has no specialist trade or qualifications, but the District Placement Officer is quite prepared to re-allocate her to different work where she might render valuable service.

7/44

SUMMARY OF EVIDENCE

in the case of

The accused, No. W100212 Private Mabel Mae MORLEY, No. 32 Administrative Unit, Canadian Women's Army Corps, a Volunteer of the Canadian Army placed on Active Service.

CHARGES: 1. An act to the prejudice.
2. An act to the prejudice.

THE OFFICER COMMANDING DIRECTS THAT THE EVIDENCE BE TAKEN ON OATH.

FIRST WITNESS: No. W100313 Cpl. Marguerite M. Shepperd, A35 C.P.T.C., having been duly sworn, states;

I am No. W100313 Corporal Marguerite M. Shepperd, C.W.A.C. and I am attached to A35 C.P.T.C. and am the N.C.O. in charge of the unit post office. I know the accused, No. W100212 Private Mabel Mae Morley, who is employed with me in the A35 C.P.T.C. post office at Shilo Camp, Manitoba.

From the 28th day of December, 1944, until the 6th day of January, 1945, I was on leave and Private Morley was in charge of the post office. I produce the postal register of A35 C.P.T.C. which shows that a letter or parcel was received at the unit post office on the 30th day of December 1944 which originated at St. Ouens and was addressed to C. Kelbert. The entry is in the handwriting of Private Morley.

POSTAL REGISTER PRODUCED AND MARKED EXHIBIT "A"

The accused declines to cross-examine the witness.

M M Shepperd
No. W100313 Cpl. Shepperd, M.M.

SECOND WITNESS: No. H613511 Pte. Clarence Kelbert, A35 C.P.T.C., having been duly sworn, states;

I am No. H613511 Private Clarence Kelbert, A35 Canadian Parachute Training Centre, and I am employed at the Centre on general duties. I recognize the accused, Private Morley, who works in the post office at A35 C.P.T.C.

On Sunday, the 31st day of December, 1944, I went to the unit post office for a registered letter that I knew was there for me. I received the letter from Pte. Morley and signed for it in the book. The letter came from my wife through St. Ouens P.O., Manitoba. I opened the letter and found in it a letter written by my wife and two five dollar bills. I noticed that a change had been made in two amounts of money that were mentioned in the text of the letter.

When I was home on leave about the 12th of January, 1945, I told my wife the letter contained ten dollars, and then we both went to the R.C.M.P. in Beausejour and made a complaint that the letter had been tampered with. The R.C.M.P. have both the letter and the covering envelope now.

The accused declines to cross-examine.

C. Kelbert
No. H613511 Pte. Kelbert, C.

W.65-M-59 (J)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

Winnipeg, Manitoba,
22nd March, 1945.

W.100212 Pte. M.M. Morley
32 Admin. Unit, C.W.A.C.,
SHILO CAMP, Manitoba.

TRial by Court-Martial

1. Please be advised that at your trial by Court-Martial it is proposed to call as a witness No. 11363 D/A/Cpl. Peach, Constable of the R.C.M.P. whose evidence is set out below:

"From my general observation of the manner in which the Main Post Office is operated, and the short time in which the letter concerned remained there, it appeared almost impossible that it could have been tampered with at the point without someone having noticed what was going on, whereas on the other hand Miss Morley had every opportunity to do as she pleased without supervision. I therefore decided to question her again, which was done after she had been duly cautioned. She made the following signed statement:

' I am 23 years old. I have been employed as Postal Clerk in the Paratroops, since Feb. of 1944. On Dec. 30th, 1944, I received from the Main Post Office in Camp Shilo, a registered letter for Pte. Kelbert, which I signed for, and brought to the Paratroop Post Office. I was working alone at that time. I opened the registered letter and read it. It contained $15.00 and I took $5.00 which I kept, I altered certain figures, substituting an "0" over a 5, making the letter read $10.00 instead of fifteen, I also wrote $5.00 over a figure 10, making the letter read $5.00 instead of ten, then put the letter and the $10.00 back in the envelope and stick it down, without using any glue of any kind. I gave the letter to Pte. Kelbert the next day. The letter now shown me by the Police is the letter I altered.'

It appears that the letter in question was not firmly sealed and Miss Morley was able to work same open by rolling her finger under the flap of the envelope from the corners towards the centre. "

(G. W. Christie) Captain,
Permanent Prosecutor
Courts-Martial
Military District No. 10.

CHJ/MW

QUESTION TO THE ACCUSED

Do you wish to make any statement or to give evidence upon oath ? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY THE ACCUSED

I have nothing to say now.

QUESTION TO THE ACCUSED

Do you wish to call any witnesses on your own behalf ?

ANSWER BY THE ACCUSED

No, sir.

I certify that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

Taken down by me in the presence of the accused at Shilo Camp, Manitoba, this 19th day of ~~January~~ MARCH, 1945.

(F.W. Christie) Captain,
Officer detailed to take this
Summary of Evidence.

LIST OF WITNESSES

No. W100313 Cpl. M.M. Shepperd, A35 C.P.T.C., Shilo, Man.
No. H613511 Pte. C. Kelbert, A35 C.P.T.C., Shilo, Man.

LIST OF EXHIBITS

Postal Register of A35 C.P.T.C. Exhibit "A"

REQUEST OF THE ACCUSED

I, No. W100212 Private Mabel Mae Morley, No. 32 Admin. Unit, C.W.A.C., desire (~~do not desire~~) that an Officer be detailed to represent me at my trial by Court-Martial.

Mabel Mae Morley
No. W100212 Pte. Morley, M.M.

NOTICE

Adm.Unit,

TAKE NOTICE that I propose to present No W 100212, Private Mabel Mae MORLEY, A 35 C.P.T.C., C.A. attached to No.32 Canadian Women's Army Corps, C.A., for trial by the Standing Court-Martial at 1000 hours on Tuesday the 17th day of April, 1945, at Shilo Camp, Manitoba.

Barbara B. Stronach Lieut

Shilo Camp, Manitoba.
10 April, 1945.

(B.A. Stronach) Lieut.
Acting Officer Commanding,
No. 32 Adm. Unit, C.W.A.C.,
SHILO CAMP, Manitoba.

MEDICAL OFFICER'S REPORT

I certify that No. W.100212 Pte. MORLEY, M.M.

of #32 Admin Unit CWAC is in a Satisfactory state of health,

and Fit to undergo Trial by Court martial.

Medical Officer
Shilo Camp Mil. Hosp.
RCAMC, C.A.

Station SHILO CAMP, Manitoba.

Date 18 April 45

M. F. B. 246
5034—11-43 (3222)
H.Q. 1773-39-680

President, S.C.M.

MEDICAL OFFICER'S REPORT

I certify that No. W-100212 Pte. MORLEY, M.M.

of #32 Coy. C.W.A.C. is in a satisfactory state of health,

and able to undergo Trial by Court Martial.

Medical Officer

O.C. Shilo Camp Mil. Hosp.

RCAMC, CA.

Station Shilo Camp, Manitoba

Date 19 Apr 45

M. F. B. 246

50M—12-42 (3122)

H.Q. 1772-55-480

Prosecutor, S.C.M.

H.Q.C.55-M-1626 (JAG/D-9)
Your W.65-M-59(J)

9 May 45

The District Officer Commanding,
Military District No. 10, Winnipeg, Man.

STANDING COURT-MARTIAL

W.100212 Pte. M.M.Morley,
No. 32 Admin. Unit, C.W.A.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde), Brigadier,
Judge Advocate-General.

RMM/MM

THIS COPY FOR: H.Q. W.55-M-1626
M.D. W.65-M-59

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. W.100212 Name MORLEY, Mabel Mae

Rank Pte Unit A35 C.P.T.C. CA att. No 32 Admin Unit CWAC CA

Charge (1) A.A. 40 An act to the prejudice.....

(2) A A. 40 An act to the prejudice.....

Date of Crime 30-12-44

Date of Arrest Charge Signed 10-4-45

Orders for D.C.M.

Place and Date of Trial HQ Shilo Damp Mtn; 18-4-45

Sentence F.O.P 28 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 37167

Date 7-5-45

MEMO

M.D. 10 - att No 32 Admin Unit CWAC CA

for for Judge Advocate-General

10M-1-45(M-4629)

W.65-M-59 (J) 141

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Winnipeg, Manitoba.
24th April, 1945.

JUDGE ADVOCATE GENERAL'S REGISTRY AND PROSEC.
C.55-M-162
Jag

Judge Advocate-General,
Department of National Defence (Army),
OTTAWA, Ontario,

STANDING COURT-MARTIAL

311201

No. W.100212, Pte. MORLEY, M.M.,
No. 32 Admin. Unit, C.W.A.C., C.A.

Herewith, for review, are the proceedings of the marginally-noted Standing Court-Martial.

F. J. Killeen Major,
President, (F.J.Killeen)
Standing Court-Martial.

31167

CLEAR

ARMY MESSAGE

(INCOMING)

H.Q.C.55-M-1626

PLACE FROM

DATE & TIME

JAG Central Chamber

C. SIGS
NATIONAL DEFENCE BLDG
APR 7
(OTTAWA)
ARMY SIGNAL OFFICE

43VEL HB 33 QSH

WINNIPEG APR 071245R

JUDGE ADVOCATE GENERAL
DND ARMY
OTTAWA

3453 B RETEL JAG 765 DATED 6 APRIL 45 RE W 100212 PTE M M MORLEY STOP RECEIPT OF INSTRUCTIONS HEREBY ACKNOWLEDGED

A J A G MD TEN

071430Q AK

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO A.D.C. (Ag. M.)

BRANCH	TIME	SIGNATURE

53992

COPY 1

M.F.M. 344 200M-3-44 (4064)
H.Q. 1772-35-2100 K.P. 4449
GRAIN PRINTERS LIMITED-IE

CLEAR

ARMY MESSAGE

(OUTGOING)

FILE: H.Q.C.55-M-1636 (JAG/D-7)

TO

PLACE

DATE

THE DISTRICT OFFICER COMMANDING,
MILITARY DISTRICT NO.10,
WINNIPEG, MAN.

OTTAWA

6 APR 45

J.A.G. SEVEN SIX FIVE

RE TEL THREE FOUR FIVE NAUGHT B INSTRUCTIONS, APPLICATION AND SUMMARY DESPATCHED APRIL SECOND stop PLEASE ADVISE OF RECEIPT

JUDGE ADVOCATE-GENERAL.

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT INCLUDING { WIRELESS

SIGNED (E.J.Orde), Brigadier, Judge Advocate-General.

DEGREE OF PRIORITY

TIME OF ORIGIN 1145

COPY 5 FOR ORIGINATOR'S FILE

R.C.SIGS
637
NATIONAL
DEFENCE BLDG.
22 6 1945
(OTTAWA)
ARMY SIGNAL OFFICE

THIS IS AN ACTUAL COPY
IF INCORRECTLY DELIVERED COMPLETE
BELOW AND RETURN TO ABOVE ADDRESS

BRANCH	TIME	SIGNATURE

VER V VEL NR 10

FROM A J A G MD NO 10 WINNIPEG MAN APR 051720R

TO JUDGE ADVOCATE-GENERAL DND (ARMY) OTTAWA ONT

C 55-M-1626

GR 43 QSH BT

3450B RELET W 65 M 59 J DATED 22 MARCH 45 SUMMARY OF EVIDENCE BE RETURNED RE W 100212 PTE MORLEY M M AND MAY INSTRUCTIONS BE RECEIVED PLEASE

BT 060349R FG B

32926

H.Q.C.55-M-1626 (JAG/D-7)

April 2nd, 1945.

The District Officer Commanding,
Military District No. 10, Winnipeg, Man.

Application for District Court-Martial
W. 100212 Pte. M. M. Morley,
No. 32 Administrative Unit, C.W.A.C., C.A.

Receipt is acknowledged of your W. 65-M-59(J) dated 22nd March 1945, under cover of which you forwarded Charge Sheet and Summary of Evidence in the marginally-noted Application for District Court-Martial.

2. The Charge Sheet would appear to be in order and there is sufficient evidence contained in the Summary of Evidence to establish a prima facie case on the charges contained thereon.

3. It is assumed that the confession of the accused to the R.C.M.P. Constable will be shown to have been freely and voluntarily given. It appears that in giving evidence to this effect, the Constable will say that he gave the accused a warning. If so, he should state the terms of the warning and not simply: "She was duly cautioned".

4. The Charge Sheet and Summary of Evidence are returned herewith for your further use.

(R.J.Orde), Brigadier,
Judge Advocate-General

LJR/MM

"AIRMAIL"

IN REPLY PLEASE QUOTE No.
W.65-M-59 (J)

~~CONFIDENTIAL~~

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

C. 55-M-1626

ok
confidential

Winnipeg, Manitoba,

22nd March, 1945.

Director of Records
A. G. Branch.
MAR 26 1945
Nat. Defence Hqr
Ottawa, Canada.

Judge Advocate-General,
Department of National Defence (Army),
OTTAWA, Ontario.

W.100212 Pte. Morley, M.M.

Enclosed herewith is copy of Charge Sheet and Summary of Evidence in the case of the marginally-named Volunteer.

2. These documents are forwarded for review pursuant to Section 540 K.R. (Can).

3. This case has been referred to the civil authorities who have declined to deal with the matter considering it purely a disciplinary matter within the Army.

4. Your remarks with regard to the form of charges will be appreciated.

(E.A. Fletcher) Major,
Assistant Judge Advocate-General,
Military District No. 10.

CHJ/MW

Enc.

NAT. DEF. B. 440
250M 4-44 (5121)
H.Q. 1772-30-767

H.Q.C. 55-M-1627

CONFIDENTIAL

M.F.R. 2038
(55M—4-43 (9639)
H.Q. 501-1-05

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MOSCATO. CHARLES B.624635 PTE.

869-M-7644

CONFIDENTIAL
H.Q.C. 55-M-1627

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
APR 6 1945					NEW FILE	C.R.	MAR 29 1945
				JAG	With Papers C.R. APR 19 1945		
APR 21 1945				DCM	To note, pls	M.M.	20-4-45
APR 24 1945	18/4/45					OK	APR 24 1945
APR 27 1945	26/4/45	PA	OL	Admin	With Papers C.R. APR 27 1945		
				Admin	With Papers C.R. MAY -1 1945		
MAY 3 - 1945				LCM	Submitted to pls		
MAY 5 [redacted]	4/5/45	PA	ELM				MAY 4 - 1945
MAY 18 1945	18/5/45	PA		Admin	PER B.F. MAY 18 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. M.1-M-15810(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

310449

Montreal, Que., 30th April, 1945.

CENTRAL REGISTRY Army
CONF. REC.
MAY 1 1945
File C55-M-1627
Chgd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
B-524635 Pte. MOSCATO, C.,
Les Fusiliers de Sherbrooke, C.A.,
Att. to No.4 D.D., C.A.

Reference your HQC 55-M-1627 Adm 3(b)3 dated 26 Apr 45.

2. Hereunder, the complete explanation as to the delay in bringing the accused to trial i.e. from the date of apprehension until the date the trial of the accused was held:

17 Feb 45	Surrendered in Toronto as A.W.L.
19 Feb 45	Telegram received at No.4 D.D. advising that the m/n was held awaiting escort.
19 Feb 45	Checked status with D.R.O. M.D.4 (no records there)
20 Feb 45	Status requested from Ottawa
23 Feb 45	Tracer telegram from D.D.2 re this man.
23 Feb 45	Status received from M.D.H.Q.
24 Feb 45	Escort despatched
25 Feb 45	Delivered to D.D.4 by our escort. (holding for troop movement)
27 Feb 45	Paraded to C.O. and remanded for S of E.
28 Feb 45	Request made for the documents of the m/n soldier and also Part II Order requested from the District Records Officer.
12 Mar 45	Documents for this soldier received at the Depot
15 Mar 45	Application for Standing Court-Martial received at this Headquarters together with Part II Order requested.
16 Mar 45	Wire sent to H.Q. M.D.2 requesting another MFM 216 as the one submitted could not be admissible at Court-Martial.
20 & 21 Mar45	Trial of the accused.

3. For your information, please.

Justin Moreau Capt
for (E.J.Renaud) Major-General,
District Officer Commanding,
Military District No. 4.

1601
To note pte
& pass to JAG
Col Dalton
3/5/45

Noted
J. H. Gamble
Lieut.-Colonel
Deputy Judge Advocate General
MAY 4 1945

M.F.B. 239

HQC 55-M-1627
Adm 3(b)3

OTTAWA, Ont. 26 Apr 5

District Officer Commanding,
Military District No 4,
MONTREAL, PQ.

Standing Court-Martial
B-624635, Pte MUSCATO, C
Les Fusiliers de Sherbrooke, CA
Att to No 4 DD, CA

Ref M. 1-M-15810(J) FD 1 dated 17 Apr 45:

2. It is noted that the Charge Sheet in connection with the Standing Court-Martial proceedings herein was dated 28 Feb 45 but his trial did not take place until 20 Mar 45.

3. As the delay appears excessive under the circumstances, may it be explained please.

(A.E. Walford)
Major-General
Adjuta t-General

33

WEG/jc

H.Q.C.55-M-1627 (JAG/D-4)

20 Apr 45.

District Officer Commanding,
Military District No. 4,
Montreal, Que.

.....Standing.....Court-Martial
B-624635, Pte. Charles MOSCATO,
Les Fusiliers de Sherbrooke, C.A.,
attached to No. 4 District Depot, CA

Receipt is acknowledged of your M. 1-M-15810 (J) FD 1 dated April 17th, 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E L M
Capt
for (R.J.Orde) Brigadier,
Judge Advocate-General.

JOGR/ET

Noted
L. H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 24 1945

32

IN REPLY PLEASE QUOTE No. M. 1-M-15810 (J) FD 1

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

K87

Montreal, P.Q.,
April 17th, 1945.

REGISTERED

308094

The Secretary
Department of National Defence
O T T A W A, Ontario

CENTRAL REGISTRY Army
COURTESY
APR 18 1945
File 55-M-1627
Chgd. to
Referred to JAG

STANDING COURT MARTIAL
B-624635, Private Charles MOSCATO,
Les Fusiliers de Sherbrooke, C.A.,
attached to No. 4 District Depot, CA

Reference your H.Q.C. 55-M-1627 (JAG/D-4), dated 6th April, 1945, enclosing the proceedings of the marginally-noted Standing Court-Martial.

2. Same are returned, herewith, for custody.

3. The remarks contained in your above-mentioned letter have been duly noted.

J. Lestimoncau Capt

for (E.J. Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

enc.

31

MEDICAL OFFICER'S REPORT

I certify that No. B-624635 Pte. MOSGATO, C.
Fus. de Sherb., C.A.,
of att. No. 4 D.D.CA. is in a good state of health,
and fit to undergo Trial by Court martial.

B.M. Tremblay Capt

(B.M.Tremblay) Captain Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, CA.

Station J.C.Bks., Montreal South, Que.,

Date 20th March 1945

G. A. F. Vulcan, major
President SCM

M. F. B. 246
50M—12-43 (3229)
H.Q. 1773-99-446

30

MEDICAL OFFICER'S REPORT

I certify that No. B-624635 Pte MOSCATO, Charles
Fus. de Sherb. C.A., att'd to
of No. 4 DD., CA. is in a Good state of health,
and fit to undergo Trial by Court martial.

(J.Suay) Captain Medical Officer
No. 4 District Coy., RCAMC, CA.
Att'd. No. 4 District Depot, CA.

Station J.C. Barracks,
Montreal South, Que.

Date 21 March 1945.

M. F. B. 246
MM—12-43 (33227)
H.Q. 1772-99-400

29

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No.4 District Depot, C.A., Montreal South, Que.

on the 20th day of March 19 45 at 14.30 hours.

for the trial of: B-624635 (Number) Private (Rank) Charles MOSCATO (Full Name)

Les Fusiliers de Sherbrooke, C.A., (Unit) attached to No.4 District Depot, C.A. (Attachment, if any)

PRESIDENT: Major J.A.G. Dubeau, E.D., Headquarters, Military District No.4.

PROSECUTOR: Captain H. Primeau, (Rank) Headquarters, Military District No.4. (Full Name) (Unit) (Attachment, if any)

~~COUNSEL~~ OR DEFENDING OFFICER: Lieutenant G. Laferrière, R.C.A., C.A., (Rank) (Full Name) (Unit) attached to No.4 District Depot, C.A. (Attachment, if any)

FINDING: The court find the accused, B-624635 Private Charles MOSCATO, Les Fusiliers de Sherbrooke, C.A., attached to No.4 District Depot, C.A., guilty of the first charge and not guilty of the second charge.

SENTENCE: The court sentence the accused, B-624635 Private Charles MOSCATO, Les Fusiliers de Sherbrooke, C.A., attached to No.4 District Depot, C.A., to undergo detention for ninety days and to be put under stoppages of pay until he has made good the sum of $21.85 inrespect of the costs of transportation and incidental expenses incurred in returning him to his unit.

Signed at Montreal South, Que. this 21st day of March 1945.

J. A. G. Dubeau 28

President, Standing Court-Martial

M.F.R. 1886 entered as No. 36481 in the
25M-8-44 (48267) Court-Martial kept in the
H.Q. 177-33-2896 the Judge Advocate-General (J.A.G. Dubeau) Major
this 31st day of March 194

Forms of Oaths and Declarations

Oaths

Shorthand Writer

You swear by Almigthy God that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the Court a true transcript of the same.

Answer: I do.

Interpreter

You swear by Almighty God that you will to the best of your ability truly interpret and translate, as you shall be required to do, touching the matter before this court-martial.

Answer: I do.

Witness

You swear by Almighty God that the evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth.

Answer: I do.

Solemn Declarations

The form of declaration will be the same as the form of oaths except that for the words "You swear by Almighty God" will be substituted the words "You (name in full) do solemnly promise and declare"; and that the words "solemnly promise and declare" will be substituted for the word "swear" wherever it occurs.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~Question to the accused~~ ~~Do you object to interpreter~~

~~Answer~~

Question to the accused. Do you object to D-625377 Cpl(A/Sgt)H.Turcot, No.4 Det.C.M.S.C.,C.A. as shorthand writer ?

Answer: No, Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: Yes, Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Not guilty, Sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

27

(The accused having pleaded guilty to the first charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

The Accused has elected trial by Court-Martial in accordance with provision of Sec. 46 Para. 8 Army Act.

J. C. F. [illegible] maj
President SCM

CHARGE SHEET

The Accused, B-624635, Private Charles MOSCATO, Les Fusillers de Sherbrooke, C.A., attached to No. 4 District Depot, C.A., an N. R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE
Sec.15 (1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

At Joliette, Quebec, at 23.59 hours on the 26th December, 1944, he absented himself without leave from his unit, Les Fusillers de Sherbrooke, C.A., until he surrendered himself to the Military Authorities at Headquarters, MD. No.2, Toronto, Ontario, at 1030 hours on the 17th of February, 1945, the costs of transportation and incidental expenses incurred in returning him to this Unit being in the amount of $21.85

SECOND CHARGE
Sec.24 (2)
Army Act.

LOSING BY NEGLECT HIS EQUIPEMENTS, CLOTHING AND REGIMENTAL NECESSARIES,

in that he,

at No. 4 District Depot, C.A., Montreal South, Quebec, on the 26th February, 1945, was deficient of the following articles, viz:-

		100%	75%
Clothing Division "A"			
Overall Combination	1	$ 2.52	$ 1.89
Dressing First Field	1	.13	.10
Clothing Division "B"			
Boots Ankle pr	1	5.82	4.36
Cap Field Service	1	.70	.53
Drawers Cotton	2	.84	.64
Shoes canvas pr	1	2.29	1.72
Jacket K.D.O.C.	1	3.42	2.57
Shoes Leather Black pr	1	4.84	3.62
Trousers K.D. Lg. pr	1	1.80	1.35
Trousers K.D. Short pr	2	2.62	1.96
Clothing Division "C"			
Braces pr	1	.28	.21
Brush Button	1	.11	.08
Brush Cloth	1	.17	.13
Brush Hair	1	.39	.29
Comb Hair	1	.04	.03
Fork Table	1	.08	.06
Knife Table	1	.18	.14
Spoon Table	1	.08	.06
Belt Waist Web	1	.25	.19
Necktie Black-	1	.19	.14
Pin Collar	1	.06	.05
Boot Dressing Tin	1	.05	.04
Sponge Pipeclay	1	.03	.03
Clothing Division "D"			
Badge Cap	1	.09	.07

2C

CHARGE SHEET (Continued)
B-624635 Private Charles MOSCATO.

			100%	75%
SECOND CHARGE (Continued)	SECTION A-1			
	Bag Ration	1	$ .04	$ .03
	Belt Waist	1	.76	.57
	Bottle Water	1	.62	.46
	Braces	2	.68	.51
	~~Carrier Waterbottle~~	~~1~~	~~.37~~	~~.28~~
	Haversack	1	2.29	1.71
	Net Camouflage	1	.26	.20
	Pack W.E. Patt 1937	1	2.26	1.69
	Straps Sh. Haversack	2	.62	.46
	Straps Web Sup.	2	.28	.22
	Tins Mess Rectangular	1	.57	.43
	SECTION "A-2"			
	Capes A.G.	1	4.43	3.31
	Respirator A.G.	1	4.13	3.10
	Ointment	1	.26	.20
	Eyeshields A.G.	6	1.04	.78
	SECTION "J"			
	Sheet Ground	1	2.38	1.79
			$ 47.60	$ 35.70

Representing 100% Voc. Rate $47.60

TOTAL representing 75% Voc. Rate $ 35.70

Signed at
Montreal South, Quebec,
28th February, 1945.

(S.Echenberg) Colonel,
Commanding No. 4 District Depot, C.A.

25

- C -

Question to the accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

THE DEFENDING OFFICER ADDRESSES THE COURT:

I would like the court to be adjourned until to-morrow morning so that I would have the chance to get further evidence.

The prosecutor does not object to the application as submitted by the defending officer.

Upon the application as submitted by the defending officer, the court adjourned the trial of the present accused until 10.00 hours on Wednesday the 21st of March 1945.

On the 21st day of March 1945, at 10.00 hours, the court proceeds with the trial of the present accused.

The prosecutor produces before the court a certified true copy of M.F.C. 800 in the case of B-624635, Pte. MOSCATO C., which is read, marked exhibit "F", signed by the president and attached to the proceedings.

FIRST WITNESS FOR THE PROSECUTION.

D-637521 A/Corporal A. Mondion, Les Fusiliers de Sherbrooke, C.A., attached to No.4 District Depot,C.A., being duly sworn, is examined by the prosecutor:

Q. Will you give your rank, name, number, unit and attachment?

A. D-637521 Acting corporal Mondion A., Les Fusiliers de Sherbrooke, attached to No.4 District Depot,C.A.

Q. What is your appointment at No.4 District Depot,here?

A. When the Depot-Police brings me a man to check his kit, Iam the one in charge of checking the kits.

Q. Do you know the accused in this case?

A. Yes, Sir, private Moscato, the one between the two escorts with no cap on.

Q. Do you remember having met him before?

A. Yes, Sir, Iseen him on the 26th February 1945.

Q. Will you tell the court in which circumstances you met him on that date?

A. On that date, when the Depot-Police brought me that man I had to check his kit.

Q. Against what document did you check the kit?

A. I used his M.F.C. 800.

Q. The original or a copy?

A. The original.

21

C-3

FIRST WITNESS FOR THE PROSECUTION (cont'd).

Q. Will you show to the court the original?

A. Yes, Sir, I will.

M.F.C. 800 in the case of B-624635 Pte. MOSCATO G., is shown to the court for comparison purposes with copy of M.F.C. 800.

Q. What happened?

A. I just took his M.F.C.800 and Ichecked all the articles that Private Moscato had on hand, and the balance of the articles he did not have on hand were charged to him.

Q. Did you make a list of these articles?

A. Yes, Sir, I did.

Q. When?

A. On the 26th of February 1945.

Q. Will you tell the court what was the deficiencies, if there was any deficiencies and name the articles?

A. Yes, Sir, there were some deficiencies, and here are the articles charged to the accused: Section A: over-all combination, $1.89 that is at 75%, Dressing first field 1, 10 cents; Section B: Boots ankle pr 1, Cap Field Service 1, Drawers cotton 2, shoes canvas pr 1, Jacket K.D.O.C. 1, Shoes leather black pr 1, Trousers K.D. Long pr 1, Trousers K.D. short pr 2; Section C: Braces pr 1, Brush Button 1, Brush Cloth 1, Brush Hair,1, Comb Hair 1, Fork Table 1, Knife Table 1, Spoon table 1, Belt Waist Web 1, Necktie Black 1, Pin Collar Safety 1, Boot Dressing Tin 1, Sponge pipeclay 1; Section D: Badge Cap 1; Section A-1: Bag Ration 1, Belt Waist 1, Bottle Water 1, Braces 2, Haversack 1, Net Camouflage 1, Pack W.E. Pattern 1937 1, Straps shoulders haversack 2, Straps Web Supporting 2, Tin Mess Rectangular 1; Section A-2: Capes A.G. 1, Respirator A.G. 1, Ointment 1, Eye-shields A.G. 6; Section "J":Sheet Ground 1. The total amount at 100% is $47.60 and at 75% $35.70.

Q. Where was the accused when you made the kit inspection?

A. He was in front of me with escort of the Depot-Police.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE THE WITNESS.

QUESTIONED BY THE COURT:

Q. When you carried out the kit inspection in this occasion, did the accused bring any recoveries?

A. He had some stock on him with him, that is why they were ticked on the M.F.C. 800 before the charge was made out.

Q. Can you remember what equipment the accused had? Did you see a pack for instance?

23

C-5

FIRST WITNESS FOR THE PROSECUTION (cont'd).

A. Private Moscato did not have a pack because he was charged one.

Q. What would happen to the equipment he had after the kit inspection was held?

A. The man brings all his equipment with him at the Depot-Police. We don't keep the equipment. The man brings the equipment with him to the Depot-Police after the kit inspection is made out.

THE WITNESS WITHDRAWS.

J.C.H.W.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I apply to give evidence myself as a witness. (see page D-3 et seq.)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, Sir.

~~*Question to the accused.*~~ ~~Is the witness to be called a witness as to character only?~~

~~*Answer.*~~

21

D-3

FIRST WITNESS FOR THE DEFENCE.

The accused, B-624635 Private Charles MOSCATO, Les Fusiliers de Sherbrooke, C.A., attached to No.4 District Depot, C.A., being duly sworn is examined by the defending officer:

Q. Private Moscato where were you stationed last when you went on leave?

A. Joliette, Quebec, Sir.

Q. Where were you before you went to Joliette?

A. Tuffino Island.

Q. When did you leave Tuffino Island to Joliette?

A. Near the beginning of December sometime.

Q. What happened to your equipment when you left Tuffino Island, how was it disposed of for transportation?

A. We went to Fort Alberni and we all put our equipment in packs and kit bags and we put them on trucks and they were shipped to freight trains and shipped to Joliette. I was playing in the band, the band marched the boys to the train. We just had a shawe equipment on hand.

Q. Did you have a kit inspection before you left?

A. No, Sir.

Q. Did you have any identification marks on your kit bags?

A. Yes, Sir, I had my name on the kit bags and we put paper tags on our kit bags besides that.

Q. When you arrived at Joliette, when did you get your equipment?

A. I didn't get my equipment, they didn't arrive from Fort Alberni.

CROSS-EXAMINED BY THE PROSECUTOR:

Q. On what date did you arrive at Joliette?

A. I don't remember all right, a week before Christmas. I don't remember exactly, it was before Christmas.

Q. How many days before you went A.W.L.?

A. I don't remember.

Q. Did you arrive at Joliette before the 26th of December?

A. Yes, Sir.

Q. A week before Christmas or two?

A. About two weeks before Christmas.

D-5

FIRST WITNESS FOR THE DEFENCE (cont'd).

Q. The train conveying the packs, did it arrive at the same time than yourself?

A. Sir, they had some equipment at the drill hall. I don't believe the train carrying our packs had arrived yet.

Q. And all the packs were on the train at the same time?

A. Yes, Sir.

Q. At what date did the train arrive?

R. I don't know, Sir, when the train arrived.

Q. Do you think the train arrived after the 26th?

A. I don't even know.

Q. Did you make an inquiry?

A. No, Sir.

Q. Did you ask anybody whether your pack was on the train?

A. Yes, Sir.

Q. To whom?

A. To the corporal in charge of the band.

Q. What was the answer?

A. He says the equipment haven't arrive yet, all the equipment had not been here.

Q. On the 26th December, when you left the camp, did you receive your equipment at the time?

A. No, Sir.

Q. Where was it?

A. It had not arrived yet. I was in the drill hall everyday I was at Joliette.

Q. The train was arrived yet?

A. Not that I know, Sir.

Q. On the 26th February 1945, were you deficient of the articles mentioned in the charge sheet here?

A. Sir, except that I had a pack with me and a strap.

Q. Did you read the charge sheet?

A. Yes, Sir.

Q. And those articles where were they on the 26th February 1945, did you have with you these articles?

A. No, Sir, I had just a few things we took with us when we came to Joliette, stock we brought over ourselves, that is all I had with me.

D-7

FIRST WITNESS FOR THE DEFENCE (cont'd).

Q. Then you were deficient of those articles mentioned in the charge sheet?

A. Yes, except that I had a pack that is on the charge sheet and a strap.

Q. Where is this kit bag?

A. I don't know, Sir. It was lost at the Depot-Police barracks, Sir.

Q. What did you have in this pack?

A. Shaving equipment, rain coat, towels and a green sweater of my own.

Q. And you swear that when you arrived at the Depot-Police you had these articles with you?

A. Yes, Sir.

Q. Where did you leave the pack?

A. They took it away from me when I arrived at the Depot-Police.

Q. Who?

A. It was a lance-corporal, I don't know his name, Sir.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE THE WITNESS.

QUESTIONED BY THE COURT:

Q. When you left Fort Alberni you mentioned that you had put your kit bags on the train?

A. That was in Fort Alberni, Sir.

Q. Was that all in your kit bag?

A. Yes, Sir.

Q. One or two kit bags?

A. I had two kit bags and I had the rest of my equipment tied.

Q. Now could you tell us if the following articles were in the kit bags that you left on the train according to orders received? Braces?

A. Yes, Sir, there were in that, Sir.

Q. Brush button?

A. Yes, Sir.

Q. Brush cloth?

A. Yes, Sir.

Q. Brush hair?

A. Yes, Sir.

16

FIRST WITNESS FOR THE DEFENCE (cont'd).

Q. A comb?

A. Yes, Sir.

Q. Fork table and knife table?

A. Yes, Sir.

Q. Spoon?

A. Yes, Sir.

Q. Belt waist web?

A. Yes, Sir.

Q. Do you mean to say that all these articles were in your kit bags?

A. Yes, Sir.

Q. How about your cap badge?

A. I had my cap badge with me, Sir.

Q. You didn't have any comb, any fork or any knife?

A. No, Sir, I didn't have them with me.

Q. What were you using on the train?

A. They gave us forks and knives on the train.

Q. And when you got back at Joliette?

A. I was using some of the boys Sir.

Q. Your dressing first field?

A. That was in my trousers on the uniform I had put away.

Q. What were your bringing with you on the train?

A. I had a pack, I had one strap on the pack, all shaving equipment, Shoe brush, shoe polishing, a button stick, a rain coat and two pairs of socks and my sweater, I had a towel. I think that is all, Sir.

Q. Who gave you the order to put your kit bags on the train?

A. They gave us the order on the train.

Q. Who gave you the order?

A. The corporal gave us the order.

Q. You were in the regimental band?

A. Yes, Sir.

Q. When you arrived in Joliette did you try and get back your kit bags?

A. Yes, Sir.

17

FIRST WITNESS FOR THE DEFENCE (cont'd).

Q. When?

A. We all went in the drill hall in the afternoon looking for our equipment, all the boys in the band.

Q. Some of the equipment were arrived?

A. Some were there, Sir.

Q. Some other were not arrived?

A. Some equipment were not arrived.

Q. What about your cap badge?

A. I left it at home, Sir, on my way.

Q. So, at the kit inspection you didn't have it?

A. No, Sir.

Q. And you wore it when you were in Joliette?

A. I had it with me, Sir, on my head.

Q. Where was your haversack?

A. That was with the equipment, Sir.

Q. The haversack, not the pack?

A. That was with the equipment, Sir. There were two kit bags, and I had my haversack, and gas cap, and things like that wrapped in the gas cap. I tied in the gas cap and I put my name on it.

Q. You were not wearing any braces?

A. No, Sir.

Q. Any belt?

A. Yes, Sir.

Q. What kind of belt, Web?

A. No, Sir, my own, Sir.

Q. Can you swear that all the articles that you are charged with were left by you in the kit bags that you put on the train at Fort Alberni except your cap badge, you mentioned that you had your cap badge on your cap, can you swear that all the articles mentioned in the charge sheet were left by you in the kit bags that were put on the train at Fort Alberni?

A. There is my pack in there. I had it with me and they put it on the charge sheet and I had it with me.

Q. What about your mess tin?

A. My mess tin was in my haversack, Sir, and a small pack and I am not sure but I believe I put my water bottle there too. I used to keep my water bottle there, and the ground sheet was in there too, Sir.

D-13

FIRST WITNESS FOR THE DEFENCE (cont'd).

Q. What I want to know is this. What are the are the articles that were left in the kit bags?

A. All the articles except the ones I have mentioned, Sir.

Q. Do you swear that you had all these articles when you left Fort Alberni?

A. Yes, Sir.

Q. The pack sack, did you have it when you were paraded at the stores on the 26th of February 1945?

A. Yes, Sir, I had it with me.

Q. I understand that you left Joliette during December 1944?

A. Yes, Sir.

Q. At the time you left that Joliette camp, had you received your kit bags?

A. No, I haven't received anything, Sir.

Q. Had you tried to get your kit bags?

A. Yes, Sir.

Q. And what was the result?

A. Just what I said, that we had been here and the train had not arrived yet on account of snow.

THE WITNESS RESUMES HIS SEAT.

THE PROSECUTOR MAKES A CLOSING ADDRESS:

Sir,

We have established only that on the 26th of February 1945 the accused was deficient of the articles mentioned in the charge sheet. The accused has sworn that all these articles were left on the train, and if there is any doubt as to his guilt he must benefit it.

THE DEFENDING OFFICER DECLINES TO MAKE A CLOSING ADDRESS.

J.C.R.

15

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the first J.C.A.J. charge, is found guilty of the said charge ~~#~~ J.C.A.J.

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, Sir.

~~(Statement of the accused to be recorded on a separate page.)~~ J.C.A.J.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, Sir.

~~(Statement of the accused to be recorded on a separate page.)~~ J.C.A.J.

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. Yes, Sir. (see page CC-3 et seq.)

Question to the accused. Do you wish to call any witness as to character?

Answer. No, Sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

CC-3

The accused, B-624635 Private Charles MOSCATO, Les Fusiliers de Sherbrooke,C.A., attached to No.4 District Depot,C.A., having been previously sworn, is examined by the defending officer:

Q. When was your last leave?

A. It was four or five days, Sir. I don't remember the day I left but it was before Christmas.

Q. For what reason did you overstay your leave?

A. When Les Fusiliers de Sherbrooke arrived at Joliette, I had a recheck. The doctor that rechecked me made a recommendation to see a specialist for me. When the specialist came from Longueuil to Joliette, I did not see him. I went to see the sergeant in the M.I.R. to see why I did not see the specialist. He told me to come back in the afternoon. When I came back he told me there were no papers in my documents. After that General Laflèche came to Joliette and made a speech trying to sign some of the boys. I told him my story about the medical recheck. I went back to the M.O. and told him that the other M.O. had made a recommendation sheet for me. After that I was sent to Longueuil and instead of seeing a specialist I have seen a psychiatrist. He just asked me a few questions, I don't know what it was, I was crazy or something. When I went on leave I went to see my family doctor, the doctor that had cared of me since 14 or 15 years. I had my brother call him up, he was sick in bed. Two weeks later, my brother called up again and the doctor says: "I know what's wrong with your brother but I can't do anything for him because he is in the army A.W.L. After that I wired to the Fusiliers Sherbrooke intending to come back to my unit so that I won't be picked up by the police, provost, that was on January 27th. I never received an answer. I did not know what to do, so I gave myself up in Toronto.

CROSS-EXAMINED BY THE PROSECUTOR:

Q. On what date did you wire to your unit?

A. On the 27th of January.

Q. What was written on your wire?

A. I have it here with me, Sir.

Q. Would you produce this wire to the court?

A. Yes, Sir.

Telegram addressed to CO Les Fusiliers de Sherbrooke, C.A.B.T.C. Joliette, Que., dated 27th January 1945, is read, marked exhibit "K", signed by the president and attached to the proceedings.

Q. Where did you spend your absence?

A. Some days at home with my wife, some days with my mother and some days in a hotel room.

Q. Did you work?

A. No, Sir.

Q. You are married?

13

The accused, B-624635 Private Charles MOSCATO, Les Fusiliers de Sherbrooke,C.A., attached to No.4 District Depot,C.A., having been previously sworn, is examined by the defending officer:

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Q. Where did you spend your absence?

A. Some days at home with my wife, some days with my mother and some days in a hotel room.

Q. Did you work?

A. No, Sir.

Q. You are married?

13

A. Yes, Sir.

Q. Any children?

A. Yes, Sir, one.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE THE WITNESS.

QUESTIONED BY THE COURT:

Q. How long have you been in the Army?

A. Since the 9th of September 1942.

Q. Through which camps or units did you pass?

A. I went to Maple Creek, Saskatchewan, and Red Deer, Alberta, for Army Service Corps training.

Q. For how long have you been with Les Fusiliers de Sherbrooke?

A. Since September, near the end of September 1944.

Q. What were you doing with Les Fusiliers de Sherbrooke?

A. I was playing on the band, Sir.

Q. How old is your wife?

A. She is twenty-four.

Q. How old are you?

A. Twenty-three.

Q. How old is your child?

A. She has been a year on February 8th.

Q. What were you doing before you joined the Army?

A. Just before I was working at the Dominion Chain Company and before I was playing in orchestras.

THE WITNESS RESUMES HIS SEAT.

J.G.A.D.

12

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, Sir, through my defending officer.

The defending officer addresses the court:

The accused, private Moscato, before electing to be tried by court martial,had in mind to put a recommendation before the court so that he would be able to get a medical reboard. I have a medical officer's report stating that he is to be rechecked by a specialist about functional dyspepsia. I think the accused will be very satisfied with that from the court.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

CLOTHING SIZES RECORD

ARTICLE	SIZES
Anklets	
Battle Dress, blouse	
Battle Dress, trousers	
Cap or bonnet	
Boots, ankle	
Gloves	
Facepiece, respirator	
Greatcoat	
Helmet steel, lining	
Overalls, combination	
Jersey, pullover	
Shirts, Angola, drab	
Vest, woollen	
Drawers, cellular	
Drawers, woollen	

OVERSEAS—Militia Book M. 1 Part III
40/P & S/1894 (2570)
CANADA —M.F.C. 800
750M 11-43 (2570)
H.Q. 1773-39-1643
K.P. 92282

"F"

B-624635 PTE. MASCATO. G.J.

CANADIAN ARMY
CLOTHING AND EQUIPMENT
STATEMENT

Regt'l. No. B-624635

Rank pte.

Name MOSCATO. C.

Date of Attestation CERTIFIED TRUE COPY

Original Unit ..... Station .....

Home Address (R. MITCHELL) MAJOR

(Reserve Unit Personnel Only) V.R.C., C.A. Att'd 4 DD.

Quarter-Master 4 DD.CA.

A.C.J. Walker Major
Quartermaster

ARTICLE	QUANTITY					
Anklets, web, prs.	4					
Blouses, Battle-dress	2					
Bonnet, tam-o'shanter						
Boots, ankle, prs.	2					
Boots, rubber, high, prs.						
Boots, leather, high, prs.						
Bonnet, drab, Irish						
Cap, field service	2					
Cap, mechanic						
Cap, tank battalion						
Drawers, Cellular (cotton) short, prs.	2					
Drawers, Woollen, prs.	2					
Gloves, knitted, drab, prs.	1					
Greatcoat, drab						
Initials of Soldier	CJM					
Initials of QM or Rep.	AM					

3

ARTICLE	QUANTITY					
Jacket sweater, or jersey pullover	1					
Overalls, combination	1					
Overalls, blouses, denim						
Overalls, trousers, denim						
Shirts, Angola, drab or flannel khaki						
Shoes, canvas, prs.	1					
Socks, prs.	4					
Trousers, battle-dress, prs.	2					
Vests, woollen	2					
Badges, cap	1					
Badges, arm, drab, crowns						
Badges, arm, drab, crown in wreath						
Badges, arm, Tank Bn.						
Badges, shoulder, "CANADA", prs.						
Initials of Soldier	CJM					
Initials of QM or Rep.	AM					

ARTICLE	QUANTITY						
Badges, arm, drab, Royal Arms							
Badges, arm, drab, Royal Arms in Wreath							
Bags, kit, universal	1						
Braces	1						
Brass, cleaning	1						
Brush, button, brass	1						
Brush, clothes	1						
Brush, hair	1						
Brush, shaving	1						
Brush, shoe, blacking	1						
Brush, shoe, polishing	1						
Brush, tooth	1						
Cap, comforter	1						
Chevrons	1						
Initials of Soldier	CJM						
Initials of QM or Rep.	AM						

ARTICLE	QUANTITY					
Combs, hair	1					
Discs, identity, sets, with cord						
Dressing, field	1					
Fork, NS Table	1					
Holdall	1					
Housewife, complete	1					
Knife, clasp	1					
Knife, table	1					
Lanyard, knife	1					
Razor, safety, with blade	1					
Patches, distinguishing, prs	1					
Shorts, gymnasium	1					
Spoons, NS dessert	1					
Vest, cotton, gym	1					
Initials of Soldier	CJM					
Initials of QM or Rep	AM					

ARTICLE	QUANTITY					
Towels, hand	4					
Unit or Corps titles, prs.						
Attachments, brace						
Bag, ration	1					
Belts, waist	1					
Bottles, water	1					
Braces, WE (Right)	1					
(Left)	1					
Carriers, cartridge	2					
Carriers, waterbottle	~~1~~ 1					
Cases, binoculars						
Cases, pistol						
Covers, breech, rifle						
Initials of Soldier	CJM					
Initials of QM or Rep.	AM					

ARTICLE	QUANTITY					
Cover, mess tin						
Frogs, web, bayonet						
Haversack	1					
Helmet, steel	1					
Net camouflage helmet	1					
Packs	1					
Pockets Compass						
Pouches, amm, pistol						
Pouches, basic	1					
Pouches, utility { Front / Rear						
Slings, rifle, web	1					
Straps, shoulder, haversack { left / right	2					
Straps, web, supporting	2					
Tins, mess, TP	1					
Initials of Soldier	CJM					
Initials of QM or Rep	AM					

ARTICLE	QUANTITY					
Veil, face, camouflage						
Yoke						
Cloth leather gauntlet	2					
Capes, A/G	1					
Respirators, A/G, complete with haversack	1					
Outfits, A/D	1					
Ointment, A/G	1					
Eyeshields, A/G, pk of 6	1					
Detectors, Individual prs						
Wallet, A/G						
Blanket						
Mug, drinking						
Sheet, ground	1					
Initials of Soldier	CJM					
Initials of QM or Rep	AM					

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ARTICLE	QUANTITY
Rifle No. B.L.5197 (Regt'd No.)	1
Bayonet No. ..... w/scabbard	1
Bottles, oil	1
Pullthroughs, single	1
Rods, cleaning, pistol	
Carbine, Mach. (Regt'd No.)	
Magazines, Carbine	
Pistol Revolver No. ..... (Regt'd No.)	
Ctges, SA, revolver .380 in	
Ctges, SA, .303 in Mk VII	
Initials of Soldier	CJM
Initials of QM or Rep.	AM

ADDITIONAL ISSUES — CANADA ONLY

ARTICLE	QUANTITY					
Belts, waist, leather, brown or web 1½"	1					
Boots ankle, felt, prs.						
Boots, insoles, prs.						
Boots, lumberman's rubber prs.						
Buttons, G.S., large	4					
Buttons, G.S., small	4					
Cap, winter, melton cloth	1					
Coat waterproof	1					
Helmet, sun	1					
Jackets, Khaki drill	1					
Jackets, serge, drab, O.C.						
Initials of Soldier	CJM					
Initials of QM or Rep.	AM					

ARTICLE	QUANTITY					
Mitts, pullover, leather, prs.	1					
Muffler, khaki	1					
Necktie, black	1					
Pin, collar, safety	1					
Puttees, prs.	1					
Rubbers, prs.	1					
	1					
Shirts, khaki, cotton	2					
Shirts, undercotton	2					
Shoes, leather, black, prs.	1					
Socks, black, prs.	1					
Trousers, khaki drill, prs.	1					
Trousers, khaki drill, short, prs.	2					
Trousers, serge, drab, N.P. prs.	1					
Initials of Soldier	CJM					
Initials of QM or Rep.	AM					

13

ARTICLE	QUANTITY
Badges, shoulder, Canada, drill, prs.	
Blacking, tins	
Boot dressing, tins	
Bootlaces, prs.	
Protectors, ear	
Sponge, pipeclay	
Lanyard, pistol	
Initials of Soldier	CJM
Initials of QM or Rep.	AM

J.C.G. Hudson major
Quartermaster

-53-
"G"

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT Les Fusiliers de Sherbrooke, C.A.

PART II ORDERS

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 20
STATION Joliette, Que.
DATE 28-12-44

"Last Order Issued No. 19 dated 27-12-44"

SUB No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN., COY., ETC.	CASUALTY & REMARKS	DATE
19.	ABSENT WITHOUT LEAVE					
		B-624635	Fus. MOSCATO, C.J.D.		A.W.L. from 2359hrs, 26 Dec 44. (1st Publication)	
			(CERTIFIED TRUE EXTRACT)			
			(C.A.Brosseau)Lt.-Colonel, District Records Officer, Military District No.4.			

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

M. F. D. 873A
1,000,000-10-41 (6791)
H.Q. 1772-39-254

(H. Labine) Major,
For (J.G.P. Brosseau) Capt., Adjt.
Les Fusiliers de Sherbrooke, C.A.

10

-55-

"H"

J. C. G. Nelson major
President SCM

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major-General (Number) A.E.Potts, (Rank) D.O.C., M.D.2. (Name) (Unit)

hereby certify that B-624635 (Number) Fus. (Rank) MOSCATO, C. (Name in full)

of the Fusiliers de Sherbrooke (Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ any (surrendered to) (Number) Captain (Rank)

G.M.Bradfield (Name) H.Q., M.D.2. (Unit or appointment)

at 159 Bay St., Toronto. (Place) at 1030 Hours (Hour)

on the 17th day of February 19 45

Strike out words not applicable } ~~absent~~ any absentee without leave), and that at the time of his arrest he was wearing military ~~[illegible]~~ or uniform ~~[illegible]~~ or

Dated at Toronto, Ont. this 16 day of March 19 45

Arthur Potts
(A.E.Potts) Major-General
(Signature, Number, Rank, Unit or appointment)
D.O.C., M.D.2.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (6900)
H.Q. 1772-39-1936

9

"C"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. (Rank) R. CHAMPAGNE, (Name) (Gen.List) Att'd no. 4 Dist. Depot C.A. (Unit)

Strike out word not applicable — hereby certify that I ~~caused~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Montreal, Que. (Place) to Toronto Ont (Place)

and return to Montreal, Que. (Place) for the purpose of escorting

Full description of soldier being escorted — B-625635 (Number) MOSCATO, C. (Rank) (Name in full)

Att'd No. 4 District Depot C.A. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation~~) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
TRANSPORT WARRANT NUMBER C:956302 dated 24th Feb. 45	
1-single Railroad Ticket (for absentee) from Toronto.Ont. to Montreal.Que.	6.45
1-return Railroad ticket(for escort) from Montreal,Que to Toronto.Ont.	12.90
TOTAL	$ 19.35

Dated at Mtl South, Que. this 24th day of Feb. A.D. 19 45

R. CHAMPAGNE, Lieut. Att'd DD-4

Signature, rank, unit, attachment (if any) and appointment of officer (~~issuing transport warrants~~) (authorizing transportation)

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
(20m—10-43 (6652))
H.Q. 1772-99-1551

"D"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER ~~1099, 1941~~ 1877, 1942

(INCIDENTAL EXPENSES)

J. C. Richardson Major
President SCM

Complete description

I, D-59391 Pte. Poudrier.W. Att'd No. 4 District Depot C.A.
(No.) (Rank) (Name) (Unit)

Strike out words not applicable

as (escort) ~~XXXXXXXXXXXXXX~~ consisting of myself

Members of escort

detailed to proceed from Montreal to Toronto
(Place) (Place)

Name and description of soldier escorted

to return B-625635 Pte. MOSCATO. . O.

alleged to be ~~XXXXXXXX~~ a deserter or absentee without leave, to Montreal.Que.
(Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
TRANSPORT WARRANT NUMBER: C:256202 dated 24th Feburary 1945	
1-meal ticket (for escort) at $1.00	1.00
1-meal ticket (for absentee) at .75¢	.75
1-meal ticket (for escort) at.75¢	.75
Total	$ 2.50

Dated at Mtl South,Que. this 24th day of Feb. A.D. 1945

W Poudrier
D-59391 Poudrier.W. (Signature and rank)
Private, (escort)
Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.D. 1452
7534—3-42 (3000)
H.Q. 1772-39-1859

7

(COPY)

"K" Form 6101

Exclusive Connection with WESTERN UNION CABLES
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W. M. ARMSTRONG, GENERAL MANAGER, TORONTO, ONT.

CLASS OF SERVICE DESIRED	
FULL RATE MESSAGE	
DAY LETTER	
NIGHT MESSAGE	
NIGHT LETTER	

PATRONS SHOULD MARK AN X OPPOSITE THE CLASS OF SERVICE DESIRED; OTHERWISE THE MESSAGE WILL BE TRANSMITTED AS A FULL-RATE TELEGRAM

RECEIVER'S NO.	TIME FILED	CHECK
	831P	17/14 6 EXTRA--C-3-B

Send the following message, subject to the terms on back hereof, which are hereby agreed to

NIAGARAFALLS ONT JAN 27 1945 19

To CO LES FUES DE SHERBROOKE

CABTC JOLIETTE QUE

SIR AM READY TO COME BACK ON OBLIGE SEND CLEAXRANCE NOTE

PTE MOSCATO B624635

1685 ROBINSON ST

Vol Surrender
to Capt Bradford
H.Q M D 2
at 1030 hrs
17-Feb-45

at the foot of Bay and Front.
Maj Stephens

G. A. F. Lawson, major
President SCM

M.F.B. 358
75M—5-43 (145)
H.Q. 1773-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-624635,	Private	Charles MOSCATO,	Les Fusiliers de Sherbrooke, C.A., att'd to No.4 D.D., C.A.

1. The following is a fair and true summary of the entries in the field ~~Service and Conduct, Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment
For	A.W.L. ---------- 1 times		A.W.L. ---------- 3 times
For	Neglect to Prejudice------ 1 times		Neglect to Prejudice------- 1 times
For	~~times~~		times
For	~~times~~		times

~~Number of instances of gallantry or distinguished conduct~~ ~~or~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~on~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Air Force Act ~~A.F.A. 73~~ ~~Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this document.~~

3. The accused is not under sentence at the present time. ~~or~~

~~The accused at the present time is under sentence for beginning the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in ~~Air Force~~ civil custody, and 30 days in military custody, making a total of 30 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment ~~attestation~~ paper is 23 years 9½ months. (5th June, 1921)

6. The date of his ~~commission~~ enrolment specified in his ~~record of service~~ enrolment ~~attestation~~ paper is 7th Sept., 1942.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no military ~~air force~~ decoration, or military ~~air force reward~~ ~~(or is in possession of or entitled to). State any air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force (or the regimental rank of~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated ....., and in his regiment (or corps) the rank of .....dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~26th~~ 26 32 March 1945. day of

(F.R.O'Connor) Captain,
27th C.A.R., C.A., att'd 4D.D., C.A.
Officer i/c Records No.4 D.D., C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

J. C. T. Wilson, major
President

Les Fusiliers de Sherbrooke, CA.

Reg. No. B-624635 Name MOSCATO, C.J. Corps Bn HQ Date of enlistment or enrolment 7 Sept. 42. Date of Birth

M.F.M. 6

Signature O.C. Company, etc. (sgd) E. Labourne Maj.

Sheet No. one of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of Offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Maple Creek	27 Apr 43	Fus		AWL from 0600 hrs 26 Apr 43 to 2110 hrs 26 Apr 43 Absent 16 hrs ~~10 mins. AA Sec 15(1)~~	CSM Dahl SA.	Admonished	27Apr43	Capt P.W. Farrar	2 days pay FR&I 149-1-a (sgd) EL
Maple Creek	18Jul43	Fus		AWL from 0600 hrs 18 July 43 to 2030 hrs 18 July43 Absent 14 hrs 30 mins.	L/CPL Markost,AA.	7 days C.B.	19Jul43	Maj MM Lumbert	1 days pay FR&I 149-1-a (sgd) EL
Prince George	2 Apr44	Fus		Neglect to the prejudice of good order and military discipline: ~~on Church Parade (AA Sec 40)~~	Sgt.Lavoie L.J.	3 days C.B.	3 Apr44	Maj RC Allen	
Wainwright	28 Jun44	Fus		ABSENT WITHOUT LEAVE: from 0600 hrs 28 Jun 44 to 0300 hrs 3 Jul 44 ~~(Total absence 4 days 21 hrs)~~.	Documentary	5 days pay	5 Jul 44	Maj RC Allen	Fined 16 days pay (sgd) EL

(over, please)

(P.T.O.)

M.F.M. 6—500M—5-44 (3368)
H.Q. 1772-39-1032

Date	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or order depending with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY

F. R. O'Connor

.....

(F. R. O'Connor) Captain,
27th C.A.R., C.A., att'd to No.4 D.D., C.A.
Officer i/c Records No. 4 D.D., C.A.

H.Q.C.55-M-1627 (JAG/D-4)
Your File - M.1-M-15610

6 Apr 45

District Officer Commanding,
Military District No.4,
Montreal, Que.

STANDING COURT-MARTIAL
H-624335 Pte. Charles MOSCATO,
Les Fusiliers de Sherbrooke, C.A.,
attached to No.4 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. It is noted that the accused has elected trial by Court-Martial in accordance with A.A. 46(8) instead of submitting to the jurisdiction of his Commanding Officer and that he was sentenced to 90 days detention. Your attention is drawn to K.R. (Can) 563(c) where it is laid that "in ordinary circumstances the Court should not award a heavier sentence than that which the Commanding Officer had power to award."

3. The proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

JOGR/ET

(R.J.Orde) Brigadier,
Judge Advocate-General.

3

THIS COPY FOR: H.Q. C.55-M-1627
M.D. M.1-M-15810

NGMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B.624635 Name MOSCATO, Charles

Rank Pte Unit Les Fus de Sherbrooke C.A. att No. 4 D.D. C.A.

Charge (1st) A.A. 15 (1) - A.W.L.

(2nd) A.A. 24 (2) - Losing by neglect ..

Date of Crime (1) 26-12-44; (2) 26-2-45

Date of Arrest (1) 17-2-45 Charge Signed 28-2-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. Montreal S Que 20-3-45

Sentence Det 90 days; sto pages 21.85

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36481

Date 31-3-45

MEMO Not Guilty on 2nd Charge

M.D. 4 - Nol 4 D.D.

Absent Sentence

1½ mos Det. 90 days

for Judge Advocate-General

10M-1-45 (M-4629)

Noted that:

1- accused has elected trial by C.M.

2- " was sentenced to 90 days det.

attention drawn to K.R. (Can) 563(e).

5-4-45

IN REPLY PLEASE QUOTE No. M. 1-M-15810

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 28th March 1945.

CENTRAL REGISTRY Army
CONF. SEC.
MAR 29 1945
6.55-M-1427
Referred to

CONFIDENTIAL.

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

STANDING COURT MARTIAL.
B-624635 Private Charles MOSCATO,
Les Fusiliers de Sherbrooke, C.A.,
attached to No.4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

(a) Proceedings of the court
(b) Medical officer's reports d/20 and 21 March 1945 respectively.

2. Submitted for your information, consideration and approval, please.

J. A. G. Dubeau

(J.A.G. Dubeau) Major
Headquarters, Military District No.4
President of Standing Court-Martial.

36481

1

NAT. DEF. R. 440
25M-4-44 (4225)
H.Q. 1232-38-787

H.Q.C. 55-M-1628 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT MARTIAL.

MURPHY. WILLIAM JAMES. F-36291 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1628

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 5 1945				A.G.	NEW FILE	C.R.	MAR 30 1945
					APR 21 1945		
APR 26 1945	25-4-45			Jcm	Tentative	MM	24-4-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1528 (JAG/D-9)

23 Apr 45.

District Officer Commanding,
Military District No. 6,
Halifax, N.S.

Standing Court-Martial
F.36291 Pte. MURPHY, W.J.
3 Inf. Trg. Bn., C.I.C., C.A.

Receipt is acknowledged of your H. M-3992 (JAG) dated 18th April 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial. Your explanation of the delay in this case has been noted.

/ET

for (R.J.Orde) Brigadier,
Judge Advocate-General.

Noted
for L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 25 1945

IN REPLY PLEASE QUOTE No. H. M-3992 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, M.D. No. 6,
Halifax, N.S., 18 Apr 45.

CONFIDENTIAL

308495

ROYAL MILITARY Army
CAPITAL H.Q.
APR 20 1945
Orig. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

55-M-1628

Standing Court-Martial
F.36291 Pte. MURPHY, W.J.
3 Inf. Trg. Bn., C.I.C., C.A.

1. Reference H.Q.C. 55-M-1628 (JAG/D-9) dated 4 Apr 45.

2. The proceedings of this Court-Martial are herewith returned for safe custody, having been duly reviewed. Paras. 2 and 3 of referred to letter have been brought to the attention of the officers concerned.

3. Although this soldier has undergone Basic and Advanced Training, it is not recommended that his sentence be remitted or suspended, as further disciplinary action needs to be taken against him when he has served his sentence.

4. In regard to the delay in bringing this soldier to trial, the application for the Court-Martial had to be returned for alterations and correction in connection with his documents, and the accused was tried at the next sitting of the Court, 22 Mar 45. The accused was tried at the first available Standing Court-Martial.

(D.A. White) Brigadier,
D.O.C., M.D. No. 6.

NAT. DEF. B. 445
2000M-4-44 (5321)
H.Q. 1772-39-767

PROCEEDINGS OF A STANDING COURT-MARTIAL

F-36291 Pte. William James MURPHY
3rd Infantry Training Battalion, CIC, CA

Debert, N.S. 22nd day of March, 1945

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Debert, N.S.

on the 22nd day of March 1945 at 1030 hours,

for the trial of: F-36291 Private William James MURPHY
Number Rank Full Name

3rd Infantry Training Battalion, CIC, CA
Unit Attachment, if any

PRESIDENT: Major R.F. Barnes, E.D., Headquarters, M.D. No. 6, CA
Permanent President Standing Courts-Martial, M.D. No. 6

PROSECUTOR: Capt. A.L. Bourque, M.C., Headquarters, M.D. No. 6, CA
Permanent Prosecutor District Courts-Martial, M.D. No. 6
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ DEFENDING OFFICER: Capt. W.H. Wilson, 3rd Inf. Trg. Bn., CIC, CA
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused, F-36291 Private William James MURPHY, 3rd Infantry Training Battalion, not guilty of desertion but guilty of absence without leave on the charge.

SENTENCE: The Court sentence the accused, F-36291 Private William James MURPHY, 3rd Infantry Training Battalion, to undergo detention for sixty (60) days.

Signed at Debert, N.S. this 22nd day of March 1945.

R.F. Barnes Major
President,
Standing Court-Martial

Extracts entered as No. 36501 in the Courts-Martial kept in the Judge Advocate-General's Office this 31 day of March 1945

M.F.E. 1485
25M 8-44 (4256)
H.Q. (171-339-2236)

Forms of Oaths and Declarations

Oaths

Shorthand Writer

You swear by Almigthy God that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the Court a true transcript of the same.

Answer: I do.

Interpreter

You swear by Almighty God that you will to the best of your ability truly interpret and translate, as you shall be required to do, touching the matter before this court-martial.

Answer: I do.

Witness

You swear by Almighty God that the evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth.

Answer: I do.

Solemn Declarations

The form of declaration will be the same as the form of oaths except that for the words "You swear by Almighty God" will be substituted the words "You (name in full) do solemnly promise and declare"; and that the words "solemnly promise and declare" will be substituted for the word "swear" wherever it occurs.

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~ .....

Answer: ~~as interpreter ?~~ .....

Question to the accused. Do you object to G-13090 Pte. (A/S/Sgt) G.H. Russell No. 6 Detachment, C.M.S.C., C.A. as shorthand writer ?

Answer: No sir.

The shorthand writer ~~and interpreter (if any)~~ ~~are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes sir.

Question to the accused. Are you guilty or not guilty of the (~~first~~) charge against you, which you have heard read ?

Answer: Not guilty.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. .....

(The accused having pleaded guilty to ..... ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B-2"

~~Lieut~~. BARNES, Major
President S.C.M.

4

CHARGE SHEET

The accused, F-36291 Private Murphy, William James, 3rd Infantry Training Battalion C.I.C., a G.S. soldier of the Canadian Army placed on Active Service, is charged with;

SEC 12 (1) (a) ARMY ACT — WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

at 1800 hours on 1st day of January, 1945, absented himself without leave from 3rd Infantry Training Battalion, C.I.C., Debert Camp. N.S., on said 1st day of January, 1945, until apprehension by ~~Military~~ Civil authorities at Reserve Mines, Nova Scotia, at 2130 hours 1st March, 1945, dressed in uniform. Cost of apprehension and return to unit, $19.55.

President SCM

(R.G.L. Parker) Lt.-Col.,
O.C. 3 Inf Trg Bn CIC,
Debert, N.S.

13 Mar 45

Debert, N.S.

Proceedings on Plea of Not Guilty

5

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. B-154551 Cpl. W.C. Lightheart
3rd Infantry Training Battalion, CIC, CA

being duly sworn, is examined by the Prosecutor.

Question Give the Court your number, rank, name and unit?

A. B-154551 Cpl. W.C. Lightheart, 3rd Infantry Training Battalion, CIC, CA.

Q. How are you employed?

A. As corporal in the Battalion Orderly Room.

Q. Please state what these documents are?

A. M.F.B. 375 dated 25th January, 1945.
M.F.M. 215 dated 1st March, 1945.
Certified true extract from Training Brigade Group Daily Orders Part II, No. 4 dated 2nd January, 1945.
Certified true extract from Training Brigade Group Daily Orders Part II, No. 7 dated 6th January, 1945.
Certified true extract from Training Brigade Group Daily Orders Part II, No. 22 dated 23rd January, 1945.
Certified true extract from Training Brigade Group Daily Orders Part II, No. 77 dated 13th March, 1945.
M.F.B. 1461 dated 6th March, 1945 in the amount of $19.55.

Q. To whom do they refer?

A. The accused F-36291 Pte. W.J. Murphy, whom I identify.

Q. Do you present these documents in evidence?

A. I do sir.

M.F.B. 375 DATED 25TH JANUARY, 1945 IS READ BY THE COURT, MARKED EXHIBIT "F", SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

M.F.M. 215 DATED 1ST MARCH, 1945 IS READ BY THE COURT, MARKED EXHIBIT "G", SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

CERTIFIED TRUE EXTRACT FROM TRAINING BRIGADE GROUP DAILY ORDERS PART II, NO. 4 DATED 2ND JANUARY, 1945 IS READ BY THE COURT, MARKED EXHIBIT "H", SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

CERTIFIED TRUE EXTRACT FROM TRAINING BRIGADE GROUP DAILY ORDERS PART II, NO. 7 DATED 6TH JANUARY, 1945 IS READ BY THE COURT, MARKED EXHIBIT "I", SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

CERTIFIED TRUE EXTRACT FROM TRAINING BRIGADE GROUP DAILY ORDERS PART II, NO. 22 DATED 23RD JANUARY, 1945 IS READ BY THE COURT, MARKED EXHIBIT "J", SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

CERTIFIED TRUE EXTRACT FROM TRAINING BRIGADE GROUP DAILY ORDERS PART II, NO. 77 DATED 13TH MARCH, 1945 IS READ BY THE COURT, MARKED EXHIBIT "K", SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

M.F.B. 1481 DATED 6TH MARCH, 1945 IN THE AMOUNT OF $19.55 IS READ BY THE COURT AND DISALLOWED.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE.

QUESTIONED BY THE COURT.

Q. Is the soldier referred to as F-36291 Pte. Murphy, J.W. in the document M.F.B. 375 the same person as the accused?

A. Yes sir.

THE WITNESS WITHDRAWS.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence as a witness.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

First Witness for) the accused, F-36291 Pte. W.J. Murphy
the Defence) 3rd Infantry Training Battalion, CIC, CA

being duly sworn is examined by the Defending Officer.

Q. Pte. Murphy, what were your reasons for leaving camp on or about the 1st January?

A. Things were not going good home, and my father couldn't work any more as he got asthma, and he was caught making moonshine, and if he gets convicted he will go to jail for eighteen months.

Q. How many times has he been caught?

A. Four or five times.

Q. What did you do while home?

A. I worked.

Q. How much money did you make?

A. About $200.00.

Q. What did you do with the money.

A. I gave it to my parents.

Q. What were your intentions?

A. Coming back to the army sir.

Q. How old were you when you got into the army?

A. Seventeen.

Q. You volunteered?

A. Yes.

Q. What endeavours did you make to get overseas?

A. Since I joined I asked to be sent overseas at least six times. I went before the O.C. at Aldershot and he said I would have to wait another year.

Q. Did you turn down any courses to go overseas?

A. Yes, a D.M. course.

Q. And you still wish to go overseas?

A. Yes. More than anything.

Q. Did you point out to an officer that it would keep you out of trouble to get overseas?

A. Yes, I said I want to get overseas as soon as possible because if I am around here I would only get in trouble.

Q. How old are you now?

A. Nineteen.

CROSS-EXAMINED BY THE PROSECUTOR.

Q. Murphy, were you absent from 1st January, 1945 until 1st March, 1945 without leave?

A. Yes.

Q. During that time did you stay at home?

A. Yes.

Q. Have you any brothers at home?

A. No.

Q. Where is your home?

A. Reserve Mines.

Q. When were you nineteen?

A. On 25th November last year.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE.

QUESTIONED BY THE COURT.

Q. When did you expect to get back to your unit?

A. I was ready to come back the next night.

THE WITNESS RESUMES HIS SEAT.

THE DEFENCE HAS NO FURTHER WITNESSES.

THE DEFENCE IS CLOSED.

THE PROSECUTOR DECLINES TO MAKE A CLOSING ADDRESS.

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes sir, through my Defending Officer.

Defending Officer: The evidence of his record brings out very clearly that he would be much better off overseas. I would ask for leniency from the Court in view of his extreme youth, and I would ask that he be placed on an overseas draft, as his work in Canada has not been good.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Marked "F" and signed by me.

R. T. Harrell MAJOR
PRESIDENT, C.M.

RECORD of the Declaration of a Court of Inquiry assembled at Debert Camp on the 25th day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. F-36291 Pte. Murphy, J.W.

DECLARATION

The Court declare that No. F-36291 (Regt'l No.) Pte. (Rank) Murphy J.W. (Full Name) No. 3 Inf Trg Bn CIC (Unit) illegally absented himself without leave from 3 Inf Trg Bn CIC at Debert, N.S. (Place) at 1800 hours on the first day of January 1945 that he is still so absent, and that on the 1 Jan 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		100%	VALUE 75%	
Greatcoats	1	15.54	11	66
Gloves Woolen prs	1	.66		50
Boots Ankle prs	2 @ 5.82	11.64	8	73
Blouses Battle Dress	1	6.50	4	88
Trousers " "	1	6.55	4	91
Drawers Woolen	1	1.40	1	05
Jacket Sweater	1	1.37	1	03
Shirts Flannel	1	1.63	1	22
Shirts woolen	1	1.20		90
			$34	88

ARTICLES	VALUE	
Fwd -	$ 34	88
Clothing Div "C" chge @ 100%		
Braces 1		28
Brushes Hair 1		39
Brushes Cloth 1		17
Knives Clasp 1		99
Belts Leather 1		35
Total	$ 37	06

C.R. Southwell Capt. 3 Inf Trg Bn President
(Name) (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Signed at Debert, N.S.

this 25 day of January 1945

Signature of Commanding Officer A.B. Morkill Major 3 Inf Trg Bn
(Name) (Rank) (Unit)

Certified true copy [illegible] Capt 3 Inf Trg Bn C.I.C.
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

M.F.H. 375
A.F.B. 115
150M—10-41 (8530)
H.Q. 1272-39-257

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, AS PUBLISHED IN GENERAL ORDER No. 127, 1942.

(Apprehension by or ~~Surrender~~ to Civil Authorities)

Marked "G" and signed by me.

MAJOR C.M.

I CERTIFY that the person whose description is given below was arrested by ~~surrendered to~~

Strike out words not applicable

F. J. Comfort, A/Cpl.

(Name of Peace Officer or Constable)

at Reserve Mines, N.S., (Place) at 9.30 P.M. (Hour)

on the 1st day of March, 19 45

Strike out words not applicable

and at the time of arrest ~~surrender~~ he was wearing military ~~civilian~~ uniform ~~civilian clothes~~.

Regimental particulars of officer or soldier referred to above.

No.	F36291
Rank	Pte.
Name	MURPHY, W. J.
Unit	3rd Inf. Trg. Bn., Debert, N.S.
Age	20
Height	5' 7½"
Complexion	Med.
Hair	Black
Eyes	Hazel
Marks	Nil

Description

Expenses - Nil

Signature of ~~officer or~~ constable by whom arrest ~~or surrender~~ was made ~~of officer in charge of police station, or other person in control of military or civilian authorities to whom custody upon such arrest or surrender~~

F. J. Comfort, A/Cpl.

~~Officer~~ (Constable) ~~Officer in charge~~

R.C.M.P. Glace Bay

Strike out words not applicable

M.F.M. 315
75M—12-43 (2578)
H.Q. 1772-39-1935

Marked "H" and signed by me.

R. Barnes
Lt. Colonel, C.M.

DAILY ORDERS PART II

By

LIEUT COLONEL W.E. GILLESPIE
T/ OFFICER COMMANDING

TRAINING BRIGADE GROUP

Order No. 4,
2 Jan 45
No. of Pages I2
Debert, N.S.

(Last Order issued No. 3 d/2 Jan 45)

3 INF TRG BN CIC

"B"

I. ABSENT WITHOUT LEAVE

A.W.L. FROM I800 hrs I Jan 45

F-36291 Pte Murphy,W.J.

Certified True Extract.

(H.L.Nixon) Major
A/DAA & QMG
Trg Bde Gp.

Signed (H.L.Nixon) Major
A/DAA & QMG
Trg Bde Gp.

Marked "I" and signed by me
R.T. Barnard
Major, R.C.M.P.

DAILY ORDERS PART II

By

LIEUT COLONEL W.E. GILLESPIE
T/Officer Commanding

TRAINING BRIGADE GROUP

Order No. 7
6 Jan 45
No. of Pages 25
Debert, N.S.

---

3 INFANTRY TRAINING BATTALION CIC

"B" OTHER RANKS

32 ABSENT WITHOUT LEAVE

A.W.L. from 1800 hrs. 1 Jan 45. Still absent at 1800 hrs. 9 Jan 45. (8th day)

F 26391 Pte. MURPHY, W.J.

Certified True ~~Copy~~ Extract
.....
(H.L.NIXON) Major
A/DAA & QMG
Trg Bde Gp.

Signed (H.L.NIXON) Major
A/DAA & QMG
Trg Bde Gp

Marked "A" and signed by me.

DAILY ORDERS PART II

By
LIEUT COLONEL W.E. GILLESPIE
T/Officer Commanding

TRAINING BRIGADE GROUP

Order No. 22
23 Jan 45
No. of Pages 3I
Debert, N.S.

(Last Order Issued No. 2I d/22 Jan 45)

No 3 INF TRG BN CIC

"B"

I8 ABSENT WITHOUT LEAVE (Records Purposes Only)

A.W.L. from I800 hrs I Jan 45. Still absent I800 hrs 22 Jan 45 (22nd day)

F-3629I Pte MURPHY, W.J.

Certified True ~~Copy~~ Extract
(J.A.BROCHU) Lieut.
Officer i/c Records
Trg Bde Gp.

Signed (J.A.BROCHU) Lieut
Officer i/c Records
Trg Bde Gp

Marked "K" and signed by me.
R. Barnett
MAJOR
C.M.

DAILY ORDERS PART II

by
BRIGADIER W.G. COLQUHOUN M.C.
Commanding

TRAINING BRIGADE GROUP

D.O. No. 77
13 Mar 45
Debert, N.S.

(Last Order issued No. 76 d/12 Mar 45)

3 INF TRG BN CIC

"B" Other Ranks.

STRENGTH INCREASE

Having been S.O.S. 3 Inf Trg Bn CIC by Ct Inq 25 Jan 45 for A.W.L. ..... 1800 hrs ..... 1 Jan 45 T.O.S. (at $1.40 per diem) ..... on apprehn from des. by civil authority at Reserve Mines N.S..... 2130 hrs 1 Mar 45.

F-36291 Pte. MURPHY, W.J.

(Signed) J.A. BROCHU Lieut.
Officer i/c Records
Trg Bde Gp.

Extract
Certified True Copy .....
(J.A. BROCHU) Lieut.
Officer i/c Records
Trg Bde Gp.

Marked "Y" and signed by me.

MAJOR

M.F.D. 355
25M—5-42 (145)
H.Q. 1775-39-620
A.F.B. 295

17

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F-36291	Pte.	Murphy, W.J.	3 Inf Trg Bn CIC

1. The following is a fair and true summary of the entries in the Field [redacted] Conduct sheets [redacted] of the accused, [redacted] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	2 times	A.W.L.	3 times
For		times		times
For		times		times
For		times		times

[redacted]

2. The accused has not been previously convicted [redacted]

3. The accused is not under sentence at the present time. [redacted]

4. The accused has been in confinement awaiting trial on the present charges for Nil days in civil custody, and 21 days in military custody, making a total of 21 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 19 years, 5 months.

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 27 Oct 43

7. [redacted]

8. [redacted]

9. The accused is in possession of or entitled to no [redacted] military decoration, or [redacted] military reward [redacted]

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air~~ Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~18th~~ 22nd day of March, 1945 (H.W. Ballard) A/Capt.
A/Adjt 3 Inf Trg Bn CIC,
Debert, N.S.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. F-35291

Name MURPHY, William J.

Sqn., Battery, or Company

No. and date of last drunk

NO. 6 District Depot, C.A.

Corps

Period not reckoning towards freedom from extra fine

Marked "Z" and signed by me.

26-10-43

Date of enlistment

G.C. Badges

Signature O.C. Company, etc.

Tradesmen's Rates of Pay

Character

M.F.M. 6 (A.F.B.1123) 750M—12-12 (7322) H.Q. 1772-39-1032

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Yarmouth N.S.	28 Dec. 43	Pte.		A.W.L. from 0830 hrs 28 Dec 43 until 0900 hrs 31 Dec.43 (Absent. 3 days 30 mins (Open Arrest	Documentary	168 hrs Detent.	3 Dec 43	Lt-Col. Dawson V.D.	Forf 4 Days Pay (FR&I)
Donated Blood at Kentville									
Aldershot, N.S.	3 Aug 44	Pte.		Blood Donor Clinic 5 Apr 44. A.W.L. from 032359 P. Aug. 44 Until 231415 P. Aug. 44 (abs. 19 days 14 hrs 16 mins.) (In close arrest from 231415 P Aug. 44 until 241400 P Aug 44. (23 hrs. 45 mins (A.A. Sec. 15)	D.O. #88 D/11 April 44 Cpl. Lowe	28 days Det. 20 days pay FR&I 149 (1) (a) 1 days pay FR&I 149(1)(c) 28 days pay FR&I 149(1) (b)	Col.H.C. MacKendrick	24 Aug 44	Tot. Forf. 49 days pay
				CERTIFIED CORRECT AS OF 14 Oct. 44					

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Debert, N.S.	23 Oct 44	Pte		A.W.L. from 0600 hrs 23 Oct 44 until ~~1215 hrs 15~~ 2215 hrs 15 Nov 44 (Absent 23 days 16 hrs 15 mins) (In close arrest from 2215 hrs 15 Nov 44 to 1400 hrs 17 Nov 44) (1 day 15 hrs 45 mins)	Documentary	Forf 24 days pay under FR&I 149(1)(a) Forf 28 days pay under FR&I 149(1)(b)	16 Nov 44	Lt. Col. R.G.L.Parker	Tot. Forf. of 52 days pay.

Certified True Copy .....
(H.M. Ballard) A/Capt.
A/Adj't 3 Inf Trg Bn CIC,
Debert, N.S.

M.F.B. 1481
115m—10-43 (2706)
H.Q. 1772-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Disallowed

Fill in complete description — I, Lieut M.F. Vining, C.S. & T.O., Debert Camp, N.S.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~ M.V.) the hereinafter itemized transportation for escort

Complete — to proceed from Truro, N.S. (Place) to Sydney, N.S. (Place)
and return to Truro, N.S. (Place) for the purpose of escorting

Full description of soldier being escorted — F-36291. Pte. Murphy, J.W., (Number) (Rank) (Name in full)
No. 3 Inf. Trg. Bn., CIC, Debert, N.S. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~authorized the transportation~~ M.V.) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	ESCORT, TW # C/ 874579. (M-17556. Sgt. Baisley, G)	
	One single first class fare, Truro, N.S. - Sydney N.S.	$5.62
	Tax	.85
	One upper single standard berth, Truro,-Sydney.	1.60
	Tax	.35
	ABSENTEE & ESCORT, TW # C/ 874579.	
	Two sgl. 2nd cl. fares, Sydney, N.S. - Truro, N.S.	7.66
	Tax	1.20
	Meals TW # C/ 874579: 3 @ .75¢ ,,,,,, ...	2.25
	Certified True Copy ..... (H.M. Ballard) Capt A/Adj't 3 Inf Trg Bn CIC, Debert, N.S.	
	TOTAL	$ 19.55

Dated at Debert, N.S. this 6 th day of Mar. A.D. 19 43

(Signed) M.F. Vining Capt.
C.S. & T.O., Debert, N.S. Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorized the transportation~~ M.V.)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

MEDICAL OFFICER'S REPORT

I certify that No. F-36291 Pte. Murphy, W.J.

of 3 Inf Trg Bn CIC is in a good state of health,

and is fit to undergo Trial by Court martial.

P.J. Rich Capt.
Medical Officer
(P.J. Rich) Capt.
M.O. 3 Inf Trg Bn CIC,
Debert, N.S.

Station Debert, N.S.

Date 22 March, 1945

M. F. B. 246
60M—5-43 (254)
H.Q. 1773-39-400

H.Q.C.55-M-1628 (JAG/D-9)
Your H.M. 3992 (JAG)

April 4th, 1945.

The District Officer Commanding,
Military District No. 6, Halifax, N.S.

Standing Court-Martial
F.36291 Pte. William James Murphy,
3rd Inf. Trng Btn.,C.I.C.,C.A.

Receipt is acknowledged of the proceedings of the marginally-noted Standing Court-Martial which were forwarded by the President named therein.

2. M.F.B. 1431 was properly disallowed by the Court, as it is a certified true copy. It is clearly laid down in Order-in- Council P.C.58/4015 that this form must be signed by the officer issuing or authorizing transportation. A certified true copy thereof is inadmissible.

3. It is pointed out that the responsibility for the regularity of all documents to be produced before a Standing Court-Martial rests on the Prosecutor, vide C.A.R.O. 4565, Para. 3(Ø).

4. It is noted that the accused spent 21 days in custody awaiting trial. May an explanation for this delay be forwarded, please.

5. The proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(E.J.Orde), Brigadier,
Judge Advocate-General.

LYV/MH

3

THIS COPY FOR H.Q. C.55-M-1628
M.D. H.M.3992

G.S.

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. F.36291 Name MURPHY, William James

Rank Pte Unit 3rd Inf Trg Btn C.I.C.

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 1-1-45

Date of Arrest 1-3-45 Charge Signed 13-3-45

Orders for D.C.M.

Place and Date of Trial Debert N.S. 22-3-45

Sentence Det 60 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36591

Date 31-3-45

MEMO Guilty A.W.L.

M.D. 6 - 3 Inf Trg Bn CIC CA

Absent	Sentence
2 mos.	Det. 60 days

2

(over)

for Judge Advocate-General

10M-1-45 (M-4629)

1- MFB, 481 disallowed by the Court because it was a certified true copy. Atty of Prosecution drawn to his responsibilities with regard to the regularity of all documents to be produced before a S.G.C.M.

2- Accused spent 21 days in custody awaiting trial. ADC6 requested to submit an explanation.

In reply please quote H.M-3992 (JAG)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Headquarters Military Area No. 6,
Halifax, N.S. 25 Mar 45.

The Secretary,
Department of National Defence,
OTTAWA, Can.

MAR 30 1945
File C-3585-M-1628
Chgd. to
Referred to

STANDING COURT-MARTIAL

F-36291 Pte. W.J. Murphy
3 Infantry Training Bn., CIC, CA

1. Proceedings of the m/n Court are forwarded herewith for the consideration of the Judge Advocate General, in accordance with R.O.4566.

(R. F. Barnes) Major,
President, Standing Court-Martial,
M.D. No.6.

36501

1

RFB/GHR

H.Q.C. 55-M-1629 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT MARTIAL.

MALCOLM. HARRY. B-622830 FUS. B-126966

CONFIDENTIAL H.Q.C. 55-M-1629

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute") NEW FILE	C.R.	MAR 30 1945
APR 5 1945					With Papers C.R. APR 20 1945		
APR 26 1945					To note, pls to Attny.		23-4-45
APR 26 1945							APR 25 1945
APR 30 1945					pls 2 return		
MAY 26 1945					MAY 24 1945		
					With Papers C.R. JUN 7 1945		
JUN 6 1945					To note pls		
JUN 9 1945					JUL 10 1945		
				DAG(B)	Minute & pls		JUL 10 1945
JUL 11 1945				ICM			10 JUL 1945
					With Papers C.R. JUL 20 1945		
JUL 21 1945					OC. 4 1945		
OCT 10 1945					To note & pass to DCM		
OCT 13 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-M-1629
(JAG/D-5)

OTTAWA, 5 October 5

District Officer Commanding,
Military District No. 7
Saint John, N. B.

R-622830 Fus. H. Malcolm
No. 7 Dist. Sig. Sec. RC. Sigs.

Receipt is acknowledged of your J/38-M-1650 (JAG) dated 2 Oct 45 under cover of which you forwarded to this Headquarters MFM288 in connection with the m/n soldier.

(R.J. Orde), Brigadier,
Judge Advocate-General.

LCC:jb

J/38-M-1650 (JAG)

IN REPLY PLEASE QUOTE No.

Your File: HQC 55-M-1629 (ICM)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

SAINT JOHN, N.B., 2 Oct 45.

CENTRAL REGISTRY Army
CONF. SEC.
OCT 4 1945
837
C55-M-1629
Referred to Jay

Secretary,
Department of National Defence,
OTTAWA, ONTARIO.

REMISSION OF SENTENCE
B-622830 Fusilier Harry MALCOLM
No. 7 Dist. Sig. Sec. RC. Sigs.

The marginally-named soldier's case was reviewed on 25 Sep 45 and balance of sentence was remitted effective 1 Oct 45.

2. Attached please find original copy of Remission Form together with M.F.M. 288.

(D.R. Agnew) Brigadier,
District Officer Commanding,
Military District No. 7.

Ecn. 2.

NAT. DEF. R. 680
250MM 2 44 (6520)
H.Q. 1732-38-367

FORM OF REMISSION, COMMUTATION OR MITIGATION
OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. H.Q.C.55-M-1629 (ICM)
DISTRICT FILE No. J/38-M-1650 (JAG)

PART I

No. B-622830 Rank Fusilier Name Harry MALCOLM
Unit No. 7 District Depot, C.A. (Now - No. 7 Dist. Sig. Sec. R.C. Sigs. (CA)

PART II

Date of Trial 22 March 45
Charge (x) WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

Sentence: DETENTION:- Six (6) Months - Stoppages:- $9.88
Date of Sentence: 22 March 45
Confirmation: (a) Authority:- N/A
(b) Date :- N/A

PART III - REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~xxxxxxxxxxxxxxxxxxxx~~ the balance of the period of detention awarded No. B-622830 Fusilier Harry MALCOLM - Effective 1 Oct 45.

Signed at Fredericton, N.B. this 25th day of September 1945

W.A. McDougall
(W.A. McDougall) Lt-Col.,
(Appointment) (T/District Officer Commanding, M.D. No. 7.

To be signed by the remitting authority personally.

PART IV - PROMULGATION

Remission ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ promulgation and extracts taken at SAINT JOHN, N.B. this 30 day of Sep 1945

H.V. Mills
(1) (H.V. Mills) Major - O.C. 7 Dist Sig Sec, RC Sigs.
(Officer i/c Documents)

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. B-622830 Rank Fus. Name MALCOLM, H.
The sentence of Six months Detention;
awarded by Standing ~~xxxxxxxxxx~~ Court-Martial on the 22 Mar 45
has been remitted effective 1 Oct 45.

UNIT No 7 Dist Sig Sec, R.C. Sigs.

Certified true extract of Daily Order Part II of
No. 67 Place Saint John, N.B. Date 30 Sep 45.

H.V. Mills
~~xxxxxxxxx~~ (H.V. Mills) Major.

~~Rank and initial words not applicable.~~

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of (Formerly B 622830) B 126966 (Number) Fusilier (Rank) Harry MALCOLM (Name in full)

No. 7 District Depot C.A. (Unit) (Attachment (if any))

Sentenced to undergo detention for 6 months; stoppages of pay $9.88

on 22nd March 1945 at Fredericton, N.B.

being served at No. 72 Mil. Detention Barracks, Sussex, N.B. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, ~~enlistment~~ enrolment 26 yrs. 7 mos. 27-7-42

Medical grade or category Pulhems 15/ 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To Adjutant-General, Department of National Defence, Ottawa, Ont. (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~XXXX~~ committed to undergo his sentence, which I recommend should ~~XXX~~ be (~~XXXXXXX~~ (put into execution) ~~XXXXXX

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

.....(and) be reviewed on .....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
APR 28 1945	[illegible]	Adjutant-General [illegible] Superior Military Authority	Released 14th Aug 45 Marks Earned 422 D. MacKinnon Lieut Commandant # 72 NDB
JUL 11 1945	SENTENCE SUSPENDED WEF. 14 JUL/45.	[illegible] Adjutant-General [illegible] Superior Military Authority	
7 Aug 45	No remission, B.F for review on 14 Sep 45.	(G.G. Anglin) D.O.C., M.D. [illegible]	
25 Sep 45	SENTENCE REMITTED Effective 1 Oct 45	(WA McDougall) Lt-Col., T/D.O.C., M.D, #7.	

All recommendations, etc., considered upon review, should be pasted here.

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Charge:--Desertion, in that he at Sussex, N.B. absented himself from 1st Bn. Saint John Fusiliers (MG)C.A. from 1800 hrs. 26 Dec 44 until he was apprehended by the military authorities at R.R. #2 Scotland, Ont. at 1735 hrs. 6 Mar 45 dressed in civilian clothes; cost of apprehension and return to his corps being $9.88.	26 Dec 44	22 Mar 45

[illegible] Captain
Signature of Officer making entry
(E.A. Skene)
Adjutant, No. 7 District Depot C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
11 April/45	That his sentence be remitted and he be dispatched overseas	[illegible] Lt-Col. (W.A. McDougall) O.C., #7 District Depot CA

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
16 Apr 45.	I have directed that this matter be brought before me for study of remission or suspension of sentence at the expiration of one month.	[illegible] (G.G. Anglin) Brigadier, D.O.C., M.D. No.7.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

27

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

(ICM)

NQC 55-M-1629

Ottawa, Ontario

NDHQ 4 Aug 1945

CONFIDENTIAL
C.M.

District Officer Commanding,
MILITARY District No. 7,
SAINT JOHN, N. B.

R.126966 Pte. MALCOLM H.

Ref 38-M-1650

Enclosed herewith:-

(a) MFM 288

(b) [redacted].

2. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

3. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

4. Copy of CM proceedings will be forwarded upon request.

5. In the event that the soldier under sentence has been transferred to another District or Command these documents will be transmitted by the recipient to the appropriate authority.

(A.E. Walford)
Major-General
Adjutant-General

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

HQC 55-M-1629 (ICM)

NDHQ Ottawa, Ontario

4 Aug 1945

CONFIDENTIAL
C.M.

~~District Officer Commanding,~~

~~MILITARY District No. 7,~~

~~SAINT JOHN, N. B.~~

~~B.126966 Pte. MALCOLM H.~~

Ref 38-M-1650

2. Enclosed herewith:-

(a) MEM 288

(b) [redacted].

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

6. In the event that the soldier under sentence has been transferred to another District or Command these documents will be transmitted by the recipient to the appropriate authority.

(A.E. Walford)
Major-General
Adjutant-General

IN REPLY PLEASE QUOTE No. J/38-M-1650 (JAG)

7

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

SAINT JOHN, N.B., 18 Jul 45.

330219

CENTRAL REGISTRY Army
CONF. SEC.
JUL 20 1945
File C55-M-1629
Chgd. to
Referred to J.C.M.

Secretary,
Department of National Defence,
OTTAWA, Ontario.

Re: B-126966 Fus. Malcolm, H.
No. 7 District Depot, C.A.

1. Reference your H.Q.C.55-M-1629 (ICM) dated 11 Jul 45.

2. Enclosed please find M.F.M. 288 completed as requested in your letter above-mentioned. The unit concerned has made necessary entries in their Part II Orders and documents of marginally named soldier in respect of the said suspension of sentence.

H. G. Anglin, Brigadier,
District Officer Commanding,
Military District No. 7.

Enc.

NAT. DEF. B. 440
30M-12-43 (3283)
M.O. 1770-19-767

I.C.M. - F.

Department of National Defence.
H. Q. C.55 -M-1629 (ICM)
OTTAWA, Ont., 11 Jul 194 5

Your File -J-38-1650 (JAG)

District Officer Commanding,
Military District No. 7,
Saint John, N.B.

B-126966 Fus. MALCOLM, H.

1. With reference telegram ~~and dated~~ RANKS 1446 11 Jul 45 herewith enclosed M.F.M. 288 in respect of the marginally-noted soldier who has been serving in #72 Sussex, N.B. Military Detention Barracks, in your Command, a sentence of 6 months detention awarded by a Standing Court-Martial on the 22 day of Mar 194 5

2. You will note from Part VI of said form that the sentence has been suspended.

3. Will you please have the Commandant of said Detention Barracks enter in Column 4 of Part VI of said Form the word "Released", the date of said release, the number of marks earned towards remission and sign same, inserting his appointment underneath his signature (e.g. Commandant, Nanaimo Military Detention Barracks).

4. When completed as above said Form is to be forwarded direct to the Officer Commanding with instructions to make the necessary entries in Part II Orders and in the documents of the marginally-noted soldier in respect of said suspension of sentence.

5. M.F.M. 288 when duly completed as above is to be returned to this Headquarters.

(A. E. Walford)
~~[illegible]~~
Major-General
Adjutant-General.

WBG:MC

500-8-44 (M-4274)

ARMY MESSAGE
(OUTGOING)

CLEAR

FILE HQC 55-1-1629(IGM)

PLACE DATE

OTTAWA, Ontario 11 JUL 45

District Officer Commanding,
Military District No. 7,
ST. JOHN, N.B.

RANKE 1446 (UNCLASSIFIED) REFERT J/12-2-5 (JAG) AND J/38-M-1650 (JAG) DATED 3 JUL 45 REFERS B-126966 FUS. MALCOLM H STOP SENTENCE AWARDED BY S.C.M. 22 MAR 45 SUSPENDED EFFECTIVE 14 JUL 45 STOP RELEASE ON 14 JUL 45

ADJUTANT-GENERAL

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT INCLUDING { WIRELESS	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED (I.M. Halford) Major-General Adjutant-General	IMPORTANT	1110

COPY 5 FOR ORIGINATOR'S FILE

COPY

J-38-D-1445
J-38Mc/1095

J/12-2-5 (JAG)
J/38-L-1648 (JAG)
J/38-M-1650
J/38-S-1708
J-38-P-1100
J/38-G-1521
J/38-G-1341

SAINT JOHN, N B 3 Jul 45

Secretary,
Department of National Defence,
OTTAWA, Ontario.

SUSPENSION OF SENTENCE OF SUS

Ref HQC 9039-1-1 Adm 3 d/15 Jun 45:

2. Recommendations as requested covering the undermentioned personnel are submitted hereunder:-

NUMBER	NAME	UNIT	NDHQ FILE	RECOMMENDATION
G-604210	PTE LANTEIGNE, L	7 DD	HQC 55-L-1362 (JAG/D-8)	Suspension immediately
B-126966	PTE MALCOLM, H	7 DD	HQC 55-M-1629 (JAG/D-4)	"
G-603215	PTE PATRICE, G E	7 DD	HQC 55-P-1009 (JAG/D-4)	"
G-5505	PTE SAULNIER, V J	71 CI(B)TC	HQC 55-S-1367 (JAG/D)	"
E-610487	FUS GAGNON, A	7 DD	HQC 55-G-991 (JAG/D-8)	"
G-437743	PTE GAUDET, A	7 DD	HQC 55-G-911 (JAG/D-4)	"
A-520782	PTE DENTINGER, C L	7 DD	HQC 55-D-1012 (JAG/D)	"
G-50306	PTE McCLURE, L	A-30 CITC	HQC 55-Mc-1733 (JAG/D)	"

3. It is further recommended that the above personnel be despatched to their suitable Training Centres.

"G G Anglin"
(G G Anglin) Brigadier,
DOC, MD 7

II DAG (B).
1. Concur in immediate suspension.
2. For your approval pls.
A D M Parsons Capt
A/ICM.
JUL 10 1945

ICM
approved
W. H. Roach
(W. G. H. Roach) Brigadier
DAG(B)
10 JUL 1945

J/38-M-1650 (JAG)

IN REPLY PLEASE QUOTE No.

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

320044

SAINT JOHN, N.B., 5 JUN 45.

REGISTRY ARMY
JUN 7 1945
File 655-M-1629
Chgd. to
Referred to JAG.

Secretary,
Department of National Defence,
OTTAWA, Ontario.

Re: B126966 Pte. Malcolm, H

1. Reference H.Q.C.55-M-1629 (JAG) dated 25 May 45.

2. Suspension of sentence in the case of the marginally named will be reviewed 1 Jul 45 and recommendation made at that time.

(G.G. Anglin) Brigadier
District Officer Commanding,
Military District No. 7.

L.H. CLAYTON
Lieut.-Colonel
JUN 8 1945

NAT. DEF. B. 440
2500M 4-44 (4320)
H.Q. 1722-26-767

HQC.55-M-1629,(IGM)

OTTAWA, Ontario. 25 MAY 45.

District Officer Commanding,
Military District No. 7,
SAINT JOHN, N.B.

B126966 Pte. MALCOLM, H.

Ref. your J/38-M-1650 (JAG) dated 24 APR 45 and Adjutant-General telegram dated 28 APR 45.

2. Owing to recent developments overseas, the suspension of sentence effective one day after embarkation in this case has been cancelled.

3. Please wire your recommendation as to whether

(a) this soldier should complete his sentence in detention, or
(b) the sentence should be suspended immediately, or
(c) at some future date (in which case please recommend a date).

(A.E. WALFORD)
Major-General,
Adjutant-General.

LHC:MS.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: H.G.55-2-1629. (ICM)

PLACE	DATE
OTTAWA, Ontario.	28 APR 45.

District Officer Commanding,
Military District No. 7,
SAINT JOHN, N.B.

CONFIDENTIAL ICM 217

REPRT DATED 24 APR 45 YOUR THIRTY EIGHT DASH M DASH ONE SIX FIVE REPORT BRACKET FAD BRACKET RESERVE B 126966 PTE H MALCOLM SERIAL 2947 (.) SENTENCE REMITTED EFFECTIVE ONE DAY AFTER PROMULGATION

ADJUTANT-GENERAL

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED: Major-General, Adjutant-General		ROUTINE	281130

COPY 6 - FOR ORIGINATOR'S FILE COPY 2 WILL BE RETURNED AS CONFIRMATION

DUPLICATE

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

Part I

Case of .....
Number Rank Name in full

.....
Unit Attachment (if any)

Sentenced to .....

on ..... at .....

being served at .....
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment .....

Medical grade or category .....

First Trial—Part II

To .....
Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place .....

.....
Confirming Authority

Date .....

Part III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

.....
Superior Military Authority

Date .....

(For action on review, see Part VI)

Second Trial—Part IV

To .....
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

.....
Confirming Authority

Date .....

M.F.M. 268
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-39-9015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
APR 28 1945	Adjutant-General for Superior Military Authority	Adjutant-General for Superior Military Authority	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

IN REPLY PLEASE QUOTE No. J/38-M-1650 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

SAINT JOHN, N.B., 24 Apr 45.

CENTRAL REGISTRY, Army
APR 26 1945

309628

Secretary,
Department of National Defence,
OTTAWA, Ontario.

Re: Release of SUS for Despatch Overseas

1. Reference ranks 6253 dated 9 Apr 45.

2. The under-mentioned SUS serving sentence awarded by Court-Martial is recommended suitable for despatch overseas under suspension of sentence effective one day after embarkation.

Number	Name	Unit	N.D.H.Q. file ref.
B-126966	Pte. MALCOLM, H.	No. 7 District Depot, C.A.	H.Q.C.55-M-1629

(G. G. Anglin) Brigadier
District Officer Commanding,
Military District No. 7.

2
DAG(B)
Recommended
L. H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 27 1945

3
Approved
A. FERGUSSON
BRIGADIER
D.A.G. (B)
APR 28 1945

In reply quote No. H.Q.C.55-M-1629 (JAG/D-4)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

INTER-OFFICE CORRESPONDENCE

OTTAWA, 24 Apr 45

TO: D. OF ADMIN.

Standing Court-Martial
B.622830 Fusilier Harry Malcolm,
No. 7 District Depot, C.A.

Your attention is invited to the statement made by the accused in his defence (folio 18) stating that the Cpl in charge of the escort struck him with the flat of his hand. You are also referred to the M.F.M.216, Certificate of Apprehension, (folio 11), which contains the name of the provosts concerned in the apprehension of the soldier.

(R.J.Orde), Brigadier,
Judge Advocate-General.

Notes & Opinion
L. M. CLAYTON
Lieut.-Colonel
Director of Organ. Matters
APR 25 1945

JOGR/MM

M.F.A. 1326
1,000M—3-45 (1936)
H.Q. 1272-55-2059

H.Q.C.55-M-1629 (JAG/D/4)

23 Apr 45

District Officer Commanding,
Military District No. 7,
St. John, N.B.

.....Standing...Court-Martial
No. B-622830 Fusilier Harry MALCOLM
No. 7 District Depot, C.A.

Receipt is acknowledged of your J/38-M-1650 (JAG/ dated 18 April 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial. together with M.F.M.288.

E.F.M. Capt.

for (R.J.Orde) Brigadier,
Judge Advocate-General.

JOGR/ET

30

2M-8-44 (M-4177)

I.C.M. - L 41982

REVIEW OF SENTENCE

DATE APR 25 1945

H.Q.C. File: 55-17-1629

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES

Deserting from 26 Dec. 44, till arrested 6 March 45 2½ mos.

8. PREVIOUS CONDUCT

ENLISTED ~~ENROLLED~~ 27 July 42 AGE 27

Pat. 15-1111111

not.

9. STATEMENT OF ACCUSED On furlough. Wife working as Govt Inspector at Shell Factory. Found she was not well & she felt obliged to give up position. Dr. said she was T.B. suspect & should stop work. My parents felt wife would be more comfortably settled if she stayed on my brother's farm in Ontario. Took her there. Arrived on brothers farm. Waiting for wife to recuperate sufficiently to permit me to return.

In Korea 14/7/43 to 4/6/44

willing to sign Outlin & go O/S at once.

10. RECOMMENDATION

IN REPLY PLEASE QUOTE No. J/38-M-1650 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

SAINT JOHN, N.B., 18 Apr 45.

308366

CENTRAL REGISTRY Army
CONF. SEC.
APR 20 1945
File C 55-M-1629
Chgd. to
Referred to J.A.G.

Secretary,
Department of National Defence,
OTTAWA, Ontario.

Re: Standing Court-Martial
No. B-622830 Fusilier Harry MALCOLM
No. 7 District Depot, C.A.

1. Reference H.Q.C.55-M-1629 (JAG/D-4) dated 6 Apr 45.

2. Having served their purpose, the proceedings of the marginally noted Standing Court-Martial are returned herewith for custody.

for (G. G. Anglin) Brigadier,
District Officer Commanding,
Military District No. 7.

Enc.

29

NAT. DEF. B. 440
2500M-4-44 (4320)
H.Q. 1772-39-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No. 7 District Depot, C.A. FREDERICTON, N.B.

on the 22nd day of March 1945 at 1000 hours,

for the trial of: No.B-622830 Fusilier Harry MALCOLM
Number Rank Full Name

No. 7 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Lieutenant-Colonel M. C. McQuade, M.D. Headquarters, M.D. No. 7.

PROSECUTOR: Captain J. Herschorn, Headquarters, M.D. No. 7.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lieutenant H. Downey, No. 7 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: THE COURT FIND THAT THE ACCUSED IS GUILTY OF THE CHARGE.

SENTENCE: THE COURT SENTENCE THE ACCUSED TO UNDERGO DETENTION FOR SIX (6) MONTHS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF $9.88 IN RESPECT OF THE COST OF APPREHENSION AND RETURN TO HIS CORPS.

Signed at FREDERICTON, N.B. this 22nd day of MARCH 1945.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 177-59-296

This proceedings is entered as No. 36500 in the Register of Courts-Martial kept in the Office of the Judge Advocate-General this 31st day of March 1945

M. C. McQuade Lt.-Col.
President,
Standing Court-Martial,
M.D. No. 7.

Forms of Oaths and Declarations

Oaths

Shorthand Writer

You swear by Almigthy God that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the Court a true transcript of the same.

Answer: I do.

Interpreter

You swear by Almighty God that you will to the best of your ability truly interpret and translate, as you shall be required to do, touching the matter before this court-martial.

Answer: I do.

Witness

You swear by Almighty God that the evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth.

Answer: I do.

Solemn Declarations

The form of declaration will be the same as the form of oaths except that for the words "You swear by Almighty God" will be substituted the words "You (name in full) do solemnly promise and declare"; and that the words "solemnly promise and declare" will be substituted for the word "swear" wherever it occurs.

B

Question to the accused. Q. Do you object to be tried by me as President of the Court ?

Answer: A. No Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~*Question to the accused.*~~ ~~Do you object to ..... as interpreter ?~~

~~*Answer:*~~ .....

Question to the accused. Q. Do you object to No.G-43784 S/Sgt.(A/C.S.M.) R.E. McCoombs, as shorthand writer ? Headquarters, M.D. No. 7.

Answer: A. No Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Q. Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial~~ ?

Answer: A. No Sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Q. Is that your number, rank, name and unit ?

Answer by accused. A. Yes Sir.

Question to the accused. Q. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: A. Not Guilty Sir.

~~*Question to the accused.*~~ ~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~

~~*Answer.*~~ .....

~~*Question to the accused.*~~ ~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~

~~*Answer.*~~ .....

~~*Question to the accused.*~~ ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

~~*Answer.*~~ .....

~~(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B-2"

[illegible]
Pres. D.C.M.

Charge Sheet

The accused, No. B 622830 Fusilier Harry MALCOLM, No. 7 District Depot C.A. a N.R.M.A. soldier of the Canadian Army placed on Active Service is charged with:

Charge
Sec 12(1)(a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at Sussex, N.B. on 26 December 1944 absented himself from 1st Bn. Saint John Fusiliers (M.G.) from 1800 hours, on said 26 December 1944 until he was apprehended by the military authorities at R.R. No. 2 Scotland, Ontario at 1735 hours 6 March 1945 dressed in civilian clothes; cost of apprehension and return to his corps being $9.88.

Lieut-Col.
(W.A. McDougall)
Officer Commanding
No. 7 District Depot C.A.

Fredericton, N.B.

17 March 1945

24

C

Proceedings on Plea of Not Guilty

Question to the accused. Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. A. No Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

THE PROSECUTOR DECLINES TO MAKE AN OPENING ADDRESS.

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. Captain H.F. Nickerson, Assistant Adjutant, No. 7 District Depot, C.A.

being duly sworn, is examined by the Prosecutor.

Question Q. Captain Nickerson, will you identify yourself to the Court, please?

A. I am Captain H.F. Nickerson, Assistant Adjutant, No. 7 District Depot, C.A.

Q. Can you identify the Accused, Captain Nickerson?

A. I can identify the Accused as Fusilier Malcolm.

Q. Will you identify this document please?

A. This is a certified true Extract of Part II Order No. 14, dated 30 Dec 44 of the Saint John Fusiliers (MG) C.A., purported to be signed by R.T. Dole, Major, District Record Officer, M.D. No. 7, it relates to the Accused.

PROSECUTOR: I submit in evidence Sir certified true extract of Part II Order No. 14, dated 30 Dec 44, 1st Battalion Saint John Fusiliers (MG) C.A. referring to the Accused, Fusilier Malcolm.

Certified true Extract of Part II Order No. 14, 1st Battalion Saint John Fusiliers, (MG) C.A. received by the Court, read and signed by the President, marked with the identifying letter "F" and attached to the proceedings as an Exhibit.

Q. Captain Nickerson, will you identify this document, please?

A. This is a certified true Extract of Part II Order No. 7, dated 9 Jan 45 of No. 7 District Depot, C.A., purported to be signed by F.L. Bowser, Captain, Officer in charge of Records, No. 7 District Depot, it refers to the Accused.

PROSECUTOR: I submit in evidence Sir certified true extract of Part II Order No. 7 of No. 7 District Depot, C.A., dated 9 Jan 45, relating to the Accused, Fusilier Malcolm.

Certified true copy of Part II Order No. 7, No. 7 District Depot, C.A., dated 9 Jan 45, received by the Court, read and signed by the President, marked with the identifying letter "G" and attached to the proceedings as an exhibit.

Q. Captain Nickerson, will you identify this document please?

Q. Captain Nickerson, will you identify this document please?

A. This is a certified true extract of Part II Order No. 12, No. 7 District Depot, C.A., dated 15 Jan 45, purported to be signed by F.L. Bowser, Captain, Officer in charge of Records, No. 7 District Depot, C.A. It relates to the Accused.

PROSECUTOR: I submit in evidence Sir certified true extract of Part II Order No. 12, No. 7 District Depot, C.A., dated 15 Jan 45 referring to the Accused Fusilier Malcolm.

Certified true Extract of Part II Order No. 12, No. 7 District Depot, C.A. dated 15 Jan 45 received by the Court, read and signed by the President, marked with the identifying letter "H" and attached to the proceedings as an Exhibit.

Q. Captain Nickerson, will you identify this document please?

A. This is a certified true extract of Part II Order No. 14, dated 17 Jan 45, No. 7 District Depot, C.A. purported to be signed by Captain F.L. Bowser, Officer in charge of Records, No. 7 District Depot, C.A. it refers to the Accused.

PROSECUTOR: I submit in evidence Sir certified true Extract of Part II Order No. 14, No. 7 District Depot, C.A. referring to the Accused.

Certified true Extract of Part II Order No. 14, No. 7 District Depot, C.A., dated 17 Jan 45 , received by the Court, read and signed by the President, marked with the identifying letter "I" and attached to the proceedings as an Exhibit.

Q. Captain Nickerson, will you identify this document, please?

A. This is an M.F.B. 375 copy of Declaration of a Court of Inquiry purported to be signed by Captain E.A. Skene, Adjutant, Officer in charge of Militia Book 68, No. 7 District Depot, C.A. It refers to the Accused.

PROSECUTOR: I submit in evidence Sir M.F.B. 375, referring to the Accused Fusilier Malcolm.

M.F.B. 375, Record of the Declaration of a Court of Inquiry, received by the Court, read and signed by the President, marked with the identifying letter "J" and attached to the proceedings as an Exhibit.

Q. Captain Nickerson, will you identify this document please?

A. This is an M.F.M. 216, certificate of apprehension or surrender purported to be signed by Major E.H. Stevenson, Officer Commanding No. 30 Company Canadian Provost Corps, C.A. at London, Ontario, it refers to the Accused.

PROSECUTOR: I submit in evidence Sir M.F.M. 216, certificate of apprehension by service authorities, relating to the Accused, Fusilier Malcolm.

M.F.M. 816, certificate of apprehension, received by the Court, read and signed by the President, marked with the identifying letter "K" and attached to the proceedings as an Exhibit.

Q. Captain Nickerson, will you identify this document please?

A. This is an M.F.B. 1481, certificate of transportation, purported to be signed by Major E.H. Stevenson, O.C. No. 30 Company Canadian Provost Corps, it relates to the Accused.

PROSECUTOR: I submit in evidence Sir M.F.B. 1481, certificate of cost of apprehension relating to the Accused, Fusilier Malcolm.

M.F.B. 1481, in the amount of $3.66, received by the Court, read and signed by the President, marked with the identifying letter "L" and attached to the proceedings as an Exhibit.

PRESIDENT: The Court observe that in the particulars of the form the date on which the transportation was required is not stated, also in the particulars of the form it states that the costs are recoverable from Fusilier Malcolm, H., which is a matter for the Court or some superior authority to decide.

Q. Captain Nickerson, will you identify this document please?

A. This is an M.F.B. 1481, certificate of cost of transportation, purported to be signed by E.M. Lingley, Lieutenant, Assistant Officer in charge of Supplies, Fredericton, N.B. It refers to the Accused.

PROSECUTOR: I submit in evidence Sir M.F.B. 1481, certificate of cost of transportation, purported to be signed by E.M. Lingley, Assistant Officer in charge of Supplies at Fredericton, N.B. It relates to the Accused.

PROSECUTOR: I submit in evidence Sir M.F.B. 1481 certificate of cost of transportation relating to the Accused.

M.F.B. 1481, in the amount of $6.22, received by the Court, read and signed by the President, marked with the identifying letter "M" and attached to the proceedings as an Exhibit.

PRESIDENT: Continue please.

PROSECUTOR: No further questions Sir of this Witness.

DEFENDING OFFICER: No cross-examination.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE.

THE WITNESS WITHDRAWS.

PRESIDENT: Your next Witness Captain Herschorn.

PROSECUTOR: I have no further witnesses Sir.

PRESIDENT: The case for the Prosecution is closed.

PROSECUTOR: Yes Sir.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Q. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. A. I wish to hand in a written statement Sir.

Statement of the Accused received by the Court and Attached to the proceedings.

Question to the accused. Q. Do you intend to call any witness in your defence?

Answer. A. No Sir.

THE DEFENDING OFFICER DECLINES TO MAKE A CLOSING ADDRESS.
THE PROSECUTOR DECLINES TO MAKE A CLOSING ADDRESS.

~~*Question to the accused.*~~ ~~Is the witness to be called a witness as to character only?~~

~~*Answer.*~~

Volume Recd 22 oct
Rec O.C.M.

STATEMENT OF B 622830 FUS HARRY MALCOLM

I am B 622830 Fus. Harry Malcolm. Stationed at Port Alberni, B.C. I was granted leave of absence 13 December 1944 to proceed to Curries, Woodstock, Ontario. I was due to report to Camp Sussex, N.B. 26 December 1944. I am a married man. My wife was working as a Government Inspector at Hoffman Shell Factory, Woodstock, Ontario. On arriving home I found that my wife was not well and she felt she was obliged to give up her position at the factory. I took her down to the Doctor who advised me that she was a T.B. suspect and should give up her employment. He gave me a Doctor's note to this effect as it was necessary for my wife's employer to send such a certificate to Ottawa. My parents believed that my wife would be more comforably settled if she stayed on my brother's farm near Brantford, Ontario, and I therefore took my wife to Scotland, Ontario which is the location of my brother's farm. It was on my brother's farm that I was apprehended by the Military Police. I admit that I was absent without leave but it was not my intention to desert the Army. Iwas simply awaiting for my wife to sufficiently recuperate to permit me to return to my military duties and had I not been apprehended I would have returned to Sussex, N.B. before now. I was assisting my brother in the barn when the Military Police arrived and this is why I was wearing so-called civilian clothes. These clothes are the usual type of working overalls worn by farmers. I could easily have put my uniform on and picked up my idenification card in the house but the Police would not allow me to do so. I am naturally quiet and nervous and when I was in the Police car, because I did not answer some of the questions and statements that the Cpl. in charge of the escort made, he struck me with the flat of his hand. I did not resist arrest.

I have never been in trouble on any previous occasions. My conduct sheet is clear. I was enrolled on the27 July 1942 and I was promoted to L/Cpl. on the 18 October 1944. I served in Kiska from 14 July 1943 until 4 July 1944. I have intimated to my Defending Officer that I am willing to sign for Active Service and I hope that I will be permitted to do so immediately so that I may proceed overseas and rejoin the men I served with for so long. I know that some of these men, like myself, absented themselves and that have since been sent overseas without being sentenced to any term of detention and I hope this may be seen in my case.

H. Malcolm.....
B 622830 Fus Harry Malcolm

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E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Q. Have you any statement to make concerning the documents which have just been read to you?

Answer. A. No Sir.

Question to the accused. Q. Do you wish to address the Court?

Answer. A. Yes Sir, through my Defending Officer.

DEFENDING OFFICER: Mr. President I wish to plead for leniancy for the Accused. From my military knowledge he belongs to a group of men from one Battalion who absented themselves from their Unit. Many of them have since been apprehended and have been dealt summarily with by the C.O. of the Unit. This young man has now spent seventeen days in detention and I wish you will take that fact into consideration when sentencing him. He has intimated to me that he wishes to proceed overseas and rejoin his friends and embodied that statement in the statement he submitted to the Court. There is nothing more I can say because his statement was his defence and I believe in your good judgment that the sentence will be as light as can be made.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

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The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"F"

DAILY ORDERS PART II

By

Lt-Col. F. D. MARSH

OFFICER COMMANDING

SAINT JOHN FUSILIERS (MG) C.A.

D.O. Pt. II No. 14
D/30 Dec 44
Sussex, N. B.

)Last Order Issued No. 13 d/29 Dec 44).

"B" OTHER RANKS

Page Five

10. ABSENT WITHOUT LEAVE CONT'D.

(a) A.W.L. from 1800 hrs. 26 Dec 44

B 622630 Fus. (L/Cpl) MALCOLM, H.

Sgd: M.B. Levitt, Lieut.
for (H.M. CASHAEACK) Lt. & Adjt.
for (F.D. Marsh (Lt-Col.
Commanding,
1st Bn. SAINT JOHN FUSILIERS (MG) CA

Certified true extract Part II Order
No. 14 1st. Bn. Saint John Fusiliers (MG)
dated 30 Dec 44

R. T. Dole

(R. T. Dole) Major,
District Record Officer, M. D. No. 7

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"G"

DAILY ORDERS PART II
By

LIEUTENANT-COLONEL W.A. MCDOUGALL, M.C.
Commanding

NO. 7 DISTRICT DEPOT C.A.

Order No. 7
D/9 Jan 45
FREDERICTON, N.B.

(Last Order Issued No. 6 D/8 Jan 45)

Sheet 19

DIVISION II HOLDING ESTABLISHMENT DIVISION II

"B"
Other Ranks

2. STRENGTH INCREASES (CONTINUED)

T.O.S. from 1st Bn. Saint John Fusiliers (MG) C.A.
Camp Sussex, N.B. 2 Jan 45
(Absent without leave as from the dates shown after respective names).
(Auth. D. O. 14 and 1 D/1 Jan 45 of 1st Bn. Saint John Fusiliers (MG) C.A.).

B 622830 Fus. (L/Cpl.) MALCOLM, H.
(Absent without leave from 1800 hrs. 26 Dec 44).
(8th day posting 1800 hrs. 3 Jan 45).

Sgd: R.R. Scarborough, Captain
for (E.A. Skene) Captain, Adjutant
No. 7 District Depot C.A.

Certified True extract of Part II Order No. 7,
No. 7 District Depot C.A. dated 9 Jan 45

F.L. Bowser Captain
(F.L. Bowser)
Officer i/c Records
No. 7 District Depot C.A.

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"74"

DAILY ORDERS PART II
By

LIEUT-COLONEL W.A. MCDOUGALL, M.C.
Commanding

NO. 7 DISTRICT DEPOT C.A.

Order No. 12
15 Jan 45
FREDERICTON, N.B.

(Last Order Issued No. 11 d/13 Jan 45)

Sheet 12

DIVISION II HOLDING ESTABLISHMENT DIVISION II

"B"
Other Ranks

13. APPOINTMENTS: PROMOTIONS: REVERSIONS (CONTINUED)

(r) Relinquishes the appt. of L/Cpl. 2 Jan 45
(Auth. C.A.R.O. 5184)
(Rate of Pay $1.50 per diem from 3 Jan 45)

B 622830 Fus. (L/Cpl.) MALCOLM, H.

Sgd: E.A. Skene, Captain
(E.A. Skene) Adjutant
No. 7 District Depot C.A.

Certified true extract of Part II
Order No. 12, No. 7 District Depot C.A.
dated 15 Jan 45

F.L. Bowser Captain
(F.L. Bowser)
Officer i/c Records
No. 7 District Depot C.A.

14

"I"

DAILY ORDERS PART II
By

LIEUT-COLONEL W.A. MCDOUGALL, M.C.
COMMANDING

NO. 7 DISTRICT DEPOT C.A.

Order No. 14
17 Jan 45
FREDERICTON, N.B.

(Last Order Issued No. 13 d/16 Jan 45)

Sheet 6

DIVISION II HOLDING ESTABLISHMENT DIVISION II

"B"
OTHER RANKS

7. ABSENCE WITHOUT LEAVE

(a) A.W.L. from 1800 hrs. 26 Dec 44. Still absent 1800 hrs. 16 Jan 45. (22nd day).

B 622830 Fus. MALCOLM H.

Sgd: E.A. Skene, Captain
(E.A. Skene) Adjutant
No. 7 District Depot C.A.

Certified True Extract of Part II Order No. 14, No. 7 District Depot C.A. dated 17 Jan 45

F.L. Bowser Captain
(F.L. Bowser)
Officer i/c Records
No. 7 District Depot C.A.

13

KIT DEFICIENCIES OF B 622830 MALCOLM Harry

Clo. Div. "A"

A 250	Anklets	1	$ .74
A 4800	Caps	1	1.05
A 9420	Dressing	1	.22
A 13000	Gloves	1	.66
A 13700	Greatcoats	1	15.54
A 21450	Mitts	1	.93
A 24000	Overalls	1	2.52
A 27750	Rubbers	1	.62

Total
75% of acc. to
C.A.R.O. #3464

Clo. Div. "B"

B 450	Blouses	2	$ 6.50
B 700	Boots	2	5.82
B 1800	Caps	2	1.40
B 3300	Drawers	2	.84
B 3550	Drawers	2	2.80
B 6400	Jerseys	1	1.65
B 7800	Puttees	1	.97
B 7950	Shirts	3	4.62
B 8000	Shirts	2	3.26
B 8350	Shirts	2	.86
B 8600	Shirts	2	2.40
B 8700	Shoes	1	2.29
B 8750	Shoes	1	4.84
B 8850	Socks	4	1.84
B 10200	Trousers	2	13.10

Total
75% of acc. to
C.A.R.O. #3464

Clo. Div. "C"

C 100	Bags	1	$ 1.27
C 200	Belts	1	.35
C 650	Braces	1	.28
C 700	Brushes	1	.14
C 750	Brushes	1	.21
C 800	Brushes	1	.11
C 850	Brushes	1	.17
C 900	Brushes	1	.39
C 950	Brushes	1	.42
C 1000	Brushes	1	.09
C 1050	Caps	1	.41
C 1100	Combs	1	.04
C 1300	Forks	1	.08
C 1350	Holdall	1	.22
C 1400	Housewives	1	.35
C 1450	Knives	1	.99
C 1500	Knives	1	.18
C 1650	Neckties	1	.19
C 1850	Razors	1	.42
C 2200	Spoons	1	.08
C 2250	Sticks	1	.04
C 2400	Towels	2	.62

Total
75% of acc. to C.A.R.O.#3464

"J" 17

RECORD of the Declaration of a Court of Inquiry assembled at Fredericton, N.B. on the 30th day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 622830 Fus. Malcolm, Harry, No. 7 District Depot CA, Fredericton, N.B.

DECLARATION

The Court declare that No. B 622830 (Regt'l No.) Fusilier (Rank) Harry MALCOLM (Full Name) No. 7 District Depot C.A. (Unit) illegally absented himself without leave from Saint John Fusiliers (M.G.) C.A. at Sussex, N.B. (Place) at 1800 hours on the 26th day of December 1944, that he is still so absent, and that on the 30th January 1945 he was deficient, and that he is still deficient of the following articles:—

-2-

Sect. "1A"

1A2500	Belts	1	$ .76	
1A3300	Bottles	1	.62	
1A3450	Braces	1	.35	
1A3500	Braces	1	.33	
1A6950	Carriers	1	.37	
1A15280	Frogs	1	.12	
1A15800	Haversacks	1	2.29	
1A17550	Helmets	1	2.39	
1A18000	Covers Camouf.	1	.26	
1A23600	Packs	1	2.26	
1A24800	Pouches Basic	2	2.06	
1A29300	Straps	1	.31	
1A29350	Straps	1	.31	
1A29500	Straps	2	.28	
1A30300	Tins	1	.57	
Total			$13.28	
75% of $13.28 acc. to C.A.R.O. #3464			$ 9.96	$ 9.96

Sect. "A-2"

Capes A.Gas	1	$ 4.43	
Eyeshields A.Gas	6	1.04	
Ointment A.Gas Mk.VI	2	.52	
Outfits A.Dim.	1	.03	
Resp.A.Gas:-Complete	1	5.97	
Total		$11.99	
75% of $11.99 acc. to C.A.R.O. #3464		$ 8.99	$ 8.99

Sect. "J"

1J18900	Sheets	1	$ 2.38
Total			$ 2.38
75% of $2.38 acc. to C.A.R.O.#3464			$ 1.79 $ 1.79

Sect. "K"

Blankets ($4.07 each)		2	$ 8.14
Total			$ 8.14
75% of $8.14 acc. to C.A.R.O. #3464			$ 6.11 $ 6.11

Grand Total of Clo.Div.A,B,C,&Sects."1A",A-2,J,K. $97.98

amounting to	97	98			

Sgd: H.F. Nickerson, Captain
No. 7 District Depot C.A.
(Name) (Rank) (Unit) President

Signed at Fredericton, N.B. (Name) (Rank) (Unit) Member

this 30th day of Jan 19 45 (Name) (Rank) (Unit) Member

Signature of Commanding Officer Sgd: W.A. McDougall, Lieut-Col.
O.C. No. 7 District Depot C.A.
(Name) (Rank) (Unit)

Certified true copy E.A. Skene Captain, No. 7 District Depot C.A.
(E.A. Skene) Adjutant
Officer i/c M.B. 68
(Signature of Officer having custody of original record)

M.F.B. 875
A.F.B. 115
150M—10-42 (5530)
H.Q. 1773-99-257

12

"K"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, E.H.Stevenson, Major, O.C.No.30 Coy,C.Pro.C.London,Ont.
(Number) (Rank) (Name) (Unit)

hereby certify that B-622830 Fus. Malcolm,Harry
(Number) (Rank) (Name in full)

of the St.John Fusiliers, Sussex,N.B.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~[illegible]~~ A-56109 L/Cpl.
A-106165 Cpl.
(Number) (Rank)

Roth,H.J.
Torrance,J.S. No.30 Coy.C.Pro.C.London,Ont.
(Name) (Unit or appointment)

at R.R.#.2. Scotland,Ont. at 1735 hrs.
(Place) (Hour)

on the 6th. day of March 19 45

Strike out words not applicable } as a ~~deserter~~ or absentee without leave), and that at the time of his arrest he was wearing ~~military clothing~~ (dressed in civilian clothes).

Dated at London,Ont. this 6th. day of March 19 45

E.H. Stevenson
(Signature, Number, Rank, Unit or appointment)
(E.H.Stevenson) Major.
O.C.No.30 Coy.C.Pro.C.London,Ont.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-43 (5000)
H.Q. 1372-39-1936

11

M.F.B. 1481
(125M—10-45 (1206)
H.Q. 1772-39-1851

"C"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, E.H.Stevenson) Major, O.C.No.30 Coy.C.Pro.C.London,Ont.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (~~[illegible]~~) (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from London,Ont. (Place) to RR.#.2.Scotland,Ont. (Place)
and return to London,Ont. (Place) for the purpose of escorting

Full description of soldier being escorted — B-622830 (Number) Fus. (Rank) Malcolm,Harry (Name in full)
St.John Fusiliers, (Unit) Sussex,N.B. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the ~~[illegible]~~) (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	Cost of Transportation- Use of D.N.D.vehicle to proceed from London,Ont.to RR.#.2.Scotland,Ont. and return to London,Ont. Total mileage- 122 miles. 122 miles @ .03¢ per mile.	$3.66
	The above costs are recoverable from B-622830 Fus.Malcolm,H. St.John Fus. Sussex,N.B.	
	TOTAL	$ 3.66

Dated at London,Ont. this 6th. day of March A.D. 19 45

E.H.Stevenson
(E.H.Stevenson)Major.
O.C.No.30 Coy.C.Pro.C.
London,Ont.

Signature, rank, unit, attachment (if any) and appointment of officer ~~[illegible]~~ (authorizing transportation)
Strike out description not applicable.

10

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and not by an Officer "for" him.

"M"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. E. M. Lingley, Asst O. i/c Supplies, Fredericton, N. B.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~(authorized)~~ the hereinafter itemized transportation for escort

Complete — to proceed from Fredericton, N. B. (Place) to Moncton, N. B. (Place)

and return to Fredericton, N. B. (Place) for the purpose of escorting

Full description of soldier being escorted — B622830 (Number) Fus. (Rank) Malcolm, H. (Name in full)

No. 7 District Depot C.A. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(the transportation required)~~ and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
ESCORT:	
G18635 Sgt. Mallory, J. G. No. 7 District Depot, C.A.	
Issued Transport Warrant No. G846517 on the 15th March, 1945, providing one return second class fare, Fredericton N. B. to Moncton, N. B. via C.P.R. and C.N.R.	$ 6.22
ALLEGED ABSENTEE: B622830 Fus. Malcolm, H. No. 7 District Depot, C. A.	
Has own Transportation.	
TOTAL	$ 6.22

Dated at Fredericton, N. B. this 15th day of March A.D. 1945

E M Lingley Lieut.

Signature, rank, unit, attachment (if any) and appointment (issuing transport warrants) ~~authorizing transport~~

Asst. O. i/c Supplies, Fredericton, N. B.

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. Th

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
125m—10-43 (9462)
H.Q. 1772-99-1811

"Y"

M.F.R. 316
50M—9-42 (5992)
H.Q. 1777-59-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 622830	Fusilier	Harry MALCOLM,	No. 7 District Depot CA

1. The following is a fair and true summary of the entries in the Field [redacted]

Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, [redacted] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For		times		times
For		times		times
For		times		times

[redacted]

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted [redacted]

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 17 days in military custody, making a total of 17 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] paper is 29 yrs 2 mos

6. The date of his [redacted] specified in his [redacted] is 27 Jul 42

enrolment enrolment

7. [redacted]

8. [redacted]

9. The accused is in possession of or entitled to no [redacted] decoration, or [redacted] reward ([redacted]

military military

[redacted]

10. [redacted]

8

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Air Force Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22nd day of Mar. 45 F. L. Bowser Captain
(F.L. Bowser)
Officer i/c Records
No. 7 District Depot C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

1st Bn. St. John Fus.

No. B-6 ~~2~~B30 Name MALCOLM, H. Sqn., Battery, or Company } Corps Date of enlistment } 27-7-42 G.C. Badges } Tradesmen's Rates of Pay }

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. One. Signature O.C. Company, etc. } J.Knight Character Capt. Sgd.

M.F.M. 6 (A.F.B.122) 7502M—12-42 (7587) H.Q. 1772-39-1532

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY.					
				F.L. Bowser CAPT. (F.L. BOWSER) RECORDS NO 7 DISTRICT DEPOT C.A. FREDERICTON N.B.					

(P.T.O.)

PRECIS OF EVIDENCE

in the case of

The accused, No. B 622830 Fus. Harry MALCOLM, No. 7 District Depot C.A. a N.R.M.A. soldier of the Canadian Army placed on Active Service.

Charge: DESERTION

To prove the charge the following evidence is available.

DOCUMENTARY:

✓ Certified true extract Part II Order No. 14, 1st Bn. Saint John Fusiliers (MG) d/30 Dec 44

✓ Certified true extract Part II Order No. 7, No. 7 District Depot CA dated 9 Jan 45

✓ Certified true extract Part II Order No. 12, No. 7 District Depot CA dated 15 Jan 45

✓ Certified true extract Part II Order No. 14, No. 7 District Depot CA dated 17 Jan 45

✓ M.F.B. 375

✓ M.F.M. 216

✓ M.F.B. 1481 (d/6 Mar 45)

✓ M.F.B. 1481 (d/15 Mar 45)

H.F. Nickerson Captain
(H.F. Nickerson)
Officer detailed to take
Precis of Evidence
No. 7 District Depot C.A.

6

I, B 622830 Fus. Harry MALCOLM, desire to have an officer assigned to represent me at my trial by Standing Court-Martial.

H. Malcolm
.....

I do hereby appoint Lieut. H. Downey, No. 7 District Depot C.A. as Defending Officer for B 622830 Fus. Harry MALCOLM.

W.A. McDougall
Lieut-Col.
(W.A. McDougall)
Officer Commanding
No. 7 District Depot C.A.

Fredericton, N.B.
17th March 1945

15

MEDICAL OFFICER'S REPORT

I certify that No. B 622830 Fus. Harry MALCOLM ..... of ....No. 7 District Depot CA..is in a good..state of health and is...fit..to undergo trial by Court-Martial.

Major
(R.J. Dolan) R.C.A.M.C.
Medical Officer
Att: No. 7 District Depot CA

Station: Fredericton, N.B.

Date: 22 Mar 45

4

HQC.55-M-1629 (JAG/D-4)
Your File J/38-M-1650

6 Apr 45

District Officer Commanding,
Military District No. 7,
SAINT JOHN, N.B.

STANDING COURT-MARTIAL

No. B.622830, Fusilier Harry MALCOLM
No. 7 D.D., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde), Brigadier,
Judge Advocate-General.

JOGR/AB

6

3

THIS COPY FOR: H.Q.C.55-M-1629
M.D.J/38-M-1650

NMMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT MARTIAL

No. B.622830 Name MALCOLM, Harry

Rank Fus Unit No. 7 D.D. C.A.

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 26-12-44

Date of Arrest 6-3-45 Charge Signed 17-3-45

Orders for D.C.M.

Place and Date of Trial No. 7 D.D. C.A. Fredericton N.B. 22-3-45

Sentence Det 6 mos; stoppages $91.88

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36500

Date 31-3-45

MEMO Balance of sentence remitted by Conf. Auth. 7.18.45

M.D. 7 - No. 7 D.D.

Absent	Sentence
2½ mos	Det. 6 mos

J D Kelly cpl
for Judge Advocate General

10M-1-45(M-4629)

no irregularities noted
5.4.45 [illegible]

IN REPLY PLEASE QUOTE No.
J/30-M-1650 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

R E G I S T E R E D

SAINT JOHN, N.B.
27 Mar 45.

CENTRAL REGISTRY Army
CONF. SEC.
MAR 30 1945
C-55-M-1629
Chgs. to
Referred to

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ont.

Re: STANDING COURT-MARTIAL
No. B-622730 Fusilier Harry MALCOLM
No. 7 District Depot, C.A.

Herewith for review proceedings of the Standing Court-Martial held for the trial of the marginally named soldier in accordance with C.A. R.O. 4565.

(W. C. McQuade) Lt.-Col.
President, Standing Court-Martial, M.D. No. 7.

/REM
Encl.

36500

NAT. DEF. B. 640
2000M—12-43 (1252)
H.Q. 1772-19-267

H.Q.C. 55-M-1630 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT MARTIAL.

MICHAUD. JOSEPH. E-621443 PTE.

CONFIDENTIAL H.Q.C. 55-M-1630

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 4 1945	cancelled				NEW FILE C.R.		MAR 31 1945
					With Papers S.R. APR 6 1945		
APR 7 1945	9 4 45			D.C.M.	To note plse	E.K.M.	7-4-45
APR 8 1945							

All purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minutes"

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC.55-M-1630 (JAG/D)
Your File K.55-M-3353

7 Apr 45

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

Standing Court-Martial
E.621443, Pte. Joseph MICHAUD,
A.21 CO_ EME TC

Receipt is acknowledged of your K.55-M-3353 (JAG) dated 4th April, 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E & M
Capt

for (R.J. Orde), Brigadier,
Judge Advocate-General.

Noted
L. H. CLAYTON
Lieut.-Colonel
Director of Course
APR 9 1945

IN REPLY PLEASE QUOTE

HG

No. K.55-M-3353 (JA3)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

KINGSTON, Ontario, April 4 1945

304718

CENTRAL REGISTRY ARMY
CONF. SEC.
APR 6 1945
File 6.55-M-1690
Origin
Referred to JAG

The Secretary
Department of National Defence
OTTAWA, Ontario.

Standing Court-Martial
E.621443 Pte. Joseph MICHAUD,
A.21 CO & EME TC

Herewith proceedings of the Standing Court-Martial held for the trial of the marginally named soldier.

2. No further administrative action is considered necessary.

(F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

N.D. 23
300M—10 44 (5769)
H.Q. 1772-101-22

MEDICAL OFFICER'S REPORT

J. B. Bowsley, Major
President, Standing Court-Martial

I certify that No. B-621443 Pte. MICHAUD, J.
of A-21 C.O.& EMETCs in a good state of health,
and fit to undergo Trial by Court martial.

C.H. Vipond Capt
Medical Officer
(C.H. Vipond) Capt. RCAMC (CA)
(C.A.) Attached A-21 C.O.& E.M.E.T.C.

Station Barriefield Camp

Date 24 Mar. 45

M. F. B. 246
25M—6-42 (4744)
H.Q. 1772-39 480

MEDICAL OFFICER'S REPORT

_____ Rousley Major
President, Standing Court-Martial

I certify that No. E-621443 Pte. Michaud, J.
of A-21 CO & EME TC is in a good state of health,
and fit to undergo Trial by Court martial.

C.H. Vipond Capt.
Medical Officer
(C.H.Vipond) Capt. RCAMC (CA)
(C.A.) Attached C.O. & E.M.E.T.C.
Barriefield, Ont.

Station Barriefield Camp, Ont.

Date 26-Mar-45

M. F. B. 246
25M—6-42 (4744)
H.Q. 1773-39 430

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries, Kingston, Ontario,

on the 24th day of March, 1945, at 1000 hours,

for the trial of: E.621443 Private Joseph MICHAUD,
Number Rank Full Name

A.21 C.O. & E.M.E.T.C., C.A.
Unit Attachment, if any

PRESIDENT: Major J.E. Dowsley, E.D., Headquarters M.D. No. 3, C.A.

PROSECUTOR: Captain J. Goodman, Headquarters M.D. No. 3, C.A.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ ~~FOR~~ DEFENDING OFFICER: Lieut. L.C. Lussier, A.21 CO & EMETC, C.A.
Rank Full Name Unit Attachment, if any

FINDING:

Guilty of the charge.

SENTENCE: To undergo detention for sixty days, and to be put under stoppages of pay until he has made good the sum of $57.12 in respect of the cost of apprehension and return to his unit.

Signed at KINGSTON, Ontario, this 26th day of March, 1945.

J. E. Dowsley, Major
President,
Standing Court-Martial

M.F.B. 1486 Extracts entered as No. 36524 in the
25M-6-44 (4824) Record of Courts Martial kept in the
H.Q. 1772-39-2296 Office of the Judge Advocate General
this 2 day of Apr 1945

Forms of Oaths and Declarations

Oaths

Shorthand Writer

You swear by Almigthy God that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the Court a true transcript of the same.

Answer: I do.

Interpreter

You swear by Almighty God that you will to the best of your ability truly interpret and translate, as you shall be required to do, touching the matter before this court-martial.

Answer: I do.

Witness

You swear by Almighty God that the evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth.

Answer: I do.

Solemn Declarations

The form of declaration will be the same as the form of oaths except that for the words "You swear by Almighty God" will be substituted the words "You (name in full) do solemnly promise and declare"; and that the words "solemnly promise and declare" will be substituted for the word "swear" wherever it occurs.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B E" and attached immediately under Page B.)

Question to the accused. Do you object to C.94087 Sgt. J.K. Bradley, A.21 CO & EMETC,CA, as interpreter ?

Answer: No, sir.

Question to the accused. Do you object to C.28866 S.M.(WO.I) Lloyd Stringer, CMSC, CA, as shorthand writer ?

Answer: No, sir.

The shorthand writer and interpreter ~~(if any)~~ are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: Remanded for Standing Court-Martial, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Not Guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B2"

J. Donaley Major
President, Standing Court Martial

T.C. 4-M-52

CHARGE SHEET

The accused No. E-621443 Private. Joseph MICHAUD, A-21. C.O. & E.M.E. T.C., C.A., an N.R.M.A. soldier of the Canadian Army placed on Active Service is charged with:--

CHARGE
Sec.12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he at Barriefield, camp & Ontario on the 23rd day of January 1945 absented himself from A-21. C.O. & E.M.E. T.C., C.A., at 1500 hours on the said 23rd day of January 1945 and remained so absent until apprehended by the Military Authorities at St.Anne de la Pocatiere, Que., at 0300 hours on the 5th day of March 1945;dressed in Military Uniform. Cost of return to Unit--$57.12

Barriefield,Ontario
20th March 1945

J. Goodman
(J.Goodman) Captain
Prosecutor,Courts-Martial,
M.D. #3

PRECIS OF EVIDENCE

The following evidence is available to prove the charge:--

Documentary
1. M.B.B. 375
2. Pt. II D.O.#60 d/12 Mar 45 to show apprehension of the accused.
3. M.F.B. 1481
4. M.F.B. 1482

NOTIFICATION OF TRIAL

Headquaters,
Military District #3
KINGSTON, Ontario

The above accused will be prrsented for Standing Court-Martial at the Armouries, Kingston, Ontario at 1000 hours, 23rd March 1945.

May Captain J. Goodman be nominated as Prosecutor Please.

(R.C. Peat) Lt.-Col.
A/Commandant,
A-21. C.O. & E.M.E. T.C., C.A.
Barriefield Camp, Ontario

Barriefield Ontario
21 March 1945

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

~~The Prosecutor proceeds to call witnesses.~~

First Witness for prosecution.

~~being duly sworn, is examined by the Prosecutor.~~

Question

The Prosecutor, in support of the charge, produces the following documents,-

M.F.B.375.

(M.F.B.375 is read, marked EXHIBIT "G", signed by the President and attached to the proceedings)

Part II Daily Order No. 60, dated 12 Mar 45.

(Part II Order No. 60 is read, marked EXHIBIT "H", signed by the President and attached to the proceedings)

M.F.B.1481.

(M.F.B.1481 is read, marked EXHIBIT "I", signed by the President and attached to the proceedings)

M.F.B.1482.

(M.F.B.1482 is read, marked EXHIBIT "J", signed by the President and attached to the proceedings)

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I will give evidence on oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

FIRST WITNESS FOR THE DEFENCE) The Accused, E.621443 Private Joseph MICHAUD, A.21 C.O. & E.M.E.T.C., C.A., being duly sworn, is examined by the Defending Officer,-

Q. How old are you?

Twenty-four years old.

Q. And the name of your father is?

Chrysogone Michaud.

Q. And what is your father's trade?

Watch maker.

Q. What happened when you were called for your military training?

I used to work for my father and then I was called. I went home and my brother was in the hospital so I stayed home to look after the work. My father is too old, he cant see to work at the watch, so cant do his work, so I stayed there to help. If my father is sick today it isn't my fault, but it is the Army's fault. He cant do his work and he cant have any men to help him because there is nobody.

I know the work. If he had somebody to help him it would be a little different, but there is nobody. He got to work around my home town. It is too much for him and I got a certificate from the doctor he cant see enough to do his work. He is fifty-nine years old, sixty years old this summer, always work on the watch, cant see well.

Q. How many children is there in the family?

Seven girls and five boys, eight stay at home.

Q. In what sort of way did they help at home?

Eight children at home.

Q. What are they doing?

There is one girl stay home for help, that is all she is doing and the other one is a nurse. Two young girls go to school, one boy going to school too and there is one in the hospital. Two girls married, they don't stay at home.

Q. When was your brother taken to hospital?

I am not sure, but I think the 3rd or 8th of January. I am not so sure.

Q. And will you tell the Court the reason why your brother was taken to hospital?

It started by pleurisy, and a tumor.

Q. Will you tell the Court the reason why you stayed home, who informed you about staying home?

I stayed home, nobody told me first. I asked for an exemption the day after I was on pass. This Major said to stay home a little bit more while he worked for me. I don't know that Major at all, but if I stayed home it wasn't because he told me that, the point was I knew my father wasn't in good health, too much in hospital, and have to pay $232.00 and we have to pay.

I was going to come back as soon as my father feel a little better. Now he is still very sick in the hospital, I get news steady, and he sure wont be good any more.

Q. Has your father anyone to help besides your brother?

He has nobody but me.

Q. What is the state of health of your father?

My father, he is working with his eyes, he got to see working on watch and he is too old, he cant see very well.

CROSS-EXAMINED BY THE PROSECUTOR

Q. On the 23rd day of January, 1945, were you stationed at Barriefield Camp, Ontario?

No, sir, the 23rd January I was home; that was the end of my pass.

Q. Were you stationed at Barriefield Camp, Ontario?

I am there for two years, and a few months.

Q. Was your unit A.21 C.O. & E.M.E.T.C.?

Yes, sir.

Q. And were you supposed to be at Barriefield Camp, Ontario, on the 23rd day of January, 1945?

I was supposed to be.

Q. You were supposed to be there. Were you there on the 23rd day of January, 1945?

The 23rd of January I was at home.

Q. You were at home?

Yes.

Q. But you were supposed to be at A.21 CO & EMETC, C.A., Barriefield, Ontario?

Thats right, sir.

Q. Therefore you were absent from that unit, were you not?

Yes, sir.

Q. From 1500 hours the 23rd day of January, 1945?

Thats right, sir.

Q. And you remained absent until you were apprehended?

Yes, sir.

Q. By the military authorities?

By the M.P's.

Q. At St.Anne de la Pocatiere, Quebec?

Yes, sir.

Q. At 0300 hours on the 5th day of March, 1945?

Thats right, sir.

Q. Dressed in military uniform?

I always had my battle dress with me.

Q. You were dressed in uniform at the time?

Yes, sir.

Q. When did you intend to come back to the Army?

As soon as my brother got better.

Q. You didn't intend to come back to the Army until your brother was better?

Yes, sir.

Q. Is your brother better yet?

No.

Q. When do you expect your brother to get better?

I don't know, sir.

Q. It might be a long while?

Yes, sir.

(The President instructs the Defending Officer that the Court will adjourn until Monday, 26th March, 1945, in order that he, the Defending Officer, may prepare a better defence.)

ADJOURNMENT: At 1030 hours on the 24th day of March, 1945, the Court adjourned until 1000 hours on the 26th day of March, 1945.

REASSEMBLY: On the 26th day of March, 1945, at 1000 hours, the Court is re-opened.

Question to the accused: Do you object to D.126577 Lance-Corporal J.E. Lauzon, A.21 C.O. & E.M.E.T.C., C.A., as Interpreter?

Answer: No, sir.

The Interpreter is duly sworn.

The Accused, E.621443 Private Joseph MICHAUD, A.21 C.O. & E.M.E.T.C., C.A., on his former oath, is examined by the Defending Officer,-

Q. How long have you been in the Army?

Two and a half years.

Q. Now, Pte Michaud, will you tell the Court what happened when you went home?

When I went home my brother was in the hospital and father all alone and he couldn't do the work alone. I stayed home to help father until my brother came out of hospital. I had the intention to come back as soon as possible

The Prosecutor declines to cross-examine.

The witness resumes his seat.

The Prosecutor declines to make a Closing Address.

The Defending Officer makes a Closing Address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. I said everything I have to say, sir, there is nothing more. The point was I stayed home to help because nobody can help as I do. I was to come back as soon as it was possible.

Questioned by the Court:

Q. What is your pulhems?

All one's, sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Exhibit "G"

President, Standing Court Martial

RECORD of the Declaration of a Court of Inquiry assembled at A21 CO & EME TC CA on the 17th day of February 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-621443 Pte. Michaud, J. R.C.O.C., A.21 CO & EME TC CA

DECLARATION

The Court declare that No. E-621443 Pte. Michaud, J. Canadian Ordnance & Electrical Mechanical Engineers Training Centre illegally absented himself without leave from A21 CO & EME TC, Barriefield Camp, Ont at 1500 hours on the 23rd day of January 1945, that he is still so absent, and that on the 19th day of February 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Clothing Div "A"			Brushes Hair	1	.39
Anklets Web prs	1	.74	Combs Hair	1	.04
Dressings First Field	1	.22	Knives Clasp	1	.99
Greatcoats Drab	1	15.54	Knives Table	1	.18
Overalls Combination prs	1	2.52	Clothing Div "D"		
Overshoes prs	1	1.36	Badges Cap	1	.05
Clothing Div "B"			Section "A-1"		
Blouses Battle-Dress	2	13.00	Belts Waist Web	1	.67
Boots Ankle prs	1	5.82	Bottles Water	1	.62
Drawers Woollen prs	1	1.40	Braces W.E.P. Right	1	.33
Shirts Woollen	1	1.20	Braces W.E.P. Left	1	.35
Socks prs	2	.92	Carriers Waterbottle	1	.37
Trousers Battle-Dress prs	2	13.10	Haversack W.E.P.	1	2.29
Clothing Div "C"			Pouches Basic	2	2.06
Boot Dressing tin	1	.05	Slings Rifle	1	.24
Brass Cleaning	1	.04	Tins Mess Rectangular	1	.57
Brushes Button	1	.11	Section "A-2"		
Brushes Boot Polishing	1	.21	Respirator Complete	1	5.97
Brushes Cloth	1	.17			71.52
			Less 25%		17.88
			TOTAL		53.64

D.T. Douglas, Lieut., President
Asst. Adjutant, M.T.S.,
A.21 CO & EME TC CA

Member

Member

Signed at Barriefield Camp, Ont.

this 19th day of February 1945

Signature of Commanding Officer A.E. Duncanson, (Colonel), Commanding A21 CO & EME TC, Barriefield Camp, Ontario.

Certified true copy (L.E. Eadie) Capt., Adjutant, A.21 CO & EME TC CA, Barriefield Camp, Ont.

Signature of Officer having custody of original record

M.F.B. 212
A.F.B. 111
100M—4-43 (A537)
H.Q. 1172-30-237

"Exhibit 'H'"

Certified True Extract Part II D.O. Homeke Lieut. Brady M.T.W. A21COVEMEL TC CA

DAILY ORDERS PART II
BY

LIEUT.-COLONEL R.G. PEAT
A/COMMANDANT

A-21 CANADIAN ORDNANCE & ELECTRICAL MECHANICAL ENGINEERS
TRAINING CENTRE

Order No 60
12 Mar 45
Barriefield Camp, Ont.

(Last Order Issued No 59 d/11 Mar 45)

ROYAL CANADIAN ORDNANCE CORPS

"A" OFFICERS

HOME WAR ESTABLISHMENT SECTION

1. LEAVES

(a) Granted 4 days Accumulated Leave. 1 Mar 45 to 4 Mar 45.

Major A.R. MACNAB, E.D.

(b) Granted 4 days Accumulated Leave and ration allce. 4 days, under F.R. & I. 196(4). 3 Mar 45 to 6 Mar 45

Major D.K. PARR

(c) Granted 4 days Accumulated Leave and ration allce. 4 days, under F.R. & I. 196(4). 4 Mar 45 to 7 Mar 45

Lieut. S.G. STOKER

2. LEAVE & FURLOUGH TRANSPORTATION

(a) Issued with Special Leave & Furlough Transportation Warrants, numbers as shown.

Lieut. J.D. MOAR	813508
Major L. PATERSON, E.D.	811205
Lieut. G. VENNE	811206

3. STRENGTH DECREASE

(a) S.O.S. to Unattached List, N.D.H.Q. 11 Mar 45
(employment in D Pers)
Auth: K.7-S-1358(Pers) d/26 Feb 45 covering A.G. Radiogram Pers 3505 d/25 Feb 45

A/Capt. J.T. STUBBS

"B" OTHER RANKS

HOME WAR ESTABLISHMENT SECTION

4. LEAVE

(a) Granted 8 days Compassionate Leave, unpd., under R.O. 1935(7) 13 Feb 45 to 20 Feb 45
Auth: D.O. No 26 d/20 Feb 45, No 7 Admin. Unit, C.W.A.C.

W-22472 Pte. BELONTZ, E.L.

"B" OTHER RANKS
HOLDING ESTABLISHMENT

5. STRENGTH INCREASE

(a) T.O.S. Atst. General Service from N.R.M.A. 8 Mar 45
Post to Military Training Wing.

E-105496 Pte. DALLAIRE, Daniel,
(E-603283) (married) (R.C.O.C.) (MTW)

(b) S.O.S. (A-21 C.O. & E.M.E.T.C.) des. having been decl. illegally absent from 1500 hrs. 23 Jan 45 by Ct. Inq. held 17 Feb 45 is T.O.S. (at rate of $1.50 per diem) on apreh. from des. by military authorities at 0300 hrs. 5 Mar 45 at St. Anne De La Pocatiere, P.Q.
Post to Rft. Trained Soldier Coy. 5 Mar 45

E-621443 Pte. MICHAUD, J. (RTC)

6. ATTACHMENT

(a) Cease att. FAP to No. 44 C.I. (B) T.C. 6 Mar 45
Auth: D.O. No. 51 d/7 Mar 45, No. 44 C.I. (B) T.C.
Post to Technical Training Wing (3)

H-618000 Pte. BONNER, A.B. (TTW(3)
D-650160 Pte. HENAULT, R. " "
B-635490 Pte. MATHIEU, J.R. " "
B-635575 Pte. SCHUSTER, A.A. " "

(b) Cease att. FAP to No. 2 Vocational School, 6 Mar 45
Auth: D.O. No. 57 d/6 Mar 45, No. 2 V.T.S.
Post to Technical Training Wing (3)

M-37633 Pte. LIBOIRON, J. (TTW(3)
D-652441 Pte. ROSENFELD, A. " "

AMENDMENT

(c) Para. 17 of D.O. No. 148 d/21 Jun 43, insofar as it ref. to to the u/m am'd para. to read: "T.O.S. from S-9 C.A.M.M.S., etc."

K-70812 Pte. STRACHAN, G. (TTW(2)(Record Purposes)

(d) Para. 21 of D.O. No. 67 d/19 Mar 43, inosfar as it ref. to the u/m am'd para to read: "Att. FAP from A-1 C.A.T.C., etc"

B-112260 Gnr. WHITTAKER, S.J. (Record Purposes)

7. LEAVES

(a) Granted 13 days Compassionate Leave under R.O. 4688 (4) and ration allce. (13 days) under F.R. & I. 196 (4)
Auth: K.55-L-5915 (REP) d/8 Mar 45.
5 Mar 45 to 17 Mar 45

B-60992 Pte. LEACH, J.E. (MTW)

D.O. No 60 d/12 Mar 45

"B" OTHER RANKS
HOLDING ESTABLISHMENT (Cont'd)

31. NEXT-OF-KIN (Cont'd)

(c) Change of Address of N-of-K:
Mrs. Rose STEELE (wife)
From: 203 Bolton Ave., Toronto, Ont.
To: 57 Virginia Ave., Toronto, Ont.

B-118732 Cfn. STEELE, G.W. (TTW 2)

"C" ATTACHED OFFICERS

N I L

"D" ATTACHED OTHER RANKS

HOLDING ESTABLISHMENT SECTION

32. ATTACHMENTS

(a) Att. FAP except pay from S-8, Canadian Army Trades School. 7 Mar 45

Auth: D.O. No 71 d/6 Mar 45, S-8, C.A.T.S.
Post to Military Training Wing.

A-59571 Sgt. (A/S/Sgt) AVEY, T.V. (MTW)
E-0246 Sgt. GAUTHIER, H. "
A-56562 Sgt. (A/S/Sgt) HALL, K.B. "
B-56611 Cpl. (A/Sgt) HUCK, L.C. "

(b) Att. FAP from N.D.H.Q. Coy., R.C.O.C. 5 Mar 45
Auth: D.O. No 54 d/5 Mar 45, N.D.H.Q. Coy., R.C.O.C.
Post to Tech Trng Wing No 3 Coy.

P-7436 Armt/QMS. (W.O.II) (Armt/SM)(A/W.O. I)
HUMPHREYS, R.G. (TTW 3)

33. SUBSISTENCE ALLOWANCE

(a) Authorized to continue to draw Sub. Allce. for a period of 14 days, under F.R. & I. 199(4)(e)
5 Mar 45 to 18 Mar 45
Auth: D.O. No 54 d/5 Mar 45, N.D.H.Q. Coy., R.C.O.C.

P-7436 Armt/QMS. (W.O.II) (Armt/SM)(A/W.O.I)
HUMPHREYS, R.G. (TTW 3)

CAPT. & ADJT.
FOR: A/COMMANDANT
A-21, C.O. & E.M.E.T.C.

"Exhibit "I" — President, Standing Court-Martial

M.F.B. 1481
150M-10-43 (2206)
H.Q. 1772-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Captain (Rank) James SOUTTER, (Name) RCASC., H.Q. M.D.3. (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from Kingston, Ont. (Place) to Riviere Du Loup, P.Q. (Place) and return to Kingston, Ont. (Place) for the purpose of escorting

Full description of soldier being escorted — E-621443 (Number) Private (Rank) MICHAUD, J. (Name in full) C.O.C.T.C. A-21. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~[illegible]~~) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
6-3-45	To transport warrant C936316 covering one single fare Riviere Du Loup, P.Q. to Kingston, Ont. and including one meal at $1.00. Absentee	$ 9.65
6-3-45	To transport warrant C936328 covering one return fare Kingston, Ont. to Riviere Du Loup, P.Q. and including one meal at 75 cents and one meal at $1.00 and including one berth Montreal to Riviere Du Loup, P.Q. Escort.....	23.65
6-3-45	To transport warrant C936329 covering one return fare Kingston, Ont. to Riviere Du Loup, P.Q. and including one meal at 75 cents and one meal at $1.00. Escort	19.00
	TOTAL	$ 52.30

Dated at Kingston, Ont. this 6th day of March, A.D. 1945.

(Jas. Soutter) Captain,
Asst. D.S.& T.O., M.D.#3.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing transportation~~)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

Exhibit "J" J. Bowsley, Major
President, Standing Court-Martial

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER ~~1099, 1941~~ 1877, 1942

(INCIDENTAL EXPENSES)

Complete description — I, K 15568 (No.) S/SGT. (Rank) MACKENZIE K.F. (Name) A.P.C. 2 EME (Unit)

Strike out words not applicable — as (~~escort~~) (commander of escort) consisting of H 203219 PTE. L.A. BELLE T.A.

Members of escort — I myself

detailed to proceed from Barnefield Ont. (Place) to Riviera Du Loup Que. (Place)

Name and description of soldier escorted — to return E 621443 PTE. MICHAUD J.

alleged to be a deserter or absentee without leave, to Barnefield Camp Ont. (Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
Riviera Du Loup	
2 Breakfasts and room	3.18
2 Luncheons	.64
2 Dinners @ .50	1.00
Total	$ 4.82

Dated at Barnefield Ont. this 9th day of March A.D. 1945

K.F. MacKenzie S/Sgt.
(Signature and rank (of commander of escort) (escort))
Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1483
75M—2-43 (3576)
H.Q. 1275-99-1880

J. Worsley, Major
President, Standing Court Martial

75M—6-43 (145)
H.Q. 1772-39-626
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-621443	Private	Joseph MICHAUD	A-21. C.O. & E.M.E. T.C.

1. The following is a fair and true summary of the entries in the Field Service and General Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times
~~For~~	~~times~~	~~times~~

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 18 days in military custody, making a total of 18 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 23 years 11 months

6. The date of his attestation specified in his attestation paper is 17th July 1942

8. [illegible] pensions, etc.

9. The accused is in possession of or entitled to no military decoration, or any military reward

10. [illegible]

32

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank.....

Name..... of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of March 1945

(F.W.McKee)Lt.& Adjt
MTW.A-21.CO&EME.TC.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

H.Q.C.55-M-1630 (JAG/D-8)
Your K. 55-M-3353

April 3rd, 1945.

The District Officer Commanding,
Military District No. 3, Kingston, Ont.

STANDING COURT-MARTIAL

E. 621443 Pte. Joseph Michaud,
A-21 CO & E.M.E.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde), Brigadier
Judge Advocate-General.

MO/MM

THIS COPY FOR

H.Q. C.55-M-1630
M.D. A.55-M-3353

NFMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. E.621443 Name MICHAUD, Joseph

Rank Pte Unit A 21 CO & E.M.E.T.C. CA

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 25-1-45

Date of Arrest 5-3-45 Charge Signed 20-3-45

Orders for D.C.M.

Place and Date of Trial The Armouries Kingston Ont 24-3-45

Sentence Det 60 days; stoppages $57.12

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36524

Date 2-4-45

MEMO

M.D. 3 - A 21 CO & EMETC CA

Absent Sentence

1 1/3 mos. Det. 60 days

for Judge Advocate General

10M-1-45(M-4629)

3 April 45

Passed - no irregularities

[illegible]

K.55-M-3353

DEPARTMENT OF NATIONAL DEFENCE

- A r m y -

: Confidential :

KINGSTON, Ontario, 29th March, 1945.

CENTRAL REGISTRY Army
CONF. SEC.
MAR 31 1945
Chad. No.
Referred to

The Judge Advocate-General,
Dept. of National Defence,
OTTAWA, Ontario.

STANDING COURTS-MARTIAL

E.621443 Pte Joseph MICHAUD,
A.21 C.O. & E.M.E.T.C., C.A.

Herewith proceedings on the trial by Standing Court-Martial of the marginally named soldier.

(J.E. Dowsley) Major,
President of Standing Court-Martial.

36524

Encl.

H.Q.C. 55-M-1631

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MOIR. KENNETH RAY . F.606932 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1631

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space is insufficient to enter remarks here, use "With Minute")		
APR 16 [redacted]				[redacted]	NEW FILE C.R		APR 7 - 1945
				JAS	With Papers C.R APR 25 1945	OK	
APR 26 1945				JCM	To note, pls	mm	26-4-45
[redacted]				[redacted]	PER B.F. MAY 11 1945		
				JCM	With Papers C.R. MAY 14 1945	OK	
					With Papers C.R. MAY 24 1945	OK	
MAY 15 1945							
MAY 28 1945				JAS	With Papers C.R. JUN 4 1945	OK	
JUN 6 1945							
JUN 7 1945				JCM	To note, pls.	mm	6-6-45
					PER B.F. JUL 5 1945		
JUL 6 - 1945				JCM	With Papers C.R. AUG 10 1945	OK	
AUG 1 1945				JCM	[redacted]		
				EWBR	[redacted] C.R SEP 27 1945		
DEC 3 - 1945					Recommendation	was	NOV 26 1945
					PER B.F. JAN 21 1946		
JAN 21 1946				Admin		OK	
JAN 25 1946				Admin	With Papers C.R. JAN 24 1946		
MAY 27 1946	MAY 27	PA	was	DRB	[redacted] APR 2 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

File: L28-M-1971 (DAPM)

HQ MD 1 London, Ont. Date: ...21. Jan. 46.

The Secretary,
N.D.H.Q.,
OTTAWA, Canada.

CENTRAL REGISTRY Army
COMF. SEC.
3559
JAN 23 1946
633-M-1631
Chgd. to
Referred to

MFM 288 for Disposal.

Re: F-606932 Pte. MOIR, K.R.

Herewith returned in accordance with HQC 9039-1 Adm. 3(b)3 d/8 Sep 45 (R852a) para 4, MFM 288 ~~XXXXXXXXXX~~ concerning the m/n soldier, duly completed.

2. For disposal on remission ~~XXXXXXXXXXX~~ of sentence.

for (P. Earnshaw) Brigadier,
D.O.C., M.D. 1.

Encl.-- 1

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of F-606932 Pte. Kenneth Ray MOIR
(Number, Rank, Name in full)

Tech & Schools Wing, A-33 Canadian Armoured Corps Trg Establishment CA
(Unit, Attachment (if any))

Sentenced to be imprisoned with hard labour for two years less ten days and to be discharged with ignominy from His Majesty's Service

on 21st day of May, 1945 at Camp Borden, Ont.

being served at ~~Industrial Farm, Burwash~~/Ontario Reformatory, Guelph
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 years 10 Aug 42

Medical grade or category P U L H E M S 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To Adjutant-General
(Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (xxx) committed to undergo his sentence, which I recommend should (not) be (xxxxxxx) (xxxxxxxxxxxx) (reviewed xx .....) for reasons given in paragraph X.

Place Camp Borden, Ont.

Date 2 JUN 45

(Confirming Authority) Maj Gen.
(A.C. Spencer)
Commander - Camp Borden

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 288
(Army Form A-5104)
10M—5-43 (SS)
H.Q. 1772-30-2015

Part V.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
1 Oct '45	Received when ½ sentence served	[illegible] Brig DOC MD1	
12 Jan '46	Remitted WOP 21 Jan '46	[illegible] Brig	

All recommendations, etc., considered upon review, should be pasted here.

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Sec. 15(1) A.A. - AWL from 1455 hrs 4 MAY 45 until apprehended by the military authorities at Camp Borden, Ont. at 2330 hrs 13 MAY 45, wearing military uniform.	4 MAY 45	21 MAY 45

[illegible] Col.
Signature of officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
31 MAY 45	Character of Accused: Poor Ability & Usefulness as Soldier: N.L. I recommend (no) review of sentence ~~on day of 1945~~	[illegible] Col. [illegible] Col.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
2 JUN 45	I recommend no review as it is considered full sentence should be served.	[illegible] Maj.Gen. (A.C. Spencer) Commander - Camp Borden

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

File: L28-M-1971 (DAPM)

HQ MD 1 London, Ont., Date: 21 Jan. 46.

CENTRAL REGISTRY Army
PETIT. SEC.
3674
JAN 28 1946
File 095-M-1621
Chgd. to
Referred to Lucie

The Secretary,
N.D.H.Q.,
OTTAWA, Canada.

Appendix "G" to CARO 5913 (Remission, Etc., of Sentence by C.M.)

Re: F-606932 Pte. MOIR, K.R.

Herewith forwarded for N.D.H.Q., files the m/n pro forma, concerning the m/n soldier, duly completed.

for (P. Earnshaw) Brigadier
D.O.C., M.D. No. 1

(Appendix "G" to CARO 5913)
FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY COURTS MARTIAL
ADHQ File No. HQC 55-M-1631 District File No. L28-M-1971

PART I

No. F-606932 Rank Pte. Name MOIR, K.R.

Unit. No. 1 District Depot, London, Ont.

PART II

Date of Trial 21 May, 1945.

Charge (x). A.W.L.

Sentence 2 yrs. less 10 days with H.L. Date of sentence 21 May, 45.
and to be discharged with ignominy.
Confirmation--(a) Authority A.G. Spencer, Maj. Gen., Comdr., Camp Borden.
(b) Date 2 June, 45.

PART III
(REMISSION)

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act (~~xxxx

L38-1-15
File: L28-M-1970(DAPM)

HQ MD 1 London, Ont. Date...7 Dec. 45.

The Secretary,
N.D.H.Q.,
OTTAWA, Canada.

Release of S.U.S. on recommendation of C.M.B.R.

This will acknowledge receipt of HQC 55-M-1631 Adm 3(a)3 dated 3 Dec.45 re F-606932 Pte. MOIR, K.R.

2. An order of release will be directed to Supt., Ontario Reformatory, GUELPH effective 1400 hrs. 21 Jan. 46.

noted
10 Dec 45
A. M. Amy
CMBR-5

for (P. Earnshaw) Brigadier
D.O.C., M.D. 1.

HQC
Adm 55-21-1631

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

AIR MAIL

OTTAWA, Ontario, 3 Dec 45.

District Officer Commanding,
Military District No. 1,
LONDON, Ont.

F.606932 Pte MOIR K R
CM Board of Review
Guelph Reformatory

Ref telegram AG 0267 d/18 Oct 45 Review.

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation:

"

Release on 21 Jan 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommendol remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. Enclosed herewith ~~AF A 104/AFM~~ 288 for this soldier.

7. Acknowledgment by telegram requested.

(A. E. Walford)
Major-General
Adjutant-General

RGW/MA

Enc: 1

HQC 55-M -1631 (CMBR-2) /EL
3 Oct 45

PAGE 1. Case No 10051

REVIEW OF SENTENCE

1. No, Rank and Name: F-606932 Pte. MOIR, K.R.

2. Unit at date of offence: A-33 Cdn. Armored Corps Trg. Est.

3. Charge: Sec 15(1) Army Act: Absenting himself without leave in that he at Camp Borden on 4 May 45 absented himself without leave from No. 86 Military Detention Barracks until apprehended by Military Authorities at Camp Borden on 13 May 45 wearing Military Uniform.

4. Place and Date of Trial: Camp Borden, 21 May 45

5. Finding: Guilty of the charge.

6. (a) Sentence: Imprisonment with hard labour 2 years less ten days and to be discharged with ignominy.
(b) Date of Sentence: 21 May 45

7. Date of Confirmation: NA

8. Date of Promulgation: NA

9. Being served at Ontario Reformatory, Guelph in MD 1

(N.B. - Discharged under RO 1029 (9) for wef 23 Aug 45).

 Case No--------

CONDUCT

11. (a) Prior to conviction:

Date of enlistment:

Date of enrolment: 10 Aug 42 Prev Age: 25

Has had at least 4 previous AWL's and was sentenced by a Standing Court Martial on 27 Mar 45 to 2 years less 1 day for desertion.

(b) After conviction: Good. If full remissions earned will be here for release approximately 21 Jan 47.

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

Item 10 omitted. Accused pleaded guilty, gave no evidence or statement, and called no witnesses. Defending Offr. submits that accused after he made his escape stayed out of camp only one night. Therefore, submits that accused not mentally capable of making any decision and would be of little use to the Army.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC Reviewing Offr., etc.).

Comd. Camp Borden: Remission after completion of one half of sentence provided the Superintendent of the civil institution in which he is incarcerated reports favourably on his conduct.
Reviewing Offr.: Concur in recommendation of Comd. Camp Borden and suggest remission effective approx. 21 May 46.

J.T. Brett

Reviewed By J.T. BRETT (Capt)

---

14. ~~Decision~~ Recommendation of the Board:

Release on. 21 Jan 46.

Date: NOV 26 1945 194---.

R.A. Stubbs Maj
Chairman/Member/Secretary
Courts Martial Board of Review

File: L28-M-1971...

HQ MD 1 London, Ont., Date: 17.Oct.45....

REGISTRY Army
CONF. SEC.
3648
OCT 18 1945
55-M-1631
27-9-45

The Secretary,
N.D.H.Q.,
OTTAWA, CANADA.

F-606932 Pte. MOIR, K.R.

Ref: HQC 55-M-1631(CMBR) 3 Oct 45

2. Herewith MFM 288 or Army Form A3104, showing DOC's action, and latest Report On Conduct concerning the r/n S.U.S. for special review as requested.

3. May documents be returned to this District Headquarters as soon as possible in order that procedure on reviews, in accordance with CARO 5913 be impeded as little as possible.

W. S. P. Earnshaw Maj

(P. Earnshaw) Brigadier,
D.O.C., M.D. 1.

REPORT ON CONDUCT

To: District Officer Commanding,
Military District No. 1,
London, Ontario.

FILE. L-28-M-1977...
.11.Oct.451945.

1. Soldier under sentence	F-606932 Pte MOIR, K.R.
2. PLEASE STATE:-	
(1) Date of Sentence	21 May 45
(ii) Sentence	2 years less 10 days.
(iii) Date you received soldier	May 30/45
(iv)(a) Can soldier read & write	
(b) Religion	Presby.
(c) Married; Widower; Single	Single
(d) What Army trade has soldier?	
(v)(a) Conduct of soldier	Good
(b) Industry of soldier	Good
(c) Remission earned:-	
(i) Number of days actually earned.	23 Days
(ii) Number of days obtainable to date.	23 Days
(vi) Medical Officers or Surgeon's report on physical and mental condition; if soldier is ill should state:-	Good mental & physical health H.A. McCann
(a) Whether imprisonment or detention will seriously aggravate soldier's condition.	
(b) Whether further confinement is likely to prove fatal.	
(vii)(a) Whether in your opinion conduct of soldier warrants @ suspension of sentence.	Yes
(b) Whether in your opinion conduct of soldier warrants remission of sentence.	Yes
(c) Moral effect confinement has had?	Good
(viii) Date term will expire if all remission earned from now on.	
Jan. 27/47	

@ Do NOT recommend suspension for personnel discharged from the Canadian Army.

Signature: [illegible]
Commandant.

ONTARIO REFORMATORY, GUELPH

Date of Report:
Oct. 16/45

Request for MFM 288 or AFA 3104 sent out OCT 3 1945

C.B. 40-M-4641 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

334900

Headquarters, Camp Borden
Camp Borden, Ontario
8 AUG 45

The Secretary
Dept. of National Defence (For Information)
OTTAWA, Ontario

District Officer Commanding
Military District No. 1
LONDON, Ont.

CENTRAL REGISTRY Army
CONF. SEC.
AUG 10 1945
File C 55-M-1631
Chgd. to
Referred to 9 C 7L

F-606932 Pte. MOIR, K.R.

Reference HQC 55-M-1631 (ICM), dated 31 JUL 45.

2. In view of para 3 of HQC 9039-1 Vol. 2 Adm 3b, dated 25 JUL 45 and paras 19 and 20 of CARO 5913, MFM 288 ~~and a copy of a report on conduct is~~ is enclosed herewith as the marginally-named was transferred to No. 1 D.D. on 31 JUL 45 for discharge under CARO 1029(9).

3. The Commander, Camp Borden recommends a remission of sentence in this case after this soldier has completed one-half of his sentence, provided the Superintendent of the civil institution in which he is incarcerated reports favourably on the marginally-named's conduct.

4. If a remission of sentence is granted in this case may this Headquarters be advised, please, as to the effective date thereof for record purposes.

(A.C. Spencer)
Major-General
Commander - Camp Borden

52

DEPARTMENT OF NATIONAL DEFENCE
- Army -

[redacted] 55-M-1631 (ICM)
NDHQ Ottawa, Ont
~~31 Jul 45~~ 7 1945

CONFIDENTIAL
C.M.

~~Commander,~~
~~Camp Borden Military Camp,~~
~~CAMP BORDEN, Ont.~~

~~P.606932 Pte. MOIR, K. R.~~

Ref 40-M-4641

2. Enclosed herewith:-

(a) MFM 258

(b) ~~most recent~~ report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for J. H. Gordon Capt
(A B Walford)
Major-General
Adjutant-General

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H.Q.C.55-M-1631 (JAG/D)

C.B

6 June 45

The Commander,
Camp Borden Military Camp, Ontario.

.....~~STANDING~~.....Court-Martial
F.606932 Pte. Kenneth Ray Moir,
T & S. Wing, A-33 C.A.C.T.E., C.A.

Receipt is acknowledged of your C.B.~~40-M-4641~~ dated 2 June 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M.288.

Noted
L. H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
JUN 8 1945

EKM
Capt
for (R.J.Orde), Brigadier
Judge Advocate-General.

49

5M-3-45(M-4664)

I.C.M. - L 4238

2

REVIEW OF SENTENCE

JUN 1 - 1945

DATE

H.Q.C. FILE: 55- 19-1631

1. NO. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES AWOL from 4 May 45 arrested 13 May 45 10 days.

8. PREVIOUS CONDUCT Reliable ~~~~~~ ENLISTED ENROLLED 10 Aug 42 AGE 24

AWOL 4
absent from Parade 1
No NYNC

9. STATEMENT OF ACCUSED D.O. After he escaped, he only stayed out of Camp one night. Spend rest of week around camp. ∴ not mentally capable of making any decision & could be of little use to Army.

10. RECOMMENDATION

48

File No. C.B. 40-M-4641 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

JUN 4 1945
File 55 M-1631
Chgd. to
Referred to JAG

Headquarters, Camp Borden,
Camp Borden, Ontario,
2 JUN 45

The Secretary,
Dept. of National Defence,
OTTAWA, Ont.

319037

STANDING COURT-MARTIAL

F-606932 Pte. Kenneth Ray MOIR
T&S Wing, A-33 CACTE, CA

Reference H.Q.C.55-M-1631 (JAG/D-8), dated 26 MAY 45.

2. Returned herewith for custody the proceedings of the marginally-noted Standing Court-Martial, together with MFM 288 in which no review of sentence is recommended.

3. It is not considered that any administrative action is required in this case.

(A.C. Spencer)
Major-General
Commander, Camp Borden.

47

(1)

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at CAMP BORDEN, Ontario,

on the 21st day of May, 1945, at 1055 hours,

for the trial of: No. F-606932 Private Kenneth Ray MOIR,
Number Rank Full Name

T. & S.W., A-33 C.A.C.T.E., C.A.
Unit Attachment, if any

PRESIDENT: Major J.C.A. Campbell, President Courts-Martial, Camp Borden, CA.

PROSECUTOR: Capt. J.A. Mullin, Prosecutor Courts-Martial, Camp Borden, CA.
Rank Full Name Unit Attachment, if any

~~PROSECUTOR~~ DEFENDING OFFICER: Lt. H.D. Potter, T&SW, A-33 CACTE.
Rank Full Name Unit Attachment, if any

FINDING: The Court finds that the accused is guilty of the charge.

SENTENCE: The Court sentences the accused to be imprisoned with hard labour for two years less ten days, and to be discharged with ignominy from His Majesty's service.

Extracts entered as No. 37491 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 25 day of May 19 45

Signed at CAMP BORDEN, Ont. this 21st day of May, 194 5.

J.C.A. Campbell (Major)
(J.C.A. Campbell) President, Standing Court-Martial

M.F.R. 1486
25M-6-44 (4828)
H.Q. 1772-39-2296

46

Forms of Oaths and Declarations

Oaths

Shorthand Writer

You swear by Almigthy God that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the Court a true transcript of the same.

Answer: I do.

Interpreter

You swear by Almighty God that you will to the best of your ability truly interpret and translate, as you shall be required to do, touching the matter before this court-martial.

Answer: I do.

Witness

You swear by Almighty God that the evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth.

Answer: I do.

Solemn Declarations

The form of declaration will be the same as the form of oaths except that for the words "You swear by Almighty God" will be substituted the words "You (name in full) do solemnly promise and declare"; and that the words "solemnly promise and declare" will be substituted for the word "swear" wherever it occurs.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~[illegible]~~

Answer: B.8358, S/Sgt. (SM(A/WO I)) F.J. McGulgan, HQ, Camp Borden, CA.

Question to the accused. Do you object to as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~[illegible]~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~[illegible]~~ charge against you, which you have heard read ?

Answer: Guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B 2

J C H Campbell Major
Pros Secy.

CHARGE SHEET

The accused, No. F-606932 Private Kenneth Ray MOIR, Technical and Schools Wing, A-33 C.A.C.T.E. an N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE:
Sec. 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Camp Borden, Ontario, on the 4th day of May 1945 absented himself without leave from No. 86 Military Detention Barracks from 1455 hours on the said 4th day of May 1945, until apprehended by the Military Authorities at Camp Borden, Ontario at 2330 hours on the 13th day of May 1945 wearing military uniform.

(P.G. Griffin) Colonel,
Officer Commanding,
Technical & Schools Wing,
A-33 C.A.C.T.E.

Camp Borden, Ontario
17th May 1945

47

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to ..... the ..... charge, is found guilty of the said charge[s]. etc

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer, sir. (See Document marked "F" att.)

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"Y"

J.C. Campbell Maj
Pres Bde

M.F.B. 555
JAN 5-43 (145)
A.G. 1775-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F-606932	Private	Kenneth Ray MOIR	T&S Wing, A-33 CACTE

1. The following is a fair and true summary of the entries in the Field [redacted] Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, [redacted] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Absent without leave	1 times	Absent without leave	4 times
For		times	Absent from place of parade	1 times
For		times		times
For		times		times

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [redacted]

Previous convictions of the accused by a court-martial or a civil court, of summary awards under [redacted] Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. [redacted]

The accused at the present time is under sentence for 2 yrs less 1 day beginning on the 27th day of March 1945

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in [redacted] civil custody, and Nil days in military custody, making a total of Nil days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to [redacted] is 24 years 9 mos.
enrolment [redacted] paper

6. The date of his [redacted] specified in his [redacted] is 10 AUG 42
[redacted] enrolment [redacted] enrolment paper

7. [redacted]

8. [redacted]

9. The accused is in possession of or entitled to no [redacted] military decoration, or [redacted] military reward ([redacted]

10. [redacted]

12

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force

.....dated....., and in his regiment (or corps) the rank of unit

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number P-60693 Rank Private

Name MOIR, K.R. of T&S Wing, A-33 CACTE

Air Force / Unit / Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
S.C.M.	27 MAR 45 Camp Borden, Ontario.	Desertion	2 years less 1 day	N/A

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th day of May 45 (M.D. Kerr) Lieut.,
A/Adjutant, T&S Wing, A-33 CACTE

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

- F -

J C A Campbell Capt
Pros Scre

FINAL ADDRESS BY DEFENDING OFFR :-

Sir, I would submit that the accused, after he made his escape, only stayed out of Camp one night. He spent the remainder of the week around Camp. Therefore, I would submit that he is not mentally capable of making any decision and would be of little use to the Army. I would ask, therefore, that his sentence be as light as possible and probably followed by a discharge.

JCC

JCC

MEDICAL OFFICER'S REPORT

gcc

I certify that No. F 606932, Pte. MOIR, K.R.
T. & S.W.
of ~~A-33~~ C.A.C.T.E. is in a Good state of health,
and Fit to undergo Trial by Court martial.

J B Jewell Capt RCAMC
Medical Officer
Attached Camp Headquarters, Camp Borden

Station Camp Borden

Date 21 May 45

M. F. B. 246
25M—6-42 (4744)
H.Q. 1773-99 480

39

H.Q.C.55-M-1631 (JAG/D-8)
Your File - CB 40-M-4641

26 May 45.

Commander,
Camp Borden Military Camp,
Camp Borden, Ontario.

STANDING COURT-MARTIAL

F.606932, Pte. K.R. MOIR
T&SW, A-33 CACTE.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

MO/ET

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C.B. 40-M-4641 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

Headquarters, Camp Borden,
Camp Borden, Ontario.
21 May 45.

REGISTRY Army
CONF. SEC.
MAY 24 1945
File 5-M-1631
Chgd. to
Referred to JAG

316669

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
F.606932, Pte. K.R. MOIR,
T&SW, A-33 CACTE.

Herewith proceedings of the m/n trial by Standing Court-Martial, for registration and custody, please.

J. C. A. Campbell Major
(J. C. A. Campbell), Major,
President,
Standing Court-Martial.

37499

37

THIS COPY FOR: H.Q. 55-M-1631
M.D. CB 40-M-4641

NRMA

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. F. 606932 Name MOIR, Kenneth Ray

Rank Pte Unit T & S W , A33 CACTE CA

Charge A.A. 15(1) A W L

Date of Crime 4-5-45

Date of Arrest 13-5-45 Charge Signed 17-5-45.

Orders for D.C.M.

Place and Date of Trial Camp Borden, Ontario; 21-5-45

Sentence Imprisonment W.H.L. 2 yrs less 10 days; Discharge with ignominy.

ate of Confirmation

e of Promulgation

red in Records of J.A.G. as No. 37491

25-5-45.

Borden - T & SW, A33 CACTE CA

Absent	Sentence
10 days;	Imprisonment W.H.L. 2 yrs less 10 days. Discharge with ignominy.

W.L. Bean, Capt
for Judge Advocate-General

36

THIS COPY FOR: H.Q. 55-M-1631
M.D. CB 40-M-4641

NRMA

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. F. 606932 Name MOIR, Kenneth Ray

Rank Pte Unit T & S W , A33 CACTE CA

Charge A.A. 15(1) A W L

Date of Crime 4-5-45

Date of Arrest 13-5-45 Charge Signed 17-5-45.

Orders for D.C.M.

Place and Date of Trial Camp Borden, Ontario; 21-5-45

Sentence Imprisonment W.H.L. 2 yrs less 10 days; Discharge with ignominy.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 37491

Date 25-5-45.

MEMO

Borden - T & SW, A33 CACTE CA

Absent	Sentence
10 days;	Imprisonment W.H.L. 2 yrs less 10 days. Discharge with ignominy.

W. Bess, Capt
for Judge Advocate General

36

1CM-1-45 (M-4629)

26 May 45

Passed - no irregularities noted.
HHS.

IN REPLY PLEASE QUOTE
No. CB 40-M-4641 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

313934

Headquarters, Camp Borden,
CAMP BORDEN, Ont. 11 May 45. 194

CENTRAL LIBRARY Army
CONF SEC
MAY 14 1945
File CJJ-M-1631
Chgd to
Referred to gcm

The Secretary,
Dept. of National Defence,
Ottawa, Ont.

REPORT ON CONDUCT
F.606932, Pte.K.R. MOIR

Reference HQC 55-M-1631 (ICM), d/10 May 45, please be advised that the m/n soldier escaped from No.86 Mil.Dtn.Bks. on 4 May 45, and has not yet been apprehended. The Report on Conduct Form is, therefore, returned uncompleted.

(A.C. Spencer)
Major-General
Commander, Camp Borden.

L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
MAY 14 1945

N.D. 35
5 MIL.—11-43 (2979)
H.Q. 1772-101-35

34

REPORT ON CONDUCT

I.C.M. - B

Department of National Defence,
H. Q. C. 55- M-1631,(ICM)
OTTAWA, 10 MAY 1945.

GS: 40-M-4641

To:- Commandant
No. 86 Camp Borden, Military Detention Barracks.

1. Soldier under sentence

F606932 Pte. K.R. MOIR,

2. PLEASE STATE:-

(i) Date of sentence

(ii) Sentence

(iii) Date you received soldier

(iv) (a) Can soldier read and write?

(b) Religion

(c) Married, Widower, Single

(d) What Army trade has soldier?

(v) (a) Conduct of soldier

(b) Industry of soldier

(c) Remission earned:-

(i) Number of days actually earned

(ii) Number of days obtainable to date

(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-

(a) Whether detention will seriously aggravate soldier's condition.

(b) Whether further confinement is likely to prove fatal.

(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence?

(b) Moral effect confinement has had?

(c) If returned to Army, is soldier likely to become a good soldier?

(viii) Date term will expire if all remission earned from now on.

(A. E. Walford)
Major-General
Adjutant-General.

IHC:WS.

5M-1-45(M-4515)

Signature _____
Commandant.

Date of Report: 22

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1631,(IGM)
OTTAWA, 10 MAY 1945.

Your File - C.B.40-M-4641

Commander,

CAMP BORDEN, Ontario.

F606932 Pte. K.R. MOIR,

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in No. 86 Camp Borden, Military Detention Barrack, under your command, a sentence of 2yrs less 1day detention awarded by a Standing, Court-Martial on the 27 day of MAR 1945.

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC:WS.

5M-2-45(M-4516)

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H.Q.C.55-M-1631 (JAG/D-6)

26 Apr 45.

Commander,
Camp Borden Military Camp,
Camp Borden, Ontario.

Standing Court-Martial

F-606932, Pte. Kenneth Ray MOIR
T&S Wing, A-33 CACTE, CA

Receipt is acknowledged of your C.B. 40-M-4641 dated April 21st, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial. together with M.F.M.288.

E.L.M
Capt
for (R.J.Orde) Brigadier,
Judge Advocate-General.

Noted
L. H. CLANTON
Lieut.-Colonel
Inspector of Court Martial
APR 23 1945

REA/ET

30

ZM-B-44 (M-4177) I.C.M. - L 4238

REVIEW OF SENTENCE

DATE APR 27 1945

H.Q.C. File: 55-19-1631

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES Deserting from 3 July 44, till arrested 13 March 45 8 1/3 mos.

8. PREVIOUS CONDUCT ~~ENLISTED~~ ENROLLED 10 Aug 42 AGE 24

Welland 1111111

19-1-43 A.W.L 2 days & 7d 7 days CB on 22-1-43
18-4-43 A.W.L 17 days 24 7d. det on 9-5-43
24-1-44 AWL from parade 3 days CB on 29-1-44
30-1-44 A.W.L 24 days 21 days det on 23-2-44
21-5-44 A.W.L 7 days 21 days det on 29-5-44

9. STATEMENT OF ACCUSED Went home. Worked for father who has 3 trucks. Father sick, couldn't work. When he got money he'd get drunk & couldn't bring money home. So went home to support family. Tried twice to get compassionate leave. Failed.

10. RECOMMENDATION

29

File No. C.B. 40-M-4641 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

309239

Headquarters, Camp Borden,
Camp Borden, Ontario,
21 APR 45

CENTRAL REGISTRY Army
CONF. SEC.
APR 25 1945
File C55-M-1631
Chgd. to
Referred to JAG

The Secretary,
Dept. of National Defence,
OTTAWA, Ont.

STANDING COURT-MARTIAL
F-606932 Pte. Kenneth Ray MOIR
T&S Wing, A-33 CACTE, CA

Reference HQC.55-M-1631 (JAG/D-6), dated 9 APR 45.

2. Returned herewith for custody the proceedings of the marginally-noted Standing Court-Martial, together with MFM 288 in which no review of sentence is recommended.

3. No administrative action appears to be required in this case.

(A.C. Spencer)
Major-General
Commander, Camp Borden.

28

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of No. F-606932 Pte. Kenneth Ray MOIR
(Number / Rank / Name in full)

T&S Wing, A-33 Canadian Armoured Corps Training Establishment, CA.
(Unit / Attachment (if any))

Sentenced to undergo detention for two years less one day.

on 27th day of March, 1945 at Camp Borden, Ont.

being served at No. 86 Military Detention Barracks, Camp Borden, Ont.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 years. 10 Aug 42

P U I H E M S

Medical grade or category 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To Adjutant-General
(Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~XXX~~ committed to undergo his sentence, which I recommend should (not) be ~~XXXXXXX~~ (~~XXXXXXXXXXXX~~) (reviewed~~XX~~) for reasons given in paragraph X.

Place Camp Borden, Ont.

Date 21 APR 45

J. Lemoyne Lt Col Maj Gen.
(A.G. Spurrier)
Commander - Camp Borden
(Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Date

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To
(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date

(Confirming Authority)

M.F.M. 26
(Army Form A-3124)
15M—6-43 (
H.Q. 1772-3

27

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
MAY 14 1945	No Suspension or Remission No further Review	Adjutant-General for Superior Military Authority	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Sec. 12(1)(a) A.A. - Desertion - AWL from 0600 hrs 3 JUL 44, until apprehended by the military authorities at Dartmouth, N.S., at 1800 hrs 13 MAR 45, dressed in civilian clothes. Costs of apprehension and return to his Corps, $24.67. H.C. Schell Signature of Officer making entry	3 JUL 44	27 MAR 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
..... Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
13 APR 45	Character of Accused: Poor Ability & Usefulness as Soldier: Fair I recommend (no) review of sentence ~~day of 1945~~	H.C. Schell

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
21 APR 45	I recommend no review as it is considered full sentence should be served.	Maj.Gen. (A.C. Spencer) Commander - Camp Borden

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Camp Borden, Ontario,

on the 27th day of March, 1945 at 1330 hours,

for the trial of: No. F-606932 Private Kenneth Ray MOIR,
Number Rank Full Name

Technical & Schools Wing, A-33 C.A.C.T.E.
Unit Attachment, if any

PRESIDENT: Major J.C.A. Campbell, President Courts-Martial, Camp Borden, C.A.

PROSECUTOR: Capt. J. A. Mullin, Prosecutor Courts-Martial, Camp Borden, C.A.
Rank Full Name Unit Attachment, if any

DEFENDING OFFICER: Lieut. J. J. Gagnier, T. & S. W., A-33 C.A.C.T.E.,CA,
Rank Full Name Unit Attachment, if any

FINDING:

The Court find that the accused is guilty of the charge.

SENTENCE:

The Court sentence the accused to undergo detention for two years less one day.

Signed at Camp Borden, Ont., this 27th day of March, 1945.

J.C.A. Campbell, Major
(J.C.A. Campbell) President, Standing Court-Martial.

No. 36526

Extracts [illegible] kept in the Judge Advocate-General's [illegible] this 5th day of April 1945

R.E.B. Capt.

M.F.R. [illegible]
25M-6-44 [illegible]
H.Q. [illegible]

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Forms of Oaths and Declarations

Oaths

Shorthand Writer

You swear by Almigthy God that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the Court a true transcript of the same.

Answer: I do.

Interpreter

You swear by Almighty God that you will to the best of your ability truly interpret and translate, as you shall be required to do, touching the matter before this court-martial.

Answer: I do.

Witness

You swear by Almighty God that the evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth.

Answer: I do.

Solemn Declarations

The form of declaration will be the same as the form of oaths except that for the words "You swear by Almighty God" will be substituted the words "You (name in full) do solemnly promise and declare"; and that the words "solemnly promise and declare" will be substituted for the word "swear" wherever it occurs.

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~*Question to the accused.* Do you object to ..... as interpreter?~~

Answer: .....

Question to the accused. Do you object to No. B-142054, Cpl.(C.S.M.(A/W.O.II)) A.R. Bartleman, Headquarters, Camp Borden, C.A., as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter xxxxxxxx~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not guilty, sir.

~~*Question to the accused.* Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer. .....

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer. .....

(The accused having pleaded guilty to ..... ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

B 2

J.A. Campbell Maj
Pres Gen.

CHARGE SHEET

The accused, No. F-606932 Private Kenneth Ray MOIR, Technical & Schools Wing, A-33 C.A.C.T.E., an NRMA soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE:
Sec.12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

At Camp Borden, Ontario, on the 3rd day of July 1944, absented himself from Technical & Schools Wing, A-33 C.A.C.T.E., from 0600 hours on the said 3rd day of July 1944, until apprehended by the Military Authorities at Dartmouth, Nova Scotia, at 1800 hours on the 13th day of March 1945, dressed in civilian clothes. Costs of apprehension and return to his Corps --- $24.67.

H.R. Schell
(H.R. Schell) Lt.-Col.,
A/Officer Commanding,
Technical & Schools Wing,
A-33 C.A.C.T.E.

Camp Borden, Ontario
20th March 1945.

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C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

~~The Prosecutor proceeds to call witnesses.~~

First Witness for prosecution.

~~being duly sworn, is examined by the Prosecutor.~~

Question

BY THE PROSECUTOR:

The evidence in this case is entirely documentary, and I offer as evidence M.F.B. 375, dated 25 July, 1944; M.F.M. 216, dated 13th day of March, 1945; M.F.B. 1481, dated the 15th day of March, 1945.

BY THE COURT: (To the Defending Officer)

Have you seen these documents.

BY THE DEFENDING OFFICER:

No, sir. I haven't. (The documents are examined by the Defending Officer)

----- M.F.B. 375, dated 25 Jul 44; M.F.M. 216, dated 13 Mar 45; M.F.B. 1481, dated 15 Mar 45; are read by the Court, marked respectively Exhibits "F", "G", "H", signed by the President and attached to the proceedings.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

The accused, No. F-606932 Private Kenneth Ray MOIR, Technical & Schools Wing, A-33 C.A.C.T.E., being duly sworn is examined by the Defending Officer:

Q- Pte. Moir, how long have you been in the Army?

A- Since August 1942.

Q- August, 1942?

A- Yes, sir.

Q- Were you always stationed here at Camp Borden?

A- No, sir.

Q- Where were you stationed?

A- Petawawa, Nanaimo, and Halifax.

Q- How long have you been here in Borden?

A- Since March, last year.

Q- 1944?

A- Yes, sir.

Q- Where is your home?

A- Dartmouth, Nova Scotia.

Q- Dartmouth, Nova Scotia?

A- Yes, sir.

Q- What is your father's business?

A- He runs a transport.

Q- Transport?

A- Yes, sir, from Halifax to Dartmouth.

Q- Is that a trucking business?

A- Yes, sir.

Q- How many trucks does he have?

A- Three sir.

Q- Have you any brothers and sisters?

A- Yes, sir.

Q- How old are they?

A- The oldest one at home is fifteen years old.

Q- Is that your sister?

A- No, my brother. I have no sisters at home.

Q- What about your sisters?

A- I haven't any sisters living at home.

Q- You have three sisters, have you?

A- Yes, but not home.

Q- Are they married?

A- Yes, two of them are married.

Q- Two of them are married?

A- Yes, sir.

Q- Is one of your sisters sick?

A- One of them was sick for a year, and she died March this year.

Q- Then what happened?

A- She died.

Q- And do you remember the date approximately?

A- March the 6th.

Q- That was approximately a week before you were apprehended?

A- Yes, sir.

Q- Now, where did you go after leaving camp here?

A- Dartmouth, sir.

Q- You went home?

A- Yes, sir, home to Dartmouth.

Q- Did you work for your father when you were at home?

A- Yes, sir.

Q- Did you stay home all the time you were home?

A- Yes, sir.

Q- About your father--was your father sick?

A- Yes, sir.

Q- Was he able to work?

A- No, sir, he wasn't.

Q- Was he able to look after his business?

A- No, sir.

Q- Now, did you go home because your father was sick, or because you felt that he couldn't support the family?

A- Well, more that he couldn't support the family, sir.

Q- Because he couldn't support the family--now why was that?

A- Because when he used to get money he would go and get drunk, and wouldn't bring the money home.

Q- He gets the money and he gets drunk, is that the idea?

A- Yes, sir.

Q- Does he drink very often?

A- Well, when he gets the money.

Q- Did you write home to get evidence showing that your father was sick, and that you also had a sister who was sick, and she died?

A- Yes, sir.

Q- When did you write that?

A- Last Monday, sir.

Q- Did you get any answer?

A- Not yet, sir.

Q- Now, that sister of yours who died, before you were apprehended, where was she living?

A- She was living at home, sir.

Q- She was living at your home?

A- Yes, sir.

Q- Now, while you were away what did you do with your Army equipment?

A- I kept it all, sir.

Q- You kept it?

A- Yes, sir.

BY THE COURT:

I couldn't hear your question.

BY THE DEFENDING OFFICER: (Continuing to examine)

Q-While you were away, what did you do with your Army equipment?

A- I kept what I took with me, sir, and the rest was turned in to Barracks Stores.

Q- Now, Pte. Moir, do you like the Army?

A- Yes, sir.

Q- While you were away did you intend to come back?

A- Yes, sir.

Q- You did. Now, while you were in camp, in the different camps, did you try to get compassionate leave?

A- Yes, sir, I tried twice.

Q- How many times?

A- Twice.

Q- And where was that?

A- It was in Petawawa and Halifax, sir.

Q- Did you get any results of that?

A- No, sir, I got no results at all.

Q- Why?

A- Well, about a week after I used to get transfers to different camps.

Q- A week after you were moved to another camp?

A- Yes, sir.

CROSS-EXAMINED BY THE PROSECUTOR:

Q- Moir, you became absent from Tech. and Schools wing, A-33, at 0600 hours on the 3rd of July, 1944, is that right?

A- Yes, sir.

Q- And you remained absent without leave until you were apprehended at Dartmouth, Nova Scotia?

A- Yes, sir.

Q- By the military authorities?

A- Yes, sir.

Q- At 1800 hours on the 13th of March, 1945?

A- Yes, sir,

Q- And you were dressed in civilian clothes then?

A- Yes, sir.

Q- Now, on the 3rd of July, why did you go absent?

A- Well, sir, I tried to get leave before, and no one ever did anything for me.

Q- You tried to get leave before--when did you come to Camp Borden?

A- In March.

Q- Did you make any application for leave between March and July?

A- No, sir, I never.

Q- You made no application for leave, and you just suddenly decided to go home?

A- I put it in in Halifax.

Q- It was turned down, was it?

A- Yes, sir. They never did anything at all.

Q- You knew it wasn't going to be granted, and so you just decided to go home?

A- Well, sir, I tried twice.

Q- If you knew no leave was going to be granted to you, why did you go home?

A- To help at home.

Q- You decided they needed you more at home than the Army needed you?

A- Yes, sir.

Q- When you went home how long were you going to stay?

A- Until they got somebody else to work on the trucks.

Q- Until they got someone else. Just as long as you were needed at home, you were going to stay there, is that it?

A- Well, sir, until everything was all right, was fixed up.

Q- The Army had no claim on you then?

A- Yes, sir.

Q- Now, you went home in July, 1944. Did you go straight home to Dartmouth?

A- Yes, sir.

Q- What is the street address of your home?

A- 9 Pallisade Street.

Q- Did your father know you were absent without leave.

~~A- Did your father know you were absent without leave?~~

A- He never at first, sir.

Q- He did later on, did he?

A- Yes, sir.

Q- He made no effort to send you back?

A- Well, he talked about going back.

Q- But you never came?

A- No, sir.

Q- Now, you got home in July. Why didn't you come back say in a month or so?

A- Well, sir, my sister took sick in August, and she wasn't expected to live at all, and she pulled through in October, and then took sick again, and she died.

Q- How many people are living at home?

A- I got five brothers at home.

Q- Five brothers living at home?

A- Yes, sir.

Q- How old are they?

A- The oldest one is fifteen, going to school.

Q- Who else is home?

A- My mother and father, and my sister.

Q- How old are your mother and father?

A- Around fifty-five, between fifty-five or fifty-six, somewhere around there.

Q- Your sister took ill. What difference did that make to your coming back to the Army?

A- Well, sir, she wasn't expected to live at all.

Q- What difference did that make, or was that just another excuse not to come back?

A- No, sir.

Q- Why didn't you come back?

A- Well, she wasn't expected to live, and....

Q- You were just expecting to stay--hoping she would die?

A- No, sir, I wasn't hoping she would die.

Q- What did you expect then?

A- Well, I was going to stay and see if she would get better, and help around home.

Q- What were you doing at home?

A- Driving a truck.

Q- Who for? Your father?

A- Yes, sir.

Q- Did you do anything else besides drive a truck?

A- No, sir.

Q- Were you wearing civilian clothes all the time?

A- Not all the time, sir. In the daytime.

Q- You wore civilian clothes in the daytime?

A- Overalls, yes, sir.

Q- What was that for, to avoid apprehension?

A- No, sir.

Q- Why did you wear them?

A- That is the only thing I could wear.

Q- Did you have a uniform?

A- Yes, sir, I had uniform, but I didn't want to wear it on the truck.

Q- You say your sister died about March 6th. Why didn't you come back to camp then, if that was the reason you were staying away?

A- She was getting better on Sunday, sir.

Q- Sunday when?

A- Around the 11th, I think.

Q- All right, she was better on the 11th. Why didn't you start back to camp then?

A- I had my uniform ready, sir.

Q- You had it ready, but you didn't start back?

A- I intended to stay away a little longer.

Q- It was just unfortunate you were picked up then?

A- Yes, sir.

----- The Defending Officer declines to re-examine.

----- The accused resumes his seat.

----- The Prosecutor makes a Closing Address.

----- The Defending Officer makes a Closing Address.

gcc

11

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

JCdC

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir, through my Defending Officer.

----- The Defending Officer makes a Final Address.

JCdC

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

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"F" 37

RECORD of the Declaration of a Court of Inquiry assembled at Camp Borden, Ont. on the 25 th day of JULY 19 44 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. F-606932 Pte. Kenneth Ray MOIR, T&S Wing, A-33 CAC TE

DECLARATION

The Court declare that No. F-606932 (Regt'l No.) Private (Rank) Moir, K. R. (Full Name) Tech. & Schools Wing, A-33 CAC TE (Unit) illegally absented himself without leave from Tech. & Schools Wing, A-33 CAC TE at Camp Borden Ont (Place) at 0600 hours on the 3rd day of JULY 44, that he is still so absent, and that on the 25th day JULY 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
BATTLE DRESS BLOUSES	1	75%	4 95	Brushes Boot Polishing	1	100%	21
Battle Dress Trousers	1	75%	4 91	" Cloth	1	100%	17
Caps Field Service	2-	75%	1 04	" Hair	1	100%	39
Gloves Woollen Prs.	1	75%	50	" Shaving	1	100%	42
Shirts under Cotton	1	75%	32	" Tooth	1	100%	09
Mitts Pullover Leather	1	75%	70	Combs Hair	1	100%	04
Shirts Cotton Khaki	2	75%	2 32	Holdalls	1	100%	22
Neckties Black	1	100%	19	Razor Safety Sets	1	100%	42
Pins Collar Safety	1	100%	06	Bags Ration	1	75%	03
Shoes Leather Black prs.	1	75%	3 63	Braces Right	1	75%	35
Socks Black prs.	2	100%	56	Haversacks Web '37	1	75%	161
Coats Waterproof army	1	75%	5 18	Wallets A/G	1	75%	20
Badges Cap CAC	1	100%	07				
Boots Dressing	1	100%	05	TOTAL			$ 28.63

SOLE MEMBER (Name) (Rank) (Unit) President

(G.M. McClelland) LIEUT. TECH. & SCHOOLS WING, A-33 CAC TE (Name) (Rank) (Unit) Member

Signed at Camp Borden, Ont.

Member (Name) (Rank) (Unit)

this 25 th day of JUL 1944

Signature of Commanding Officer (W.D.A. DOUGLAS) LT.COL. (Rank) TECH. & SCHOOLS WING (Unit) A-33

Certified true copy (Signature of Officer having custody of original record) CAPT. & ADJT. TECHNICAL & SCHOOLS WING A-33 C.A.C.T.E.

M.F.B. 375
A.F.B. 115
150M—10-42 (6539)
H.Q. 1772-39-257

9

APPENDIX "B"

(CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C., 2797 DATED 10th APRIL, 1942, AS PUBLISHED IN G.O. 127/42.)

Apprehension or surrender to Service Authorities

I, F51076, Sgt. MELDRUM, C.A., #38 Provost Coy., C.Pro.C.(CA)
(Number) (Rank) (Name) (Unit)

hereby certify that F-606932 Tpr. MOIR, K.R.
(Number) (Rank) (Name)

of the T&S WING A-33 C.A.C. T.C., CAMP BORDEN, ONT.
(Unit and Detachment, if any)

was apprehended by ~~XXXXXXXXXXXXXXXXXXXX~~ F52307, L/Cpl. COOPER, G.M. G12174, L/Cpl. GIBBONS, F.J.
(Number) (Rank)

Dartmouth Det., #38 Provost Company, Cdn. Prov. Corps, (CA).
(Name) (Unit)

DARTMOUTH, NOVA SCOTIA.
(Place)

at 1800 hours on the 13th. day of,

MARCH, 1945 as a ~~XXXXXXXX~~ (Absentee without leave) and at the time of his/~~XXX~~ arrest he/~~XX~~ was ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ (Dressed in Civilian Clothes).

(CLOSE ARREST)

Dated at Dartmouth NS this 13th day of MARCH 1945.

DISTRIBUTION:

NMI. CONCERNED (I)
D.A.P.M. M.D. 6. (I)
FILE (I)

M.P.M. 216.
3-1-44
F.K.MacD.

(C.A. MELDRUM) Sgt.,
N.C.O. i/c DARTMOUTH Detachment.,
No. 38 Provost Company.,
Canadian Provost Corps, (CA)

DARTMOUTH, N.S.
(LOCATION)

~~XXXXXXXXXXXXXXXXXX~~ a N.R.M.A. Soldier P.T.O.
(as applicable)

81

M.F.B. 1481
13[illegible]10-43 (2306)
H[illegible]72-29-1851

"H" 37

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58[illegible]15
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. G.D. Mac Lean (Rank) No.6 District Depot, C.A. (Name) (Unit)

Strike out word not applicable — hereby certify that I ~~(issued)~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Halifax, N.S. (Place) to Camp Borden Ont. (Place)

and return to A-33 C.A.C. T.C. Camp Borden (Place) for the purpose of escorting

Full description of soldier being escorted — F-606932 Apr. Moir, K.R. (Number) (Rank) (Name in full)

(Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of ~~the~~ ~~transport warrants issued~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	Troopmovement: Leaving Halifax, N.S. 0720 Hrs. 16 Mar. 45	
	Single Ticket for Absentee C.87024	17.77
		2.63
	Meals for Absentee	4.25
	TOTAL	$ 24.67

Dated at Halifax, N.S. this 15th day of Mar. A.D. 19 45

Lieut. G.D. Mac Lean No.6 District Depot, C.A.
Signature, rank, unit, attachment (if any) and appointment of officer
(~~[illegible]~~ (authorizing transportation)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

APPENDIX "B"

(CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C., 2797 DATED 10th APRIL, 1942, AS PUBLISHED IN G.O. 127/42.)

Apprehension or Surrender to Service Authorities

I, F51076, Sgt. MEIDRUM, C.A., #38 Provost Coy., C.Pro.C.(CA)
(Number) (Rank) (Name) (Unit)

hereby certify that F-606932 Tpr. MOIR, K.R.
(Number) (Rank) (Name)

of the T&S WING A-33 C.A.C. T.C., CAMP BORDEN, ONT.
(Unit and Detachment, if any,

was apprehended by ~~XXXXXXXXXXXXXXXXXXXXXXXX~~ F52307, L/Cpl. COOPER, G.M.
G12174, L/Cpl. GIBBONS, F.J.
(Number) (Rank)

Dartmouth Det., #38 Provost Company, Cdn. Prov. Corps, (CA).
(Name) (Unit)

DARTMOUTH, NOVA SCOTIA.
(Place)

at 1800 hours on the 13th. day of,

MARCH, 1945 as a ~~XXXXXXXX~~ (Absentee without leave) and at the time of his/~~XXX~~ arrest he/~~XXX~~ was ~~XXXXXXXXXXXXXXXXXXXX

Lieut. RAMSEY, Orderly Officer, notified of apprehension by Sgt. MELDRUM, C.A. at approx. 2045 hrs., on the 13 Mar 45.

PLEASE RETURN ONE COPY OF CHARGE SHEET TO NO. 38 PROVOST COY., DARTMOUTH, N.S. SHOWING DIPOSITION OR PUNISHMENT AWARDED.

/lam

J. A. Campbell was Pres

M.F.B. 555
75M—4-43 (145)
HQ 1272-M-630
A.F.B. 396

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F-606932	Pte.	Kenneth Ray MOIR	T&S Wing, A-33 CACTE

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery,~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act,~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Absent Without Leave	1 times	Absent Without Leave	4 times
For		times	Conduct to the Prejudice	1 times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ ~~or~~

~~There are no entries in the conduct sheets of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement~~

3. The accused is not under sentence at the present time ~~or~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~Air Force~~ 14 ~~8~~ days in military custody, making a total of 14 ~~8~~ days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper 24 years 7 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 10 Aug 42

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in ~~possession of or entitled to). State any air force decoration or reward military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

6

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~30th~~ 27 day of March 1945 (H.N. Rose) Lieut.
A/Adj. T&S Wing, A-33 CACTE

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

F.608932 MOIR, K.R.
No. Name

Sqn., Battery, or Company: N/A
No. and date of last drunk: N/A
Corps: R.C.A.
Period not reckoning towards freedom from extra fine: N/A
Date of enlistment: 26 Aug 42
Sheet No. One
G.C. Badges: N/A
Signature O.C. Company, etc.:
Tradesmen's Rates of Pay: N/A
Character:

M.F.M. 6 (A.F.B.122) 250M—13-43 (7327) H.Q. 1773-39-1002

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous Sheet destroyed 10 Feb 44.					
Petawawa, Ont.	19 Jan 43			Sec. 15 (1) A.A. A.W.L. from ~~2200 hrs 19 Jan 43~~ until 0800 hrs 22 Jan 43. Total time absent 2 days 8 hrs.	Bdr. Lafleur, F.	7 days C.B.	22 Jan 43	Major J. Rogan	Forf. 3 days pay FR & I
Halifax, N. S.	18 Apr 43			Sec. 15 (1) A.A. A.W.L. from ~~2359 hrs 18 Apr 43~~ until 2030 hrs 5 May 43. Total absence 16 days 20 hrs 31 mins. Close arrest 33 days.	Sgt. Dixon H.B. L/C Fougere W.A.	24 hrs. Detention	9 May 43	Lt.Col. F.I. Andrew	Forf. 17 days pay FR&I total forf. 51 days pay
Halifax, N. S.	24 Jan 44			Sec. 40 A.A. Absent from Church parade 23 Jan 44.	Cpl. Casey T.T. SSM Morgan, D.	3 days C.B.	24 Jan 44	Major W.B. Davidson	

(F.T.D.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Halifax, N.S.	30 Jan 44			Sec. 15 (1) A.A. A.W.L. from 0800 hrs 30 Jan 44 until 2115 hrs 22 Feb 44. Total time absent 23 days 13 hrs. 45 mins.	Sgt. Grant	28 days Detention	23 Jan 44	Lt.Col. F.I. Andrew	Forf. 24 days pay FR&I Total forf. 52 days pay.
Camp Borden, Ont.	21 May 44			Sec. 15 (1) A.A. A.W.L. from 2200 hrs. 21 May 44 until 1315 hrs 27 May 44. Total time absent ~~xxx~~ 6 days 13 hrs. 15 mins.	Documentary	21 days Detention	29 May 44	Colonel C.E.Bailey	Forf. 7 days pay FR & I.

CERTIFIED TRUE COPY

(G.N.McClelland) Lieut. & Records Officer,
Tech. & School Wing, A-33 C.A.C. T.E.

MEDICAL OFFICER'S REPORT

JC&C

I certify that No. F-606932 Pte. Moir, K.

of A33 CACTE T&S Wing is in a good state of health,

and fit to undergo Trial by Court martial.

J Ketchum, Capt RCAMC

Medical Officer

(J.Ketchum) Cap . RCAMC
RMO Att, T&S Wing, A33 CACTE

Station Camp Borden, Ontario,

Date 27 Mar 45

M. F. B. 246

50M—12-43 (3222)
H.Q. 1772-39-469

4

HQC.55-M-1631 (JAG/D-6)
Your File C.B.40-M-4641

9 Apr 45

The Commander, Camp Borden,
CAMP BORDEN, Ontario.

STANDING COURT-MARTIAL

F-606932, Pte. K.R. MOIR,
T. & S.W., A-33 CACTE, CA.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

REA Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

REA/AB

THIS COPY FOR: H.Q. C.55-M-1631
M.D. C.B. 40-M-4641

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. F.606938 Name MOIR, Kenneth Ray

Rank Pte Unit T & S W,A. 33 C.A.C.T.E. CA

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 3-7-44

Date of Arrest 13-3-45 Charge Signed 20-3-45

Orders for D.C.M.

Place and Date of Trial Camp Borden Ont 27-3-45

Sentence Det 2 yrs; less ~~x~~ 1 day

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36556

Date 5-4-45

MEMO

Borden - T & SW,A 33 CACTE CA

Absent	Sentence
8 1/3 mos.	Det 2 yrs less 1 day

P.E. Langlin Capt.
for Judge Advocate-General

10M-1-45(M-4629)

21

No irregularities.
Passed.
9 Apr 45. R. Chaughn. Capt.

C.B. 40-M-4641 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

Headquarters, Camp Borden,
Camp Borden, Ontario.
29 MAR 45.

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.55-M-1631.

STANDING COURT-MARTIAL
F-606932, Pte. K. R. MOIR,
T. & S.W., A-33 CACTE, CA.

Herewith proceedings of the m/n trial by Standing Court-Martial, for registration and custody, please.

J.C.A. Campbell
(JCA Campbell)
~~xxxxxxxxxxxxxxxx~~ Major,
President,
Standing Court-Martial.

3655-6

1

H.Q.C.55-M-1632 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MONTMIGNY. MARCEL E.102757 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1632

CENTRAL REGISTRY	DATE	P.A. OR S.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 6 1945	2/45			J.A.G.	NEW FILE C.R.		APR 2 - 1945
					With Papers C.R. APR 11 1945		
APR 16 1945							
APR 13 1945	2/45						12-4-45
OCT 29 1945		cancelled					
OCT 31 1945	19/11						
	26/10/45	PA			With Papers C.R. OCT 29 1945		
DEC 26 1945	26/7/45	PA			With Papers C.R. DEC 24 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-M-1632
(JAG/D-6)

OTTAWA, 27 December, 5

District Officer Commanding
Military District No 5
QUEBEC, Que

E-102757, Pte MONTMINY, Marcel
Gen List (Att No 5 DD CA)

Receipt is acknowledged of your Q. 39-M-4819(DA) dated 22 Dec 45, under cover of which you forwarded to this headquarters for custody Form of Remission, together with MFM 288, in respect of the m/n soldier.

(RJ Orde) Brigadier
Judge Advocate General

/jm

IN REPLY PLEASE QUOTE No. Q:-39-M-4819. (DA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters
Military District No 5
QUEBEC QUE 22 DEC 45.

CENTRAL REGISTRY
COR 17124
DEC 24 1945
File
Check to
Referred to

THE SECRETARY
Department of National Defence
OTTAWA ONT

REMISSION OF SENTENCE

E 102757 Pte MONTMINY Marcel
Gen List (Att No 5 DD)

1. Ref HQC. 55-M-1832 (JAG/D-6) 30 OCT 45.

2. A remission of sentence in this case has been granted w.e.f. 28 NOV 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-M-1632 (JAG/D-6)
District File No. 2-39-M-4819 (DA)

PART I

No. R 102757 Rank Pte Name MONTMINY Marcel

Unit Gen List (Att No 5 DD)

PART II

Date of trial 2 OCT 45

Charges Sec. 12(1)(a) AA Sec. 24(2) AA

Sentence 175 days of detention & stoppages of pay for $21.27.

Date of Sentence 2 OCT 45.

Confirmation - (a) Authority SCM

(b) Date

PART III --- REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to R 102757 Pte MONTMINY Marcel Gen List (Att No 5 DD)

28 NOV 45.

Signed at QUEBEC, P.Q., this 28th day of NOV 45.

Edmond Blais

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No. 5.

PART IV --- PROMULGATION

Remission duly promulgated and extracts taken at Lauzon

this 3rd day of December 194 5

M R Ledoux Capt

(M. R. LEDOUX) Capt.
Gen List att 5DD
Officer i/c Documents (1)

(1) Unit, attachement and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No R-102757 Rank Pte Name MONTMINY Marcel

The sentence of 175 days detention stopp. 21.27

awarded by Court-Martial on the 2nd Oct 194 5

has been remitted

on the 28 Nov 194 5 by Brig. EDMOND BLAIS CBE MC

D.O.C. MD 5

Unit No. 5 District Depot

Certified true Extract of Daily Orders Part II of

No. 296 Place Lauzon Date 4 Dec 45

M R Ledoux Capt

(M. R. LEDOUX) Capt.
Gen List att 5DD
Adjutant.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-102757 (Number) Pte (Rank) Marcel MONTMINY (Name in full)

Gen List CA (Unit) No. 5 DD CA (Attachment (if any))

Sentenced to 175 days det

on 2 Oct 45 at 1425 hrs

being served at Val Mil Det (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 20 yrs, 11 mths, 31 Aug 44

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (XX) committed to undergo his sentence, which I recommend should (XX) be ~~XXXXXXXXXXXXXXXX~~ (reviewed on 12 December 1945, date) for reasons given in paragraph X.

Edmond Blais

(Edmond BLAIS) - Brigadier, D.O.C., MD No.5, (Confirming Authority)

Place QUEBEC QUE

Date 26 Oct 45.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on

Place ..... (Superior Military Authority)

Date

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place ..... (Confirming Authority)

Date

M.F.M. 268
(Army Form A-2104)
15M—8-43 (441)
H.Q. 1772-99-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc. considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
22 DEC 45.	Remission of sentence granted effective 22 DEC 45. (EDMOND BLAIS) Brigadier District Officer Commanding Military District No 5		

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
AA SEC 15 (1) AWL from 0800 hrs on 4 Apr 45 until 1021 hrs on 17 Sep 45	4Apr45	20ct45
AA SEC 24 (2) Los by negl his arms equip cloth and regt'l nec for $21.27	24Sep45	20ct45

Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
24 Oct 45	In view of this soldier's character it is requested that his sentence be reviewed at a later date.	(G.L.TASCHEREAU) Lt-Col, A/Commanding Officer.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

H.Q.C 55-M-1632 (JAG/D-60

30 Oct 45

District Officer Commanding,
Military District No. 5,
Quebec, Que.

Standing
E.102757 Pte. Marcel MONTMINY
GL CA Att No. 5 DD CA.
Court-Martial

Q. 39-M-4819 (JA)

26th October 5

Receipt is acknowledged of Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E.L.M.
for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdr

AR

IN REPLY PLEASE QUOTE No. Q. 39-M-4819 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 26 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

CENTRAL REGISTRY Army
CONF. SEC.
5599
OCT 28 1945
File 6.55-M-1632
Chgd. to
Referred to JA.8

STANDING COURT-MARTIAL

E-102757 Pte Marcel MONTMINY
GL CA Att No.5 DD CA.

1. Ref HQC. 55-M-1632 (JAG/D-7) dated 19 Oct 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

NAT. DEF. 8-140
(3600M 4-44 4201)
H.Q. 1700-19-767

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue au Dépôt Régional No. 5, A.C., Lauzon, P. Q.,

le deuxième - - jour de l' octobre, - - - - - - 19 45, à 1425 - - - - - heures,

pour le procès de E-102757, - Soldat Marcel MONTMINY,
Matricule Grade Nom et prénoms

Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C.
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, C.M.P., Q. G., R. M. No. 5.

PROCUREUR: Capt. Pierre TASCHEREAU, Procureur Permanent, Q.G., R. M. No. 5.
Grade Nom et prénoms Unité Détachement, le cas échéant

xxxxxxx
xxxxOFFICIER DÉFENSEUR: Lieut. J. Y. BERNIER, R.C.E., A.C., att. Dépôt Rég. No. 5, A.C.
Grade Nom et prénoms Unité Détachement, le cas échéant

VERDICT:

- LA COUR DECLARE LE PREVENU : -

Mat. E-102757, - Soldat Marcel MONTMINY, - Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C., innocent de l'accusation de désertion, mais coupable d'absence sans permission sous le premier chef d'accusation, et coupable sous le deuxième chef d'accusation, sauf que la valeur des effets perdus est de $21.27 au lieu de $24.21 ".

-x-x-x-x-

- LA COUR CONDAMNE LE PREVENU : -

SENTENCE: Mat. E-102757, - Soldat Marcel MONTMINY, Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C., à la détention pendant Cent Soixante-et-Quinze (175) jours, et à une suppression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, savoir: $21.27 ".

-x-x-x-x-

Signé à 5 DD Lauzon, P. Q., - - - ce deuxième - - jour de l' octobre, - - 1945.

Pierre Decary - Major,
Président de la cour martiale permanente
Q. G., R. M. No. 5.

M.F.B. 1486A
5M-6-44 (4826)
H.Q. 1772-39-2268

Facts entered as No. 4043 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 18 day of Dec 1945.

Formules de serments et de déclarations

Serments

Sténographe

Jurez-vous par le Dieu tout-puissant que vous inscrirez fidèlement, du mieux que vous pourrez, les témoignages rendus devant la présente cour martiale, ainsi que toutes les autres matières qu'il faudra, et que, quand on vous le demandera, vous en fournirez à la cour une transcription fidèle ?

Réponse: Je le jure.

Interprète

Jurez-vous par le Dieu tout-puissant que vous donnerez, selon toute votre habileté, une interprétation et une traduction fidèles, qu'on pourra exiger de vous, concernant la question dont est saisie la présente cour martiale ?

Réponse: Je le jure.

Témoin

Jurez-vous par le Dieu tout-puissant que le témoignage que vous rendrez devant cette cour sera la vérité, toute la vérité et rien que la vérité ?

Réponse: Je le jure.

Déclarations solennelles

La formule de la déclaration est la même que celle des serments, sauf qu'aux mots: "Jurez-vous par le Dieu tout-puissant" se substituent les mots: "(Nom et prénoms), promettez-vous et déclarez-vous solennellement", et que les mots: "promettez-vous et déclarez-vous solennellement" se substituent aux mots: "jurez-vous", partout où ces derniers se présentent.

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Vous opposez-vous~~

Question à l'accusé. Vous opposez-vous à E-21035, S.M. (N.O. I) Gaston VIDAL, - - - - comme sténographe ?

Réponse: Non, monsieur. (Le mat. E-21035, S.M. (N.O. I) Gaston VIDAL, 5ème Détachement C.M.S.C., A.C., 5ème Région Militaire, A.C., est

Le sténographe ~~[illegible]~~ dûment assermenté.

- MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE: (Voir document marqué " F ", ci-joint).

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente? ~~[illegible]~~

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: " NON COUPABLE. "

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: " NON COUPABLE. "

~~*Question à l'accusé.* Etes-vous coupable ou non du troisième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

" B-2 "

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

5

ACTE D'ACCUSATION.

Le prevenu, E-102757 ~~Artilleur~~ soldat Marcel MONTMINY. Liste Generale, A.C. attache au Depot Regional, No 5, A.C. un soldat G.S. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF.
Art 12 (1)(a)
Army Act.

D'AVOIR EN ACTIVITE DE SERVICE
DESERTE LE SERVICE DE SA MAJESTE.

en ce que,

a Valcartier, P.Q. a 0800 heures, le 4 avril, 1945, il s'est absente sans permission du (A-13) C.I.T.C. A.C. jusqu'a ce qu'il se livre aux autorites militaires a Quebec, P.Q. a 1021 heures, le 17 septembre, 1945, en uniforme militaire.

DEUXIEME CHEF.
Art 24 (2)
Army Act.

D'AVOIR PERDU PAR NEGLIGENCE SES ARMES,
SES EFFETS D'EQUIPEMENT, D'HABILLEMENT
ET AUTRES EFFETS REGIMENTAIRES.

en ce que,

a Lauzon, P.Q. le 24 septembre, 1945, il etait en deficit des articles suivants:

	C.A.R.O.	Moins 25% C.A.R.O.
HABILLEMENT DIVISION "A"	1862	3464
2 Dressing First field.	.48	.36
1 Greatcoat.	15.54	11.65
HABILLEMENT DIVISION "B"		
1 Jacket sweater	1.38	1.04
2 Shirts flannel.	3.26	2.44
2 Shirts under cotton.	.86	.64
1 Socks woollen.	.46	.34
1 Beret khaki.	1.20	.90
HABILLEMENT DIVISION "C"		
1 Comb hair.	.04	.03
1 Holdall.	.22	.16
1 Towel hand.	.31	.23
1 Pin collar.	.06	.04
1 Necktie black.	.28	.21
1 Knife clasp.	.99	.74
SECTION A-1		
1 cover buck rifle.	.35	.26
SECTION A-2		
1 Cape A.G.	4.70	3.70
1 Wallet A.G.	.27	.20
SECTION "K"		
1 Cover mattress.	1.20	.90
1 Pillow slip.	.35	.26
1 Mug enamel.	.15	.11
Tot:	$32.10	$24.21

Lauzon, P.Q.
26 sept, 1945.

(PIERRE TASCHEREAU.) Capitaine.
Procureur Permanent 5em District Militaire.

Procédure sur une dénégation de culpabilité

Question à l'accusé. Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins~~

~~[illegible]~~

- LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE : -

~~Ceux-ci sont assermentés, et interrogés par le procureur~~

~~Question~~

1o. M.F.B. 375, déclaration d'une Cour d'Enquête tenue à Valcartier, P. Q., le 29 mai, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " G ", signé par le Président et versé au dossier.)

2o. M.F.M. 216, certificat de reddition de l'accusé, signé à Québec, P. Q., le 17 septembre, 1945, par le Major J. B. Martineau, T/D.A.P.M., R. M. No. 5, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " H ", signé par le Président et versé au dossier.)

-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-

- LE PROCUREUR PROCEDE A L'APPEL DES TEMOINS. -

Témoin de la Poursuite:- P-49788, - C.Q.M.S. M. LEBLANC, Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C.,

étant dûment assermenté,

EST INTERROGE PAR LE PROCUREUR : -

Q. Quelles sont vos fonctions ?

R. Quartier-maître du Camp de Lauzon, monsieur.

C - 3

Q. Connaissez-vous l'accusé ?

R. Oui, monsieur. M. Montminy, ici, au milieu, (indiquant l'accusé).

Q. Avez-vous eu l'occasion de faire l'inventaire de l'équipement de l'accusé ?

R. Oui, monsieur. Le soldat Montminy, M., est passé devant moi le 24 septembre, 1945, et il a rapporté de l'équipement pour un montant de $21.24; il devait encore la valeur des articles suivants :

2	Dressing First Field	$ 0.48
1	Greatcoat	15.54
1	Jacket Sweater	1.38
2	Shirts Flannel	3.26
2	Shirts Under Cotton	0.86
1	Socks Woollen	0.46
1	Beret Khaki	1.20
1	Comb Hair	0.04
1	Holdall	0.22
1	Towel Hand	0.31
1	Pin Collar	0.06
1	Nectie Black	0.28
1	Knife Clasp	0.99
1	Cover Buck Rifle	0.35
1	Cape A/G	4.70
1	Wallet A/G	0.27
1	Cover Mattress	1.20
1	Pillow Slip	0.35
1	Mug Enamel	0.15
	Total, à 100%	$ 32.10
	Moins 25%, ...	8.02
	Total net, 75%	$ 24.08

Q. Sur quoi vous êtes-vous basé pour faire ces constatations ?

R. Sur la formule 375, monsieur.

- INTERROGE CONTRADICTOIREMENT PAR L'OFFICIER DEFENSEUR : -

Q. Est-ce que vous pourriez dire combien de "jacket sweater" un homme reçoit, en général ? Combien en donne-t-on ?

C - 5

R. D'ordinaire, on lui en donne seulement qu'un.

Q. Un béret kaki ?

R. Seulement qu'un aussi.

- LE PROCUREUR NE DESIRE PAS INTERROGER DE NOUVEAU. -

- De l'avis de la Cour, il n'est pas nécessaire de se conformer à R. P. 83 (b). -

- LE TEMOIN SE RETIRE. -

- - - - - - - - - - - - - - - - -

D

- -

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: L'accusé désire rendre témoignage sous serment, monsieur.

(Voir page D-3 et suivantes.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non, monsieur.

~~*Question à l'accusé*~~ ~~Êtes-vous uniquement un témoin à l'appui de votre réputation?~~

~~*Réponse:*~~

D - 3

Témoin de la défense:- L'accusé, mat. E-102757, - Soldat Marcel MONTMINY, - Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C.,

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR :-

Q. Depuis quand êtes-vous dans l'armée ?

R. Depuis le premier septembre, 1944.

Q. Est-ce que vous avez signé actif ?

R. J'ai signé en arrivant à Québec, il y a à peu près 8 mois de ça.

Q. Est-ce que vos parents vivent encore ?

R. Oui, monsieur.

Q. Sont-ils en bonne santé ?

R. Ma mère est malade.

Q. Qu'est-ce qu'elle a ?

R. Là, elle est revenue un peu; elle avait le foi malade.

Q. Quand a-t-elle été malade ?

R. Le 3 avril, au soir, j'ai reçu un téléphone de chez nous de descendre, que ma mère était gravement malade. Je suis parti le soir.

Q. Vous dites que vous êtes parti le 3 avril ? Aviez-vous une passe ?

R. Non, monsieur.

Q. Qu'est-ce que vous avez fait pendant que vous avez été absent ?

R. J'ai travaillé pour aider à mon père.

D - 5

Q. Où avez-vous travaillé ?

R. A la campagne.

Q. Chez qui ?

R. Pour un de mes oncles.

Q. Avez-vous été là longtemps ?

R. Deux mois.

Q. Votre mère a-t-elle été malade longtemps ?

R. Trois mois.

Q. Est-ce que ça va mieux ?

R. Oui, un peu.

Q. Lorsque vous êtes parti, le 3 avril, qu'est-ce que vous avez fait de votre équipement ?

R. Je l'ai laissé sur mon lit.

Q. Vous avez entendu la lecture des articles qui vous manquent; voulez-vous me dire où sont les articles suivants : 2 Dressing first field ?

R. J'ai laissé ça là-bas dans mon kit bag.

Q. Est-ce que vos kit bags étaient barrés ?

R. Oui, monsieur.

Q. Où étaient ces kit bags ?

R. Je les ai laissés sur mon lit.

Q. Votre "greatcoat" ?

R. Aussi.

Q. Votre "sweater" de laine ?

R. Je l'ai ici.

Q. 2 chemises de flanelle ?

R. LÀ-bas, à Valcartier, avec mon linge.

Q. 2 sous-vêtements de coton ?

R. J'en ai eu seulement qu'une paire et je l'ai sur moi.

D - 7

Q. Vos bas de laine ?

R. Oui, monsieur.

Q. Qu'est-ce que ça veut dire: "oui" ?

R. Je les ai sur moi.

Q. Votre béret kaki ?

R. Je l'ai ici.

Q. Votre peigne ?

R. Je l'ai laissé au camp.

Q. Votre "holdall" ?

R. Au camp.

Q. Votre serviette ?

R. Au camp aussi.

Q. Votre épingle à collet ?

R. Au camp.

Q. Votre cravate noire ?

R. Je l'ai ici.

Q. Votre couteau de poche ?

R. Je l'ai laissé au Camp.

Q. La couverture de votre carabine ?

R. Au camp.

Q. Cape anti-gaz ?

R. Au camp.

Q. La sacoche ?

R. Au camp.

Q. Votre couvert de matelas ?

R. Au camp.

Q. Votre taie d'oreiller ?

R. Au camp.

Q. Votre tasse ?

R. Au camp.

Q. Lorsque vous êtes parti sans permission, quelle était votre intention ?

R. J'avais l'intention de revenir aussitôt que ma mère serait guérie.

- INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR : -

Q. Quand votre mère a-t-elle été guérie ?

R. Au bout de trois mois.

Q. Qu'est-ce que vous avez fait ?

R. J'ai attendu encore un peu et j'ai décidé de me rapporter.

Q. C'était au mois de juillet; pourquoi avez-vous attendu ?

R. Pour voir si elle était pour retomber malade.

Q. Vous avez été absent sans permission du 4 avril 1945, jusqu'au 17 septembre, 1945 ?

R. Oui, monsieur. J'ai attendu un peu et je me suis rapporté le 11 aux Quartiers-Généraux.

Q. A qui vous êtes-vous rapporté, le 11 ?

R. A un Caporal qui était au bureau.

Q. Après ça, qu'est-ce que vous avez fait ?

R. J'ai monté à La Citadelle.

Q. Est-ce que ce n'est pas plutôt le 17, ça ?

R. Je ne me rappelle pas trop de la date; ça peut être le 17 aussi.

Q. Ca fait 15 jours de ça ?

R. Oui, monsieur.

Q. C'est le 2 octobre, aujourd'hui ?

R. Oui.

Q. Quand vous êtes parti, vous avez laissé votre kit bag barré, à Valcartier ?

R. Oui, monsieur.

D - 11

Q. Avez-vous donné instruction à quelqu'un de voir à votre linge ?

R. Non, monsieur.

Q. Avez-vous donné de vos nouvelles au Camp pendant que vous avez été parti ?

R. Non, monsieur.

Q. Quand vous avez passé à l'inventaire de votre équipement, avez-vous averti le Quartier-maître que vous aviez certains articles ?

R. Oui. Je les ai reçus depuis.

- L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU. -

- De l'avis de la Cour, il n'est pas nécessaire de se conformer à R. P. 83 (b). -

- L'ACCUSE REPREND SON SIEGE. -

-x-x-x-x-x-

- LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE ET L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE. -

-x-x-x-x-x-

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur. (L'accusé, par son Officier Défenseur, dit :-

" Si le soldat Montminy s'est absenté sans permission, c'est dû à la maladie subite de sa mère qui était gravement malade. Montminy, immédiatement, s'est porté à son chevet afin d'alléger un peu ses maux et de se rendre utile à la maison. Je demanderai la clémence de la Cour pour l'accusé. "

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

" F "

- MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE. -

A 1427 heures, le deuxième jour d'octobre, 1945, la Cour s'est ajournée.

-x-x-x-

A 1435 heures, le deuxième jour d'octobre, 1945, la Cour se rassemble.

(Le procès se poursuit.)

-x-x-x-x-x-x-

Pierre Decary
(PIERRE DECARY) MAJOR
PRESIDENT

RECORD of the Declaration of a Court of Inquiry assembled at A-13 C.I.T.C. Valcartier, P.Q. on the 8th day of May 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. R.102757 Pte Montminy, Marcel R.22e R. attached to A-13 C.I.T.C.

DECLARATION

The Court declare that No. R.102757 (Reg'l No.) Pte (Rank) MONTMINY, Marcel (Full Name) R.22e R. attached to A-13 C.I.T.C. (Unit) illegally absented himself without leave from A-13 C.I.T.C. at Valcartier P.Q. (Place) at 0800 hours on the 4th day of Apr 45, that he is still so absent, and that on the 4 Apr 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
CLOTHING DIV. "A"			SECTION A-2		
1 Anklet web	0	74	1 Cape A Gas	4	70
2 Dressing First Field	0	42	1 Wallet A Gas	0	27
1 Great Coat Drab	15	54	SECTION "E"		
CLOTHING DIV. "B"			1 Cover Mattress	1	20
1 Battle Dress Blouse	6	50	1 Pillow Slip	0	55
1 Battle Dress Trouser	6	50	1 Mug Enamel	0	10
1 Boot ankle	5	45			
1 Drawer cotton short	0	45	CARD 1044	$63	65
1 Jacket sweater	1	38			
2 Shirts flannel khaki	5	26	CARD 3444 less 25% being applied on each article separately		
2 Shirts undercotton	0	86			
2 Socks wollen	0	92		$40	65
1 Beret khaki	1	20			

ARTICLES	VALUE		ARTICLES	VALUE	
CLOTHING DIV. "C"					
1 Brush shaving	0	42			
1 Comb hair	0	04			
1 Holdall	0	82			
1 Razor safety set	0	42			
1 Towel hand	0	31			
1 Bootlis black	0	19			
1 Pin collar safety	0	04			
1 Boot black pr	0	28			
1 Knife clasp	0	09			
CLOTHING DIV. "D"					
1 Badge Cap	0	09			
SECTION "A-1"					
1 Cover Brush rifle(1)	0	30			

(J. Pierre) Major Montreal — President

Signed at Valcartier P.Q. (P. Dupuis) Capt. Comm. List — Member

this 8th day of May 19 45 (L. Lévesque) Lieut. R.22e Chaud. — Member

Signature of Commanding Officer (D. Menard) Colonel C.O. A-13 CITC

Certified true copy (J.L. Rameau) Lieut. Comm. List.
(Signature of Officer having custody of original record)
J.L. Rameau Lieut.
I/c Records Office,
A-13 C.I.T.C.

M.F.B. 375
A.F.B. 115
200M—1-44 (2578)
H.Q. 1772-39-257

" H "

Pierre Decary

(PIERRE DECARY) MAJOR

31

CERTIFICATE in accordance with Order in Council P.C. 2797 dated ~~April 17th, 1941~~ and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, MAJOR (Rank) J.B. MARTINEAU (Name) T/D.A.P.M., M.D. 5 (Unit)

hereby certify that E-602589 (Number) Pte. (Rank) MONTMINY (Name in full) Marcel

of the DISTRICT DEPOT NO. 5 LAUZON (Unit and attachment, if any)

Strike out words not applicable } ~~apprehended by~~ (surrendered to) myself (Number) (Rank)

(Name) (Unit or appointment)

at HEADQUARTERS, M.D. No. 5 (Place) at 1021 (Hour)

on the 17th day of september 1945

Strike out words not applicable } as a deserter (~~absent without leave~~), and that at the time of his ~~apprehension~~ surrender he was wearing military (~~civilian~~) uniform (~~[illegible]~~)

Dated at Quebec, P.Q. this 17th day of sept ember 1945

J.B. Martineau
(J.B. MARTINEAU)-Major,
(Signature, Number, Rank, Unit or appointment)
T/D.A.P.M., M.D. No. 5

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

Pierre Decary
M.F.D. 555
(PIERRE DECARY), MAJOR
PRÉSIDENT, S.C.M.

" Y "

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-102757	Private	MONTMINY Marcel	Gen. List. CA(A)

1. The following is a fair and true summary of the entries in the field ~~Regimental and Squadron, Battery~~ ~~Regimental~~ Conduct sheet ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~or Civil~~ ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ ~~None~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted.~~ ~~Nil~~

Previous convictions of the accused by a court-martial ~~or a civil court~~ ~~Air Force Act~~ of summary awards under Section 47 of the Army Act ~~A.F.A. 73~~ and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of ..... 19..~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 15 days in military custody, making a total of 15 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper 20 years, 11 months.

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service is~~ attestation paper 31-8-44.

7. ~~The service which the accused is allowed to reckon towards discharge is .....~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~air force~~ military decoration, ~~or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ military

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

Pierre Decary
M.F.R. 355
PIERRE DECARY, MAJOR
PRÉSIDENT, S.C.M.

"Y"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-102757	Private	MONTMINY Marcel	Gen. List. CA(A)

1. The following is a fair and true summary of the entries in the field ~~Regimental and Equation, Battery~~ Conduct sheets ~~or Company conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~or Civil Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ Nil

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted.~~ Nil

Previous convictions of the accused by a court-martial ~~or a civil court,~~ ~~Air Force Act~~ ~~A.A. 73~~ of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the day of .....~~ Nil

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 15 days in ~~Air Force~~ military custody, making a total of 15 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 years, 11 months.

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 31-8-44.

7. ~~The service which the accused is allowed to reckon towards discharge is~~ Nil

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~ Nil

9. The accused is in possession of ~~or entitled to~~ no ~~single~~ military decoration, ~~or a military reward (or is in possession of or entitled to). State any single decoration or reward.~~ military Nil

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~ Nil

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number B102757 Rank Private

Name MONTMINY Marcel of Gen. List. CA(A)
Unit
Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
S.C.M.	27 Mar 45 Valcartier	AA SEC 12(1)	168 hrs Detention 18 days' pay.	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

(J.W.G. LA ROCHE) Capt.,
Officer 1/c Records,
No.5 D.D. Lauzon, Que.

Signed this 2nd day of OCTOBER 1945.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

35

No. B-102757 Name MONTMINY Marcel Sqn., Battery, or Company | Corps Gen. List. CA(A) Date of enlistment 31-8-44 O.C. Badges | Tradesmen's Rates of Pay | M.F.M. 6 (A.F.B. 122) 20036—11-43 (3972) H.Q. 1772-30-1532

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier, P.Q.	17-3-45	Pte	nil	AA Sec 12(1) AWL from 1900hrs 17-3-45 until 1230hrs 18-3-45. Total:- 17hrs,30mns.	Warning Sheet	7 days'DET. and 18 days' pay.	23-3-45	SCM	Forfl day' pay.

CERTIFIED TRUE COPY
(J.W.G. LA ROCHE) Capt.,
Officer i/c Records,
No.5 D.D. Lauzon, Que.

(PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

(P.T.O.)

REGIME DE LA PREUVE

Proces de E-102757 ~~XXXX~~ Artilleur Marcel MONTMIGNY. Liste Generale, A.C. attache au Depot Regional, No 5, A C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des O.P. II No: 82 d/ 6 avril, 1945, a Valcartier, P.Q.

2. M.F.B. 375

3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

ORALE: P-48788 ~~CQMS~~. Leblanc. M. Liste Generale, A.A.C. attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

L O 1507 (9-6-45)

MEDICAL OFFICER'S REPORT

I certify that No. E 402589 Pfc Irwin, Wm. H.

of DD #5 is in a Good state of health,

and fit to undergo Trial by Court martial.

J. Miault M
Medical Officer

Station Lawton Guardhouse

Date 2 Oct 45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-30-460

Medical Inspection Room
C.P. MD No. 6
OCT 2 1945
LAUZON, P.Q.

H.Q.C.55-M-1632 (JAG/D-7)
Your Q. 39-M-4819

19 Oct 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

E.102757 Pte. Marcel Montminy,
Gen.List., C.A.,att. No. 5 District Depot,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

THIS COPY IS

H.Q.C. 55-M-1632
M.D.Q. 39-M-4819

G.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. E-102757 Name Marcel MONTMINY

Rank Pte. Unit Gen. List. Att No. 5 D.D. C.A.

Charge (1) AA 12 (1) (a) WOAS DESERTION...

(2) AA 24 (2) Losing by neglect....

Date of Crime 4-4-45 (2) 24-9-45

Date of Arrest 17-9-45 Charge Signed 26-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 D.D. C.A. 2-10-45

Sentence Detention 175 days. Stoppages $21.27

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40431

Date 18-10-45

Balance of sentence remitted by Conf. Auth.

MEMO (1) Guilty AWL

M.D. 5
Absent
5½ mos.

Gen. List. Att No. 5 D.D. C.A.
Sentence
Det. 175 days.

R. J. Ryan Lt.
for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. Q:39-M-4819

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

OCT 17 1945
C.55-M-1632
3516
Referred to JAG

Headquarters,
Military District No. 5,
Quebec, Que.,
Oct. 15th. 1945.

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

STANDING COURT MARTIAL

E/102757, Pte. Marcel MONTMINY.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

Pierre Decary

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

NAT. DEF. E. 140
2500M-4-44 4021
H.Q. 1722-39-767

40431

HQC.55-M-1632 (JAG/D)

12 Apr 45

District Officer Commanding,
Military District No. 5,
QUEBEC, Que.

Standing Court-Martial
R.102757, Pte. Mercel MONTMIGNY,
General List, CA, (Att.A-13 CITC,CA)

Receipt is acknowledged of your Q.39-M-4819 (JA) dated 9th April, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E L M
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

Noted
L.H. Clayton

L. H. CLAYTON
Lieut.-Colonel
Registrar of Courts-Martial
APR 14 1945

RJO

IN REPLY PLEASE QUOTE No. Q. 39-M-4819 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

305901

QUEBEC, P.Q., 9th April, 1945.

THE SECRETARY,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
APR 11 1945
File 255-M-1632
Chgd. to
Referred to

STANDING COURT-MARTIAL
E-102757, Pte. Marcel MONTMIGNY,
General List,CA,(Att. A-13 CITC,CA).

1. Reference your HQC. 55-M-1632 (JAG/D-9) dated 6 Apr 45.

2. It is noted Pte. Montmigny was sentenced by the Court to 168 hours detention.

3. The proceedings of the marginally noted S.C.M. are returned herewith for custody.

PT/C.

(Edmond BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

NAT. DEF. B. 440
(1944-4-44-10211)
M.G. 1772-38 750

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à A-13 CITC, A.C., Camp Valcartier, P. Q.,

le 26ème - - - - jour de mars, - - - - - - - - - - 19 45, à 1420 - - - - - heures,

pour le procès de E-102757, - Soldat Marcel MONTMIGNY, -
Matricule Grade Nom et prénoms

Liste Générale, A.C., att. à A-13 CITC, A.C.
Unité Détachement, le cas échéant

PRÉSIDENT: Major Armand SYLVESTRE,
Président Permanent, C.M.P., Q.G., R.M. No. 5.

PROCUREUR: Capt. Pierre GELLY, Procureur Permanent, Q.G., R.M. No. 5.
Grade Nom et prénoms Unité Détachement, le cas échéant

~~XXXXXX~~ OFFICIER DÉFENSEUR: Lieut. J. DECHENE, Liste Gén., A.C., att. A-13 CITC, A.C.
Grade Nom et prénoms Unité Détachement, le cas échéant

VERDICT: - LA COUR DECLARE le prévenu : -

Mat. E-102757, - Soldat Marcel MONTMIGNY, -
Liste Générale, A.C., att. à A-13 CITC., A.C.,

innocent de l'accusation de désertion, mais coupable d'absence sans permission sous le chef d'accusation. "

SENTENCE: - LA COUR CONDAMNE le prévenu :-

Mat. E-102757, - Soldat Marcel MONTMIGNY,
Liste Générale, A.C., att. à A-13 CITC, A.C.,

à la détention pendant Cent Soixante-et-Huit (168) heures. "

-o-o-o-o-o-o-o-

Signé à CAMP VALCARTIER, P. Q., ce 27 ème - - jour de mars, - - - - - - 194 5.

- Major,
Président de la cour martiale permanente
Q. G., M. D. 5.

M.F.R. 1455A
5M-6-44 (4626)
H.Q. 1772-39-2296

Extracts entered as No. 3655 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 5 day of April 1945

Formules de serments et de déclarations

Serments

Sténographe

Jûrez-vous par le Dieu tout-puissant que vous inscrirez fidèlement, du mieux que vous pourrez, les témoignages rendus devant la présente cour martiale, ainsi que toutes les autres matières qu'il faudra, et que, quand on vous le demandera, vous en fournirez à la cour une transcription fidèle?

Réponse: Je le jure.

Interprète

Jurez-vous par le Dieu tout-puissant que vous donnerez, selon toute votre habileté, une interprétation et une traduction fidèles, qu'on pourra exiger de vous, concernant la question dont est saisie la présente cour martiale?

Réponse: Je le jure.

Témoin

Jurez-vous par le Dieu tout-puissant que le témoignage que vous rendrez devant cette cour sera la vérité, toute la vérité et rien que la vérité?

Réponse: Je le jure.

Déclarations solennelles

La formule de la déclaration est la même que celle des serments, sauf qu'aux mots: "Jurez-vous par le Dieu tout-puissant" se substituent les mots: "(Nom et prénoms), promettez-vous et déclarez-vous solennellement", et que les mots: "promettez-vous et déclarez-vous solennellement" se substituent aux mots: "jurez-vous", partout où ces derniers se présentent.

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. Vous opposez-vous à E-21035, S.M. A/W.O. I, Gaston Vidal, - - - - comme sténographe ?

Réponse: Non, monsieur. (Le mat. E-21035, S.M. A/W.O. I, Gaston Vidal, 5ème Détachement C.C.M.E.M., A.C., 5ème Région Militaire, A.C., est

Le sténographe dûment assermenté.

- MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE: (Voir le document marqué "F", ci-joint).

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente .

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: " NON COUPABLE. "

~~*Question à l'accusé.* Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.)

" B-2 "

CHARGE SHEET

in the case of

The accused, No. E-102757, Private Marcel MONTMIGNY, General List, C.A., attached to A-13 C.I.T.C., C.A., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:

CHARGE:
Sec.12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he

at Valcartier Camp, P.Q., at 1900 hours, on the 17th of March 1945, after having been warned for proceeding on special duty, with intent to avoid so proceeding, absented himself without leave from A-13 C.I.T.C., C.A., until he surrendered himself to Military Authorities at Valcartier Camp, P.Q., on the 18th day of March 1945, at 1230 hours, wearing military uniform.

Valcartier Camp, P.Q., this
23rd day of March 1945.

P.E. Bélanger

(P.E. BELANGER) Lieut-Colonel
T/O.C. A-13 C.I.T.C., C.A.

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

- LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE : -

1o. M.F.M. 216, Certificat de reddition de l'accusé, signé à Valcartier, le 22 mars, 1945, par le Lt.-Col. P. E. Bélanger, T/O.C., A-13 CITC, A.C., se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " G ", signé par le Président et versé au dossier.)

2o. Extrait certifié des Ordres du Jour, Partie II, No. 69, émis par A-13 CITC, A.C., à Valcartier, le 22 mars, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " H ", signé par le Président et versé au dossier.)

-o-o-o-o-o-o-o-o-o-o-o-o-o-o-o-

- LE PROCUREUR PROCEDE A L'APPEL DES TEMOINS. -

Témoin de la Poursuite:-

Lieut. M. NORMAND, Liste Générale, A.C., attaché à A-13, C.I.T.C., A.C.,

étant dûment assermenté,

EST INTERROGE PAR LE PROCUREUR : -

Q. Voulez-vous dire à la Cour quelles sont les fonctions que vous exercez dans l'armée ?

R. Je suis Officier attaché à la 9ème Infanterie et j'aide aux mouvements des troupes.

C - 3

Q. Connaissez-vous l'accusé dans cette cause ?

R. Le soldat Montmigny, entre les deux escortes (indiquant l'accusé).

Q. Voulez-vous examiner le document que voici, et dire à la Cour si vous connaissez ce document ?

R. C'est un avis d'embarquement que le soldat Montmigny a signé en ma présence.

Q. Voulez-vous dire en quelle circonstance il a signé ce document ?

R. Lors d'un devoir spécial où il avait été désigné par le Commandant.

Q. Voulez-vous produire ce document à la Cour, comme exhibit ?

R. Oui, monsieur.

(Le témoin remet au président un Avis d'Embarquement signé par l'accusé, M. Montmigny, en présence du Lieut. M. Normand et du Lieut. P. Faubert, le 9 mars, 1945.)

(Ce document est lu par la Cour, marqué " I ", signé par le Président et versé au dossier.)

- L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER CONTRADICTOIREMENT. -

- De l'avis de la Cour, il n'est pas nécessaire de se conformer à R. P. 83 (b). -

- LE TEMOIN SE RETIRE. -

-o-o-o-o-o-

- LA POURSUITE N'A PAS D'AUTRES TEMOINS A APPELER. -

-o-o-o-o-o-o-o-o-

C - 5

- L'OFFICIER DEFENSEUR SOUMET QUE LA POURSUITE N'A PAS ETABLI DE PREUVE ' -

(Voir le document marqué " J ", ci-joint.)

- LE PROCUREUR DECLARE N'AVOIR RIEN A DIRE. -

LA COUR REJETTE LA MOTION DE NON-LIEU PRESENTEE PAR L'OFFICIER DEFENSEUR. -

-o-o-o-o-o-o-o-o-

(LE PROCES SE POURSUIT.)

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: L'accusé désire rendre témoignage sous serment, monsieur.

(Voir page D-3 et suivantes.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non, monsieur.

~~*Question à l'accusé.*~~ ~~Est-ce conformément au témoin à l'appui de votre réponse?~~

~~*Réponse:*~~

D - 3

Témoin de la Défense:-

L'accusé, mat. E-102757, - Soldat Marcel MONTMIGNY, Liste Générale, A.C., attaché à A-13, C.I.T.C., A.C.,

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR : -

Q. Montmigny, voulez-vous expliquer à la Cour pour quelles raisons vous êtes parti le 17 mars au soir ? à 1900 heures ?

R. Premièrement, je suis parti sur une passe de quatre jours. Je suis arrivé chez nous et mes parents n'y étaient pas. Ils étaient partis en voyage le 10 et le 11. Ils sont revenus le 11 au soir; il ne me restait que deux jours et ce n'était pas bien long. Quand j'ai vu ça, je suis descendu et je suis revenu me rapporter au Sergent-Major, et au Capitaine Courtemanche.

Q. En revenant, qu'est-ce qui est arrivé ?

R. Le S.M. Laporte s'en venait en courant et je lui ai dit: "Je me rapporte sur ma passe". Il a dit: "Je n'ai pas le temps; on arrangera ça demain." J'ai été à l'Orderly Room pour me rapporter au Major; il n'était pas là. J'ai dit au Caporal: "Qu'est-ce que je vais faire". Il a dit: "Va à la hutte 355 et attends". Le lendemain matin, j'ai embarqué sur la parade et j'ai tombé sur la fatigue comme les autres.

Q. Savez-vous à quelle heure la draft devait partir ?

R. Trois lieutenants, le Lt. Lebel, le Lieut. Boucher, l'autre, je ne suis pas certain si ce n'est pas Dandurand, je crois, ils l'ont dit.

D - 5

Q. Etiez-vous au camp quand ça été dit ?

R. Oui, monsieur. Ils ont dit aux gars que la draft partait le dimanche, à 3½ heures.

Q. Dimanche, quelle date ?

R. Dimanche, le 18; lundi, c'était le 19, mardi, le 20.

Q. Et puis ?

R. Ils nous ont dit ça le samedi midi. "La draft part dimanche à 3.15 heures". Quand j'ai vu ça, j'ai dit: "Je vais monter chez nous et revenir pour la draft". Quand je suis arrivé ici, les trucks étaient dans la rue.

Q. Où vous êtes-vous rapporté ?

R. Au "Drill Hall".

Q. Où étaient les "trucks" ?

R. A la porte, et dans le dernier truck, il y avait encore des gars qui embarquaient.

Q. Maintenant, y a-t-il eu un "tattoo" le samedi soir ?

R. Non, monsieur.

Q. Y étiez-vous ?

R. A 6.00 heures, j'y étais. Ils sont partis à 6.00 heures pour un "party", une fête qu'ils ont eue; un repas et de la bière. Ils sont partis et sont revenus chauds, le soir, et ils n'ont pas fait de "tattoo".

Q. Y étiez-vous, le soir ?

R. Non, monsieur.

LE PROCUREUR : -

JE M'OBJECTE. Il n'y était pas et ne peut pas savoir ce qui s'est passé.

D - 7

Q. Vous êtes revenu ?

R. Oui; j'avais le temps de partir sur la draft dans le moment où je suis arrivé.

Q. La draft n'était pas partie ?

R. Non, monsieur. Lorsque je suis arrivé, les gars embarquaient dans les trucks.

- INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR : -

Q. A quelle heure êtes-vous parti, le samedi ?

R. A 7.00 heures, le 17.

Q. Vous êtes parti sans permission ?

R. Oui, monsieur.

Q. Vous êtes revenu à quelle heure ?

R. A midi et demie, le dimanche.

Q. Le dimanche ?

R. Oui, monsieur.

Q. La draft n'était pas partie ?

R. Non, monsieur.

- L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU. -

- INTERROGE PAR LA COUR : -

Q. Etiez-vous prêt à partir ?

R. Certainement, monsieur. Mes bagages étaient prêts.

D - 9

- De l'avis de la Cour, il n'est pas nécessaire de se conformer à R. P. 83 (b). -

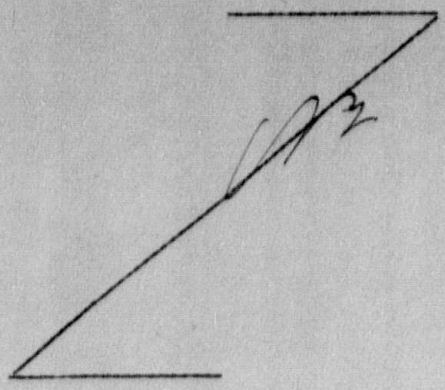
- L'ACCUSE REPREND SON SIEGE. -

-o-o-o-o-o-

- LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE

ET L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE. -

-o-o-o-o-o-o-o-o-o-o-



Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Non, monsieur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

" F "

" MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE "

A 1425 heures, le 26 mars, 1945, la Cour s'est ajournée.

- - - - - -

Le 27 mars, 1945, à 1015 heures, la Cour se rassemble.

(Le procès se poursuit.)

-o-o-o-o-o-o-

CERTIFICATE IN ACCORDANCE WITH

ORDER IN COUNCIL P.C. 2797, DATED APRIL 10TH 1942

AS PUBLISHED IN GENERAL ORDER 127, 1942

(~~Apprehension~~ surrender to service authorities.)

I, Lieut-Colonel P.E. Bélanger T/OC A-13 CITC CA
(rank) (name) (unit)

hereby certify that H-102757 Private MONTMIGNY M.
(number) (rank) (name in full)

of the General List C.A. att. to A-13 C.I.T.C. C.A.
(Unit and attachment (if any)

(~~apprehended~~ surrendered to) D-57797 CSM Laporte A.
(number) (rank) (Name)

General List C.A. att. to A-13 C.I.T.C. C.A.
(Unit or appointment.)

at Valcartier Camp, P.Q. at 1230 hours
(Place) (Hour)

on the 18th day of March 1945

as a deserter ~~absentee~~ and that at the time of his arrest he was wearing military ~~clothing~~ uniform ~~clothing~~.

DATED at Valcartier Camp, P.Q. this 22nd day of Mar. 1945.

P.E. Bélanger
Lieut-Colonel,
T/Officer Commanding.
A-13 C.I.T.C., C.A.

(Strike out words not applicable.)

M.F.M. 216

DAILY ORDERS PART II
by
LT-COLONEL P.E. BELANGER
T/O.C.

A-13 CANADIAN INFANTRY TRAINING CENTRE

Order No 69
22 Mar 45
Valcartier, Que.

(Last Orders issued No 68 d/21 Mar 45)

"B" OTHER RANKS

21. ABSENCE WITHOUT LEAVE (Cont'd)

e) A.W.L. from 1900hrs. 17 Mar 45 Ret.from A.W.L. at 1230hrs. 18 Mar 45.

E-102757 Pte. MONTMIGNY, M.

(SIGNED) M. Thivierge, Lt.,
For: (R. PLANTE) Capt., Adjutant,
A-13 CANADIAN INFANTRY TRAINING CENTRE,
VALCARTIER CAMP, P.Q.

Certified true extract of Daily
Orders Part II No.69 dated
22 March 1945.

J.L. Rameau Lieut.& Off.i/c Records,
General List, C.A., att. A-13 C.I.T.C., CA.

" I "

AVIS D'EMBARQUEMENT

31

A-13 C.I.T.C., Valcartier, Qué.
Date... 9 mai 1945

E102757 Pte Montmigny M.
(Att. au A-13 C.I.T.C., A.Q.)

C. P. Monette
Lieutenant-Colonel.

"Je, soussigné, reconnais par les présentes avoir reçu un avis d'embarquement ce ..9.ème jour de mai 1945, à l'effet que je devrai partir pour devoir spécial à n'importe quel moment à partir de 1600 heures, le .9.ème jour de mai 1945, et je comprends que si je m'absente sans permission ou si je dépasse la limite de temps alloué pour mon congé, je serai passible d'une accusation de désertion aux termes de la Section 12 A.A.

Je reconnais de plus que j'ai reçu instructions de me rapporter à l'expiration de mon congé à ..A-13..C.I.T.C..... à 0800 heures, le 14.ème jour de mai 1945, et je reconnais savoir que si je néglige de me rapporter tel qu'ordonné, je serai également passible d'une accusation de désertion aux termes de la Section 12 AA.

Et j'ai signé. M. Montmigny
Signé devant moi P. H. Aubert Lt.
(Officier procédant à l'appel)

TEMOIN: P. H. Aubert Lt.
De l'appel et de la signature
Ce .9.ème jour de mai 1945".

" J "

- L'OFFICIER DEFENSEUR SOUMET QUE LA POURSUITE N'A PAS ETABLI LA PRESOMPTION LEGALE. -

Je désire présenter une Motion de Non-Lieu du fait que l'accusé devait se rapporter le 14 et qu'il l'a fait. L'accusation, d'ailleurs, dit qu'il s'est absenté le 17. Les dates ne correspondent pas. "

-o-o-o-o-o-o-o-

- LA COUR REJETTE LA MOTION DE NON-LIEU PRESENTEE PAR L'OFFICIER DEFENSEUR : -

-o-o-o-o-o-o-o-o-o-

M.F.B. 355
55M—9-42 (1937)
H.Q. 1772-39-630
A.F.D. 200

" Y "

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-102757	Private	Marcel MONTMIGNY	General List, C.A., attached to A-13 C.I.T.C., C.A.

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 0 days in military custody, making a total of 0 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20 years 4 months

6. The date of his attestation specified in his attestation paper is 31 August 1944

9. The accused is in possession of or entitled to no military decoration, or military reward

~~35 11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~

Permanent Force
unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25th day of March 1945. J. L. Ramsay Lt
Officer i/c Records

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No.	Name	Sqn., Battery, or Company	Corps	Date of enlistment	G.C. Badges	Tradesmen's Rates of Pay
E-102757	MONTMIGNY		C.I.C.	31AUG44		

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. One | Signature O.C. Company, etc. J.F. Courtemanche, Capt. | Character

W.F.M. 4 (A.F.B. 122) 500M—11-41 (3468) H.Q. 1772-39-1452

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed after 6 months service under R.O. 393.					
				CERTIFIED TRUE COPY					
				J.L. Ramsay Lieut.& Off.i/c Records, General List, C.A., a tt. A-13 CITC, CA.					

(P.T.O.)

PRECIS OF EVIDENCE

in the case of

No. E-102757, Private Marcel MONTMIGNY, General List, C.A., attached to A-13 C.I.T.C., C.A.

CHARGE: - WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

To prove the charge, the following evidence is available:

Documentary: - M.F.M. 216,
Extract from Part II Order of A-13 C.I.T.C. No. 69 dated 22 Mar 45, respecting the absence of the accused.
Certified true copy of Warning Order.

Verbal: - Lieut. M. Normand, General List, C.A., who will produce a certified true copy of Warning Order.

MEDICAL OFFICER'S REPORT

I certify that No. E-102757 Pte MONTMINY M

of 9th Inf Coy A-13 is in a good state of health,

and fit to undergo trial by Court martial.

G Grolean Capt (R.C.A.M.C.) AF
Medical Officer
M.O. A.I.T.C. A-13 VALCARTIER

Station Valcartier Camp P.Que

Date 26 Mar 45

M. F. B. 246

50M—5-43 (254)
H.Q. 1773-10-680

MEDICAL OFFICER'S REPORT

I certify that No. E-102754 Pte MONTMINY M
of 9th Inf Coy A-13 is in a good state of health,
and fit to undergo trial by Court martial.

J Wolesee Capt
Medical Officer (R.C.A.M.C.)
M.O. A.I.T.C. A-13 VALCARTIER

Station Valcartier Camp P Que

Date 27 Mar 45

M. F. B. 246
50M—4-43 (3541)
H.Q. 1772-30-400

H.Q.C. 55-M-1632 (JAG/D-9)
Your File - Q.39-M-4819

6 Apr 45

District Officer Commanding,
Military District No.5,
Quebec, Que.

STANDING COURT-MARTIAL

E-102757, Pte. Marcel MONTMIGNY,
General List, C.A.,
(Att. to A-13, C.I.T.C., C.A.)

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LYV/MT

THIS COPY FOR: H.Q. C.55-M-1632
M.D. 5-39-M-4819

G.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. E.102757 Name MORTMIGNY, Marcel

Rank Pte Unit Gen List C.A. att A 13 C.I.T.C. CA

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 17-3-45

Date of Arrest 18-3-45 Charge Signed 23-3-45

Orders for D.C.M.

Place and Date of Trial A 13 C.I.T.C. CA Camp Valcartier Que 26-3-45

Sentence Det 168 hrs

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36557

Date 5-4-45

MEMO Guilty A.W.L.

M.D. 5 - A 13 CITC CA
Absent Sentence
~~2 days~~ Det 168 hrs.
19 hours

for Judge Advocate-General

10M-1-45(M-4629)

IN REPLY PLEASE QUOTE

No. Q:39-M-4819

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Quebec, P.Q., March 30th. 1945.

THE JUDGE ADVOCATE GENERAL,
Dept. of National Defence,
Ottawa, Ont.

C.55-M-163 I

STANDING COURT-MARTIAL
E/102757, Pte. Marcel MONTMIGNY,
General List, C.A.,
(Att. to A-13, C.I.T.C., C.A.)

Enclosed herewith please find the proceedings of the m/n Standing Court-Martial, which are forwarded to you pursuant to C.A.R.O. 4565 (11)(a).

A. Sylvestre

(ARMAND SYLVESTRE) - Major,
Permanent President S.C.M.

36557

N.D. 23
1,500M—7-42 (3916)
H.Q. 1773-101-27

H.Q.C. 55-N-1633 CONFIDENTIAL

M.F.B. 1919 (131—4-41 (3628) T.O. 501-4-69

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT
STANDING COURT-MARTIAL

MC-CARTHY. ALFRED EDWARD B.630711 PTE.

CONFIDENTIAL
H.Q.C. 55-N-1633

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 9 1945	[illegible]	[illegible]	[illegible]	[illegible]	NEW FILE	C.R.	APR 4 - 1945
					[illegible] APR 24	OK	
APR 24 1945	[illegible]	[illegible]	[illegible]	JCM	To note, [illegible] & pass to Admin	[illegible]	24-4-45
APR 26 1945	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	APR 25 1945
APR 27 1945							
MAY 3 1945	[illegible]	[illegible]	[illegible]	[illegible]	PER B.F. MAY 4 - 1945		
MAY 17 1945	17/5/45	P.A.	[illegible]	JCM	With Papers C.R. MAY 18 1945	OK	
				JAG	With Papers C.R. MAY 30 1945	OK	
MAY 31 1945				JCM	To note and pass to [illegible]	[illegible]	31-5-45
JUN 1 - 1945	1/6/45	P.A.	[illegible]	[illegible]	[illegible]	[illegible]	MAY 31 1945
JUL 25 1945	JUL 24 1945	[illegible]	[illegible]	JCM			
AUG 4 1945	3/5/45	[illegible]	[illegible]	JCM	With Papers C.R. AUG 2 1945	OK	
MAY 28 1946	MAY 27	[illegible]	was	LDRB	[illegible] APR 15 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days then keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. T-20-M-13703 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
1st August, 1945.

CENTRAL REGISTRY Army
CONF. SEC.
AUG 2 1945
File 55-M-1633
Chgd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

333095

Standing Court-Martial
B-530711 - Pte. Alfred Edward McCARTHY,
No. 2 District Depot, C.A.

Reference H.Q.C. 55-M-1633 (ICM) dated 25th July, 1945.

2. Returned herewith M.F.M. 288 and most recent Report on Conduct re the marginally-noted subject.

3. The sentence of the marginally-named soldier expired on the 28th July, 1945, by virtue of automatic remission for good conduct and he was released on that date and discharged from the Canadian Army pursuant to C.A.R.O. 1029(8).

4. The above-mentioned documents are forwarded for disposal, please.

(I. M. R. Sinclair)
Lieut.- Colonel
Officer Administering, M.D. 2.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of B.630711 (Number) Private McCARTHY, Alfred Edward. (Rank / Name in full)

No. 2 District Depot, C.A. (Unit / Attachment (if any))

Sentenced to Six months detention

on 20th day of March 45. at Stanley Bks., Toronto, Ontario.

being served at No. 61 Military Detention Barracks, Brampton, Ontario. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 26 years of age; Enlisted 30 April 43

Medical grade or category YOB 17 PULHEMS 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To The Adjutant-General (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be [redacted] committed to undergo his sentence, which I recommend should (not) be [redacted] (reviewed [redacted] (no review) (date)) for reasons given in paragraph X.

Place Toronto, Ontario,

Date 18 Apr. 45

Arthur E Potts (Confirming Authority)
(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 288
(Army Form A-2104)
HM—6-43 (841)
H.Q. 1772-39-3513

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
MAY 17 1945	No Suspension or Remission No further Review	J.V. Caster Adjutant-General for Superior Military Authority	

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st. CHARGE Sec.12(1)(a) Army Act.	B.630711 - Pte. McCARTHY,A.E. an N.R.M. A., soldier of the C.A.,placed on Active Service,is charged with:WHEN ON ACTIVE SERVICE,DESERTING HIS MAJESTY'S SERVICE:in that he, absented himself from No. 24 C.A.(B) T.C.,Brampton, Ont.,at 2359 hr. 2 June 43 until apprehd by Civil Police at Toronto,Ont.,at 1150 hr. 29 Oct.43, dressed in civilian clothes. M Eyles Capt.Adj., Signature of Officer making entry (J.J.Eyles) No. 2 District Depot, C.A.	4 June 43	20 March 45.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
..... Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
13 Apr.	The sentence awarded was fair. The accused's ability and usefulness as a soldier is doubtful, and it is submitted that he serve his normal sentence.	A J Stellmache Col.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
18 Apr.45	Sentence not to be reviewed. D.O.C.	Arthur E Potts (A.E. Potts) Major-General M.D. No.2.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

2nd.
CHARGE

Sec.12(1)(a) Army Act.	B.630711 - Pte. McCARTHY, A.E. an N.R.M.A., soldier of the C.A., placed on Active Service, is charged with;	1 Nov.43	20 March 45.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE: in that he, absented himself from No. 24 C.A.(B) T.C., Brampton, Ont., at 0605 hr. 1 Nov. 43, until apreh'd by Military Police at Toronto, Ont., at 0930 hr. 6 March 45.

I.C.M. - B

REPORT ON CONDUCT

Department of National Defence,
H. Q. C. 55- M-1633, (ICM)
OTTAWA, 3 MAY 1945

To:- Commandant No. 61 Brampton, Military Detention Barracks.

1. Soldier under sentence	B630711 Pte. A.E. McCARTHY,
2. PLEASE STATE:-	
(i) Date of sentence 20-3	20 Mar 45
(ii) Sentence 6 m	6 mths
(iii) Date you received soldier 21-3	21 Mar 45
(iv) (a) Can soldier read and write? Yes	YES
(b) Religion CB	C OF E
(c) Married, Widower, Single S	SINGLE
(d) What Army trade has soldier? 9c	NONE
(v) (a) Conduct of soldier Fair	FAIR
(b) Industry of soldier Poor	POOR
(c) Remission earned:-	
(i) Number of days actually earned 8	8 days
(ii) Number of days obtainable to date 16	16 days
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	M/N. is in a good state of physical + mental health /
(a) Whether detention will seriously aggravate soldier's condition.	NO
(b) Whether further confinement is likely to prove fatal.	NO. G. Moscombe Capt R.C.A.M.C.
(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence?	~~YES~~ PULHEMS M.4. NO
(b) Moral effect confinement has had?	EFFECTIVE /
(c) If returned to Army, is soldier likely to become a good soldier?	NO
(viii) Date term will expire if all remission earned from now on. 28-7	28 Jul 45

(A. E. Walford)
Major-General
Adjutant-General.

LHC:WS.

5M-1-45(M-4515)

Signature H. W. Lawlay Capt.
Commandant.

Date of Report: 10 May 45

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55-M-1633 (ICM)

NDHQ Ottawa, Ont

25 Jul 45 1945

CONFIDENTIAL
C.M.

District Officer Commanding,
Military District No 2,
TORONTO, Ont

B-630711 Pte McCARTHY, Alfred Edward

Ref T-20-M-13703:

2. Enclosed herewith:-

(a) MFM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for W. D. Goodeve Capt
(A E Walford)
Major-General
Adjutant-General

IN REPLY PLEASE QUOTE

No. T-20-M-13703 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

15th May, 1945,
Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army,
CONF. SEC.
MAY 16 1945
File C55-M-1633
Chgd. to
Referred to JCM

314536

Report on Conduct
B-630711 - Pte. Alfred Edward McCARTHY,
No. 2 District Depot, C.A.

Reference H.Q.C.55-M-1633,(ICM) dated 3rd May, 1945.

2. Returned herewith Report on Conduct in respect of the marginally-noted soldier, duly completed.

(A. E. Potts)
Major-General
D.O.C. M.D. 2.

N.D. 23
3000M—10.44 (5769)
H.Q. 1772-101-23

IN REPLY PLEASE QUOTE No. T-20-M-13703(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

317964

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
29th May, 1945.

CENTRAL REGISTRY Army
MAY 30 1945
File 55-M-1633
Chgd. to
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-630711, Pte. Alfred Edward McCARTHY,
No. 2 District Depot, C.A.

Reference H.Q.C. 55-M-1633 (JAG-D-1) dated 24th April, 1945, and further to this Headquarters' T-20-M-13703 (AJAG) dated 20th April, 1945.

2. With respect to para. 3 of this Headquarters' abovementioned reference :-

(a) This soldier was medically reboarded and awarded a Pulhems Profile of P U L H E M S.
1 1 1 1 1 4 1

(b) The home circumstances were investigated and it is considered that they were not the cause or partial cause of the offences and accordingly no further administrative action is considered necessary in this regard.

(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

Noted
L.H. CLENTON
Lieut. Colonel
Director of Court Martial
MAY 31 1945

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1633,(ICM)
OTTAWA, 3 MAY 1945

Your File -T.20-M-13703

District Officer Commanding,

Military District No. 2,

TORONTO, Ontario.

B630711 Pte. A.E. MCCARTHY,

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in No. 61 Brampton, Military Detention Barrack, under your command, a sentence of 6 months' detention awarded by a Standing, Court-Martial on the 20 day of MAR 1945.

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC:WS.

5M-2-45(M-4516)

H.Q.C.55-M-1633 (JAG-D-1)

24 Apr 45.

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

Standing Court-Martial
B-630711 - Pte. Alfred Edward McCARTHY
No. 2 District Depot, C.A.

Receipt is acknowledged of your T-20-M-13703 (AJAG) dated 20th April 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M. 288.

ALT/ET

EFM capt
for (R.J.Orde) Brigadier,
Judge Advocate General.

Noted
L.H. CLAYTON
Lieut.-Colonel
APR 25 1945

EM-S-44 (M.4177) I.C.M. - L 4181

REVIEW OF SENTENCE

DATE APR 25 1945

H.Q.C. File: 55-17-1633

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES I Deserting from 4 June 43, till arrested 29 Oct 43, 4 days

II Deserting from 1 Nov 43, till arrested 6 March 45, 17 days

~~ENLISTED~~ ENROLLED 30 April 43 AGE 27

8. PREVIOUS CONDUCT Enrolled 17-11-41

3-5-43 A.W.O.L 11 days. admitted on 17-5-43

9. STATEMENT OF ACCUSED Mother got 20c A.P. Bad eyes. Could not work standing. Financial trouble. Needed my support. No other source. Left to get some work & help her better. Lived for past few months with her living at my brother's now. He's married, 2 children. Did not know could apply for D.A. Worked part time. Made 20c to 25c a week. Gave her 10c a week

10. RECOMMENDATION

IN REPLY PLEASE QUOTE No. T-20-M-13703 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

308494

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
20th April, 1945.

CENTRAL REGISTRY Army
APR 21 1945
Chgd. to
Referred to

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
E-630711 - Pte. Alfred Edward McCARTHY,
No. 2 District Depot, C.A.

Reference H.Q.C.55-M-1633 (JAG/D-1) dated 9th April, 1945.

2. Returned herewith proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O. 4567(7)(C)(e), together with M.F.M. 288, duly completed.

3. With respect to H.Q.55-1-41 F.D.74 (Adm) dated 16th January, 1945, please be advised that the following administrative action has been taken:-

(1) Medical board has been ordered.
(2) Home conditions are being investigated.

(A. E. Potts)
Major-General

D.O.C. M.D. 2.

NAT. DEF. D. 440
250M-4-44 (4520)
H.Q. 1772-39-361

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont.,

on the 20th day of March, 1945 at 1000 hours,

for the trial of: B. 630711, Pte. Alfred Edward McCARTHY,
Number Rank Full Name

No. 2 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major R. D. Evans, H.Q., M.D.2.

PROSECUTOR: Major N. M. Menzies, E.D., H.Q., M.D.2.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~
~~DEFENDING~~ OFFICER: Lieut. R. P. Wright (RCA) No. 2 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: Guilty of both charges.

SENTENCE: To undergo detention for six months.

Signed at Toronto, Ont., this 20th day of March, 1945.

(Major)
President,
Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 36603 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 5 day of Apr 1945

2

Forms of Oaths and Declarations

Oaths

Shorthand Writer

You swear by Almigthy God that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the Court a true transcript of the same.

Answer: I do.

Interpreter

You swear by Almighty God that you will to the best of your ability truly interpret and translate, as you shall be required to do, touching the matter before this court-martial.

Answer: I do.

Witness

You swear by Almighty God that the evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth.

Answer: I do.

Solemn Declarations

The form of declaration will be the same as the form of oaths except that for the words "You swear by Almighty God" will be substituted the words "You (name in full) do solemnly promise and declare"; and that the words "solemnly promise and declare" will be substituted for the word "swear" wherever it occurs.

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter?~~

Answer:

Question to the accused. Do you object to M.36367, SM R. GOSTICK, No. 2 DET., CMSC CA, HQ MD 2, acting as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial?~~

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer. Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B-2

B2 [illegible] Paper
presented. S.C.M.

CHARGE SHEET

The accused, No. B-630711, Private Alfred Edward McCARTHY, No. 2 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:-

FIRST CHARGE
Sec. 12 (1) (a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE;

- In that he -

at Brampton, Ontario, on the 4th day of June, 1943, absented himself from No. 24, C.A.(B)T.C., at 2359 hours, on said 4th day of June, 1943, until he was apprehended by the Civil Police, at Toronto, Ontario, at 1150 hours, on the 29th day of October, 1945, dressed in civilian clothes.

SECOND CHARGE
Sec. 12 (1) (a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE;

- in that he -

at Brampton, Ontario, on the 1st day of November, 1943, absented himself from No. 24 C.A.(B)T.C., at 0605 hours, on said 1st day of November, 1943, until he was apprehended by the Military Police, at Toronto, Ontario, at 0930 hours, on the 6th day of March, 1945, dressed in civilian clothes.

A B Hoenmah
Colonel
Officer Commanding,
No. 2 District Depot, C. A.

Toronto, Ontario,
15th March, 1945.

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. No. B.58203, Pte. (L/Cpl.) R. N. HEWER, H.W.E., No. 2 District Depot, C.A.

being duly sworn, is examined by the Prosecutor.

Question

Q Cpl. Hewer, what is your position in No. 2 District Depot?

A Sir, I am an N.C.O. of the Home War Establishment.

Q Do you know the accused?

A I recognize Pte. McCarthy, sir.

Q Have you any information to give the Court regarding the accused?

A Yes, sir. I produce M.F.B. 375, being a certified true copy of the record of the declaration of a court of inquiry assembled at Brampton, Ont., on the 28th day of June, 1943, signed by Captain & Adjutant J. E. Casson, officer having custody of the original record.

Q To whom does that document refer?

A The accused, sir.

THE PRESIDENT: Have you any objection to the admission of this document, Mr. Wright?

THE DEFENDING OFFICER: No objection.

(Certified true copy of MFB 375 sgnd at Brampton, Ont., 28 June 43, is marked Exhibit "F," sgnd by the Pres., read, and att'd to the proceedings.)

THE WITNESS: (Cont'd) I further produce M.F.M. 215, being certificate of arrest, signed by H. G. Harrison, Officer in Charge of Police Station, Toronto City Police.

Q To whom does that document refer?

A The accused, sir.

THE PRESIDENT: (To Def. Off.) Any objection to the admission of this document, Mr. Wright?

THE DEFENDING OFFICER: No objection, sir.

(MFM 215 is marked Exhibit "G," sgnd by the Pres., read, and att'd to the proceedings.)

THE WITNESS: (Cont'd) I further produce M.F.B. 375, certified true copy of the record of the declaration of a court of inquiry assembled at Brampton, Ont., on the 23rd day of November, 1943, signed by Captain & Adjutant J. E. Casson, officer having custody of the original record.

Q To whom does that document refer?

A The accused, sir.

THE PRESIDENT: (To Def. Off.) Any objection to the admission of this document, Mr. Wright?

THE DEFENDING OFFICER: No objection.

(Certified true copy of MFB 375 sgnd at Brempton, Ont., 23 Nov 43, is marked Exhibit "H," sgnd by the Pres., read, and att'd to the proceedings.)

THE WITNESS: I further produce M.F.M. 216, being certificate of apprehension, signed by Major F. E. McMahon, officer commanding, No. 31 Company, Canadian Provost Corps, C.A.

Q To whom does that document refer?

A The accused, sir.

THE PRESIDENT: (To Def. Off.) Any objection, Mr. Wright?

THE DEFENDING OFFICER: No objection.

(MFM 216 dated at Toronto, Ont., 6 Mar 45, is marked Exhibit "I," sgnd by the Pres., read, and att'd to the proceedings.)

THE WITNESS: (Cont'd) That is all the evidence I have, sir.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE.

THE WITNESS WITHDRAWS.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

First Witness for the Defence

The Accused, No. B.630711, Pte. Alfred Edward McCARTHY, No. 2 District Depot, C.A., being duly sworn, is examined by the Defending Officer:

Q What is your age, Pte. McCarthy?

A Twenty-seven.

Q How much dependents' allowance was your mother receiving?

A Twenty dollars a month.

Q Was your mother able to work at the time you joined the Army and when you were in the Army?

A No, she wasn't.

Q Why wasn't she able to work?

A Well, she wasn't in good health, and her eyes were bad; bad eyes.

Q What was wrong with her eyes?

A She had cataracts on them, and couldn't see well.

Q Was she in financial trouble?

A Yes, she was.

Q Was she in need of your support?

A Yes.

Q Or did she have any other source?

A No, not at all. She needed mine.

Q Is she in need of your support now?

A Yes, she is. She needs it badly.

Q What was your reason for going A.W.L.?

A Well, I thought I could help her, you know, in a way. I thought if I was out I could help her better, get some work and that, and help her along. She needed it.

Q Where is she living now?

A She is living at my brother's now. She lived on Euclid Place -- it is the name of the street, near Bathurst, in Toronto.

CROSS-EXAMINED BY THE PROSECUTOR

Q McCarthy, where were you living when you were called up?

A On Quebec.

Q Quebec what?

A Quebec Avenue.

Q Where?

A 505.

Q Whereabouts? Toronto, or where?

A Toronto.

Q Quebec Avenue, Toronto?

A Yes, sir.

Q And you say your mother got $20 from you. Was that your assigned pay?

A Yes.

Q Did she get any dependents' allowance on top of that?

A No, not at all.

Q Did you apply for it?

A No.

Q Why didn't you apply for it, if she needed the money?

A I didn't know at the time.

Q So, then, all she was getting then was just your $20; is that right?

A That is all she was getting.

Q Anybody else in the family that could help her?

A No, not exactly there wasn't.

Q You say now she is living with a brother. Where was he at that time?

A He was in the City; but he couldn't hardly help himself.

Q Was he married?

A Yes. He has two children.

Q And you say he wasn't able to help her?

A No, sir.

Q Nobody else could help her in the family, then?

A No; not very well.

Q Did you go away from Brampton on the 4th of June, 1943?

A Yes, sir; I did.

Q And did you stay away until picked up by the civilian police in Toronto on the 29th of October, 1943?

A That is right.

Q Were you dressed in civilian clothes at the time the police picked you up?

A Yes.

Q And did you go away again on the 1st of November, 1943?

A Yes, I did.

Q And did you stay away until picked up by the military police on the 6th of March, 1945?

A Yes.

Q And were you dressed in civilian clothes that time, also?

A Yes, sir.

Q You say you went away to help your mother. Did you work at all during the time you were away?

A Yes; I worked all the time.

Q How did you get a job?

A Places I know, you know, friends.

Q You mean they would give you work without a registration card; is that right?

A I was working part time.

Q You were working part time. About how much would you make a week?

A Twenty or twenty-five dollars a week.

Q And what, out of that, did you pay your mother?

A I used to give her about ten a week, and that.

Q About ten a week?

A Or twelve.

Q That would be roughly forty a month, then; is that right?

A That is right.

Q And you say before that she was only getting twenty a month; is that right?

A Yes, sir.

Q Is your brother able to help her now -- she is living with him, you say?

A Yes; but he is not able to help her.

Q She gets her board from him, does she not, and room?

A She is living there now.

Q She is getting her board and room while she is at your brother's?

A Well, she is doing a little work; but she is not able to, really.

Q Even if she is not working, doesn't she get her room and board from your brother?

A Not exactly. She helps out.

Q But she has a place to sleep, hasn't she? and she gets food, doesn't she?

A Yes, right now.

Q How long has that been going on? How long has she stayed with your brother?

A A couple of months, I guess; a few months.

Q What did you intend to do about the Army? You knew you were in the Army, didn't you?

A Yes, I did.

Q What did you intend to do about the Army?

A Well, I was thinking about coming back and clearing things up. I had that in mind.

Q Have you any idea when you intended to come back?

A I was coming back this summer.

Q This summer?

A Yes.

Q When did you decide that?

A A month ago. I was thinking about it all along.

Q Up until a month ago did you have any intention of coming back to the Army?

A Yes, I was.

Q When did you have that intention? You told me now it was just a month ago you intended to come back.

A About a couple of weeks ago; it was before I was picked up.

Q What about since 1943, then? You have been away almost two years now. What were you intentions about the Army at the time you went away and during those two years?

A I wanted to get some work; that is one of my main thoughts.

Q You wanted to get some work?

A Yes.

Q How long were you in the Army at the time you went absent?

A Around a month altogether.

Q About a month. And you say you didn't know about getting extra money for your mother; is that right?

A Yes, sir; I didn't know then. I didn't know very much about it.

RE-EXAMINED BY THE DEFENDING OFFICER

Q Did you intend at the time you went A.W.L.....

THE PRESIDENT: What he intended, I think, is a better way to put it.

Q What did you intend, at the time you went A.W.L., about returning to the Army?

A I was just going to leave for a short period of time, and thinking of returning. And then when I got work pretty steady, and that, I didn't bother to come back. I was thinking of coming back all the time, but I just didn't get back.

Q And did you think you could clear your financial difficulties up?

A Yes, I did. I thought I could get on my feet, you know, and get my mother on her feet, and get cleared up.

BY THE PRESIDENT

Q McCarthy, after you were picked up by the civil police on the 29th of October, 1943, did you not realize then that you had made a mistake?

A Yes, I did think I had made a mistake. I thought I should have stayed in and maybe got out of it, you know.

Q Then, why did you go absent again three days later?

A I don't know. Being out for so long, and that, I got used to it, and wanted to get out and continue on and do some work.

Q So you just simply went to work and did the same thing all over again?

A Yes; that is right.

Q And did you, at the time you went absent the second time, intend to come back to the Army, seriously?

A Yes, I did, sir; I was intending to come back.

Q Why did you go absent the second time, then?

A I knew you couldn't keep on doing that, you know. I thought I had better come back, you know, and get out legally.

Q During the period of this first absence of yours, from the 4th of June, 1943, to the 29th of October, 1943, did you ever contact or get in touch with the authorities at Brampton? Did you ever get in touch with them and tell them where you were?

A No, I don't think I did.

Q Why?

A I didn't think about that. I didn't know what to do, really, at the time.

Q And during this second period of absence, from the 1st of November, 1943, until the 6th of March, 1945, did you ever get in touch with the unit at Brampton, or any Army authorities, to tell them where you were?

A No, I never.

Q Did you ever make an application for compassionate leave at any time from the time you went into the Army?

A No, I never.

Q Did you never hear that---

A I didn't think about that, then; I was so excited and that, you know, getting in, that I never thought about it.

Q What did you think about, then?

A About getting out, mostly.

Q That is all you were thinking about, getting out?

A I wanted to get a job, some work, and help my mother.

Q Let the Army go by the board?

A Not exactly -- get a job. You can do just as good out, I guess, as in, working in the factory or something, doing a job.

Q And if all the members of the forces decided on that course of action, where would the Army be?

A I don't know; I guess there wouldn't be any.

Q No, there certainly wouldn't?

A I guess they are all different, though. Everybody different to others, you know. Everybody is not the same; different callings.

Q When you went absent the first time, and you were brought back by the civilian police, and you went absent a second time, was there any thought of your returning to the Army then?

A There was. I was thinking about it all the time when I was away.

Q You were thinking about it all the time?

A I was. I was going to come back, and didn't know what to do. I was going to come back several times, and got pretty near there, and changed my mind. I don't know why. I thought it would be best to come back. I was going to come back, and thought it would be best to get it over with, and then get out legally, that way.

Q Why didn't you return to the Army yourself, instead of having to be picked up by the civilian police and military police? Why didn't you come back yourself?

A I guess I should have, sir.

Q Where did the civil police, the Toronto Police, get you the first time?

A Down, just by Bathurst somewhere, and Dundas, walking along.

Q Were you wearing a uniform at that time?

A No, sir.

Q Did you wear a uniform at any time during the time you were out of the Army?

A I did for a short time after I got out of it, a couple of weeks or a week or so.

Q The first time you got out, or the second time?

A The first time.

Q Did you ever wear your uniform after that?

A No.

Q Where did you keep it?

A I had it in the laundry most of the time.

Q In the laundry most of the time?

A Yes, sir.

Q And when the Provosts got you at Yonge and Queen Streets in Toronto, on the 6th of March, last, what were you doing then?

A I just went down town to do business. I was looking around.

Q They caught you on the street; did they?

A Yes; I was walking around the street. I was down there on some business.

Q What kind of work did you do during the time you were away?

A I did truck work and factory work.

Q Did nobody ask you to produce your identification?

A A few places some would.

Q And where they did ask you to produce your identification, what did you produce?

A Well, I didn't have anything.

Q What happened then?

A I just left there and got something else, another job.

Q Were theremany places where they asked you to produce your identification?

A An odd few.

Q And did you tell any of those people that you were a member of the Armed Forces?

A No, I never; no. I told them I was in, though.

Q Told them you had been in it?

A Yes, sir.

Q And what other exaplanation did you give for being in civilian clothes and not being in it?

A Well, I told them I was working, had another job.

Q Now, let me get this straight. When they did ask you questions, you told them you had been in the Armed Forces?

A Yes, sir.

Q But what other explanation did you give them?

A Well, I told them I had another job, like, worked at two jobs at once.

Q Are you trying to tell me this, that you would tell them that you had been in the Army, that while you were in the Army you were able to get a civilian job as well?

A No, I never said that.

Q Or, did you tell them, well, now, I was in the Armed Forces, I have had a job before, since I have got out, and I am now applying for another one?

A Something like that, yes.

Q I want to be fair to you, witness; but I want to get this story. Why did you tell them you had been in the Army at all?

A Well, that is the only way you could get a job then. You couldn't get one if they thought you hadn't been in the Army.

Q Did you tell these people you had been discharged from the Army?

A No, not exactly.

Q What did you tell them, exactly?

A I told them I just got a paper, like, a category.

Q You told them you had been in the Army, but you had got a category, and you were out; is that it?

A Yes; something like that.

Q And had you, in fact, got a category?

A No.

Q Why did you tell them that, then?

A That was the only way you could get something to do, and you have got to work.

THE PRESIDENT: Any questions, gentlemen, arising out of my examination, Major Menzies?

THE PROSECUTOR: Yes; I think this would arise out of that, going absent and apprehension. Ask the witness, when did he go to Brampton.

Q When did you first go to Brampton, witness?

A It was on the 3rd of June, I guess.

Q The 3rd of June what year?

A '43.

THE PROSECUTOR: Where from?

Q Where from?

A Toronto Exhibition here.

Q You had been at the Exhibition Barracks in Toronto before going to Brampton?

A That is right; yes.

THE PROSECUTOR: For how long?

Q For how long had you been at the Exhibition Barracks here?

A I would say about two weeks, close to two weeks.

THE PROSECUTOR: And how long did he stay in Brampton before he went absent?

Q How long did you stay in Brampton before this first period of absence?

A Around the 3rd, and I left on the 4th, I guess.

THE PROSECUTOR: And had the accused actually got back to Brampton after his apprehension on the 29th, when he went absent on the 1st of November?

Q Had they actually returned you to Brampton on the 29th of October, 1943, at the end of your first period of absence?

A Yes, they did; yes.

THE PROSECUTOR: Would you ask if if he is sure of that? or did he go absent enroute to Brampton?

Q Did you go absent from Brampton the second time? or did you go absent while on the way to Brampton?

A I went from Brampton.

THE PRESIDENT: Now, are there any questions, Mr. Wright, you would like me to ask the witness as a result of my examination?

THE DEFENDING OFFICER: No, sir.

THE ACCUSED RESUMES HIS SEAT.

THE PROSECUTOR AND DEFENDING OFFICER MAKE CLOSING ADDRESSES WHICH ARE RECORDED BUT NOT TRANSCRIBED.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer (See following page).

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE DEFENDING OFFICER:

In connection with Pte. McCarthy, the Defence pleads in mitigation for the following reasons:

As has been pointed out, Pte. McCarthy has a clean record except for his ten days A.W.L., which was for the same reason as the charge which he has just been found guilty of.

He is category "A-1." And the Defence feels that he had a very strong reason for absenting himself, insomuch as his mother has a cataract of the eye, which causes her to be partially crippled, and was in financial difficulties, as has been pointed out.

I would like to recommend that Pte. McCarthy, after his punishment, be discharged, so that he may look after his mother, as the Personnel Selection Officer says he has a very limited training aptitude and is not likely to make a competent soldier; and his mother is now badly in need of his support.

I would further like to recommend that while Pte. McCarthy is undergoing punishment, that the Social Welfare Department visit his home to investigate his troubles, and to have Mrs. McCarthy sent to the hospital clinic to have this cataract cleared up.

THE PRESIDENT: May I ask you the address of the accused's mother, and her name as well?

THE DEFENDING OFFICER: Mrs. Eva McCarthy. The address on here is 505 Quebec Avenue; but I think she will be found at a different address.

THE ACCUSED: 3 Euclid Place.

THE PRESIDENT: In Toronto.

THE DEFENDING OFFICER: In Toronto.

"E" Witness Major Exhibit "A"
President, S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at Brampton, Ontario on the 28th day of June 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-630711 Pte. McCARTHY, A.E. No. 24 CA(B)T.C.

DECLARATION

The Court declare that No. B-630711 Pte. McCARTHY, A.E. No. 24 CA(B)T.C. illegally absented himself without leave from Brampton, Ontario at 2359 hours on the 4th day of June, 1943, that he is still so absent, and that on the 28th June, 1943 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES	VALUE
Anklets, Web prs.	1		79		
Battle Dress Trousers prs	1	5	25		
Battle Dress Blouse	1	5	39		
Boots Ankle prs.	1	5	56		
Caps Field Service	1		70		
Drawers cotton Short prs.	1		36		
Socks, prs.	1		37		
Shirts khaki cotton L/S	1	1	28		
TOTAL VALUE		$19	60		

A.C. Thompson, M.C. Major President
(2nd Bn. Irish Regt. of Can) att'd #24 CA(B)TC.

R.H. Green Lieut. Member
General List att'd #24 C.A.(B).T.C.

E.K. Davidson P/2/Lieut. Member
H.Q.E. #24 C.A.(B).T.C.

Signed at Brampton, Ontario

this 28th day of June 1943

Signature of Commanding Officer J.D. Clark Major
#24 C.A.(B).T.C.

Certified true copy J.E. Casson Capt. & Adjt.,
(J.E. Casson)
#24 C.A.(B).T.C.,
Brampton, Ontario.

Signature of Officer having custody of original record

M.F.B. 273
A.F.B. 115
MM—9-41 (1000)
H.Q. 1772-39-257

"G"

Exhibit "B"

43

Veterans Legal
President. S.C.M.

Certificate in accordance with Order-in-Council P.C.2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(Apprehension by or ~~[illegible]~~ to civil authorities)

I certify that the person whose description is given below was arrested by (~~[illegible]~~) P.C. Smith 766.T.A. (Name of Peace Officer or Constable) at Bathurst St. ..... at Dundas ST.W. ... Toronto, Ontario (Place)

at 11.50.A.M. (Hour) on the 29th ....day of October 19 43

and that at the time of arrest (~~[illegible]~~) he was wearing ~~[illegible]~~ (dressed in civilian clothes).

Regimental particulars ~~[illegible]~~ or soldier referred to above.	No. ...B 630711
	Rank ..Private
	Name ..Alfred MCCarthy
	Unit Royal Canadian Army Medical Core Brampton Ont.
Description	Age ..26 yrs.
	Height 5ft.10 in.
	Complexion Fair
	Hair .....Fair.
	Eyes .....Blue
	Marks ....None visible

Signature of ~~[illegible]~~ or ~~[illegible]~~ or officer in charge of police station at which ~~[illegible]~~ or soldier was taken into custody upon such arrest or ~~[illegible]~~

H. G. Harrison Sergt
.....
~~[illegible]~~ (~~[illegible]~~ or officer in charge of Police Station).

(STRIKE OUT WORDS NOT APPLICABLE)

Toronto Police Department.

N.P.M. 215

"H"

Exhibit "C"

45

President, S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at Brampton, Ontario on the 23rd day of November 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-630711 Pte. McCarthy, A.E. "D" No. 24 C.A.(B).T.C. Brampton, Ontario.

DECLARATION

The Court declare that No. B-630711 Pte. McCarthy, A.E. "D" Coy., No. 24 C.A.(B).T.C., Brampton, Ontario. illegally absented himself without leave from No. 24 C.A.(B).T.C., Brampton, Ont. at 0605 hrs. on the 1st day of November 1943, that he is still so absent, and that on the 23rd November 1943 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES	VALUE
Anklets Web pr.	1		79		
Battle Dress Trousers	1	5	25		
Battle Dress Blouse	1	5	39		
Boots, Ankle prs.	1	5	46		
Caps Field Service	1		70		
Drawers Cotton Short prs	1		36		
Socks prs.	1		37		
Shirts Khaki cotton L/S	1	1	28		
		19	60		
Less 25%		4	90		
75% Value		14	70		

A.C. Thompson Major President
2nd Batt. Irish Regt. of Canada-attd
No. 24 C.A.(B).T.C.

F.W. Whittaock, Lieut. Member
C.A.C. Attd No. 24 C.A.(B).T.C.

K.W. Phelps, Lieut. Member
C.A.C. Attd No. 24 C.A.(B).T.C.

Signed at Brampotn, Ontario

this 23rd day of November 1943

Signature of Commanding Officer, R.V. CONOVEN, Lt.-Col.,
Commandant No. 24 C.A.(B).T.C.

Certified true copy J.E. Casson
(J.E. Casson) Capt. & Adjt.,
No. 24 C.A.(B).T.C.
Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 155
10M—4-42 (6687)
H.Q. 1772-39-257

S.O.S. as a Deserter on D.O. 213 d/24 Nov. 43
effective 23 Nov. 43.

"H"

President, S.C.M.

Exhibit "C"

45

RECORD of the Declaration of a Court of Inquiry assembled at Brampton, Ontario on the 23rd day of November 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-630711 Pte. McCarthy, A.E. "D" No. 24 C.A.(B).T.C. Brampton, Ontario.

DECLARATION

The Court declare that No. B-630711 Pte. McCarthy, A.E. "D" Coy., No. 24 C.A.(B).T.C., Brampton, Ontario. illegally absented himself without leave from No. 24 C.A.(B).T.C., Brampton, Ont. at 0605 hrs. on the 1st day of November 1943, that he is still so absent, and that on the 23rd November 1943 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES	VALUE
Anklets Web pr.	1		79		
Battle Dress Trousers	1	5	25		
Battle Dress Blouse	1	5	39		
Boots, Ankle prs.	1	5	46		
Caps Field Service	1		70		
Drawers Cotton Short prs	1		36		
Socks prs.	1		37		
Shirts Khaki cotton L/S	1	1	28		
		19	60		
Less 25%		4	90		
75% Value		14	70		

A.O. Thompson Major President
2nd Batt. Irish Regt. of Canada-attd
No. 24 C.A.(B).T.C

F.W. Wittstock, Lieut. Member
C.A.C. Attd No. 24 C.A.(B).T.C.

F.W. Phelps, Lieut. Member
C.A.C. Attd No. 24 C.A.(B).T.C.

Signed at Brampotn, Ontario

this 23rd day of November 1943

Signature of Commanding Officer R.V. CONOVER, Lt.-Col.,
Commandant No. 24 C.A.(B).T.C.

Certified true copy J.E. Casson
(J.E. Casson) Capt. & Adjt.
No. 24 C.A.(B).T.C.
Signature of Officer having custody of original record

M.F.B. 373
A.F.B. 115
100M-4-42 (4337)
R.G. 1272-30-257

S.O.S. as a Deserter on D.O. 213 d/24 Nov. 43
effective 23 Nov. 43.

Exhibit "D"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major, F.E. McMAHON, No.31 Coy, C.PRO.C. C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that B.630711 PTE McCARTHY, A.E.
(Number) (Rank) (Name in full)

of the Appraisal Wing, No.2 D.D. TORONTO, Ontario.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrendered to~~) B.97704 L/Cpl. BROWN, M.B.
(Number) (Rank)

B.66617 L/Cpl. WILSON, C.P. No.31 Coy, C.PRO.C. C.A.
(Name) (Unit or appointment)

at Yonge and Queen Sts., TORONTO, Ont. 0930 hrs
(Place) (Hour)

on the 6 day of MAR 19 45

Strike out words not applicable } as a (~~member~~ absentee without leave), and that at the time of his arrest he was ~~member~~ (dressed in civilian clothes).

339 George Street,

Dated at TORONTO, Ontario. this 6 day of MAR 1945
(MEMBER OF NRMA PERSONNEL).

(F.E. McMAHON), Major,
(Signature, Number, Rank, Unit or appointment)

Officer Commanding, No.31 Coy, CDN PROVOST CORPS, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (2730)
H.Q. 1772-39-1936

Y. Robertson Major
President, S.C.M.

49

M.F.B. 355
2091—11-41 (2272)
H.Q. 1772-30-620
A.F.H. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-630711,	Private	Alfred Edward McCARTHY,	No. 2 District Depot, C. A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	A.W.L.	1 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 78 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for XXXX

52

11. ~~(In the case of an officer.)~~ NB ~~The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	NB			
		NB		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this NB ~~15th~~ 20th day of March, 1945, A H Byles Capt&Adj.
No. 2 District Depot, C. A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. B-63071 Name McCarthy: Alfred Edward (Rank or Company) Pte. # 2 D.D. (NRMA) R.C.A.M.C. Corps (Date of enlistment) 30-4-43 (C.O.) # 10 Coy R Wing (Tradesmen's Rates of Pay) (Badges) M.F.M. 6 (A.F.B. 123) 1918—19-6 (1917) (H.Q. 1772-24-1502) D

No. and date of last drunk) Period not reckoning towards freedom from extra line) Sheet No. one Signature O.C. Company, etc.) D.H. Holliday Capt. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Toronto Ont	3-5-43	Pte.		AWL from 0800 hrs 3-5-43 until apprehended by M.P. at 0240 hrs. 14-5-43 10 days 18 hrs. 40 in(11 days) A.A.15(1) Close arrest	Dec. Evid.	Admonished	17-5-43 "H.W.Campbell" Lt. Col.		Forfeits 11 days pay.
Toronto Ont.				No further entries, 202 # 2 Dist Depot 3-8-43				"D.H.Holliday" Capt.	
Brampton, Ont.				S.D.S. DESERTER # 84 C.A.(B) T.C. 28-8-43 PART II ORDER # 116					
				CERTIFIED TRUE COPY.....M Eyles.....Capt. & Adj. No. 2 District Depot C.A.					

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. B.630711 Pte. Alfred Edward McCARTHY of No. 2 District Depot, is in a good state of health, and is fit to undergo Trial by Court martial.

R. H. Hubbings Capt.
Capt. R.C.A.M.C.
Medical Officer
attached to No. 2 District Depot, CA

Station Exhibition Barracks, Toronto, Ontario

Date 20th March 1945

Veterans Legion
President S.C.M.

M. F. B. 246
(5M—10-42 (5501)
H.Q. 1773-39-480

H.Q.C.55-M-1633(JAG/D-1)
Your File No.T.20-M-13703(AJAG)

9 Apr 45

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

STANDING COURT-MARTIAL

B-630711 - Pte. Alfred Edward McCarthy,
No. 2 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde), Brigadier,
Judge Advocate-General.

ALT/MR

This copy for: H.Q. 55-E-1633
M.D. 2-20-M-13703

NGMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B.630711 Name McCARTHY, Alfred Edward

Rank Pte Unit No. 2 D.D. C.A.

Charge (1st) A.A. 12 (1) (a) - Desertion

(2nd) A.A. 12 (1) (a) - Desertion

Date of Crime (1) 4-6-43; (2) 1-11-43

Date of Arrest (1) 29-10-43; (2) 6-3-45 Charge Signed 15-3-45

Orders for D.C.M.

Place and Date of Trial Stanley Barks Toronto Ont. 20-3-45

Sentence Det 6 mos

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36603

Date 5-4-45

MEMO

M.D. 2 - No. 2 D.D.

Absent	Sentance
(1) 4½ mos	Det 6 mos
(2) 4½ mos	

A.S. Lambe Capt
for Judge Advocate-General

10M-1-45 (M-4629)

No irregularities noted. Passed. 7 Apr 45 [illegible]

IN REPLY PLEASE QUOTE No.
In reply please quote No. T-20-M-13703
(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
2nd April, 1945.

CONFIDENTIAL

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.55-M-1633

STANDING COURT-MARTIAL

B-630711 - Pte. Alfred Edward McCARTHY,
No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

Major

(R. D. Evans)
Major
Permanent President
Standing Courts-Martial

36603

NAT. DEF. B. 440
2500M 4-44 (4320)
M.O. 1172-39-767

COUNTER NUMBER 12212

HOUR 14.29

OPERATOR'S INITIALS HG

RELIEVING OPERATOR OWD

H.Q.C. 55-M-1634 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MOSQUITO. SOLOMAN L.1600 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1634

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				J.A.G.	NEW FILE	C.R.	APR 4 - 1945
MAY 1 9 1945				Admin	To note, per request		
MAY 1 7 1945	15.5.45	PA		admin	PER B.F. MAY 14 1945		
					MAY 28 1945		
				JAG	Memo pls		28 May 45
MAY 30 1945				Admin	Min II		28 May 45
JUN 9 1945	9 6 45	PA		D. Admi.	PER B.F. JUN 11 1945		
JUL 1 3 1945				CMBR			
				DAdm	Memo pls		15/9/45
SEP 1 7 1945				CMBR	w/ Min III pls		18/9/45
				DAdm	Memo, pls		18/9/45
OCT 1 9 1945							
OCT 2 3 1945	29 10 45	PA		Admin			
OCT 2 9 1945		cancelled		Admin	PER B.F. NOV 13 1945		
NOV 1 3 1945							
NOV 1 3 1945	15/11/45	PA		admin	NOV 16 1945		
				W & R			
				AG.	w/ 405 M-1242		1/4/47.
				Admin	with 405 M-1242		2/4/47
APR 1 9 1947	19/4/47			F.Y.	with 405-M-1242		24/4/47

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to see same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All covering letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

L 1000

Pte. Mosquito

Memorandum Book

Produce by off. off. WM, 19 May 44

230 AM. : 29/4/44

Caution two soldiers in Burly. ask them to produce pass & pay book. While one of them was looking for his pay book. the other gave me a punch. And by the time I was on my feet they were gone.

B113223
Petrovitch. P 04/30

H103223
Mouch. MH.
McCoy. L-Cpl

B71312.
C Jarvis. B26026.

Jh. Sanict E 502670.
H. Baggan C121535.
JM Reynolds B72324

IN REPLY PLEASE QUOTE
No. R.1-M-2262(AJAG).

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 3 Nov 1945.

Army
8702
NOV 12 1945
Referred to Admin

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

L.1600 - Pte. MOSQUITO, S.

Reference HQC 55-M-1634 Adm 3(b)3 dated 23 October, 1945.

2. Herewith AFA 3104 in respect of the marginally noted soldier.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

Army Form A 3104. 5

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. L-1600 Pte Mosquito S. Unit 9 Bn 2 Cdn Base Rft Gp

Sentenced to Imp with hard labour for 2 yrs less 28 dys and to be discharged with ignominy from H.M. Service on 5 Dec 44

Age on, and date of, enlistment 19 yrs - 10 Oct 39 Term of service duration

COURT MARTIAL.

For details of offences, see paragraph VII.
For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(*22948) Wt.36436/311 60,000 11/42 A.& E.W.Ltd. Gp.698 Forms/A.3104/11.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	No Remission Return to Canada in custody under Sentence	(E.S. BOOTH) Brigadier, D.O.C., Canadian Military Headquarters. 20 FEB 1945	
2 Oct 45	Balance of sentence of imprisonment remitted effective 5th October, 1945.	(G.A.H. Trudeau), Brigadier, D.O.C., M.D. No. 12.	

(Continued on page 4.)

9

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.		
AA Sec 41 - WOAS Stealing - 69,000 Belgian francs	19 Oct-4 Nov 44	
AA Sec 41 - WOAS Stealing - 1,200 French francs.	22 Sep 44	
AA Sec 22 - WOAS When in Confinement Escaping.	19 Oct 44	
AA Sec 15(1) WOAS AWL 14 days 15 hrs 45 mins.	19 Oct-3 Nov 44	
AA Sec 22 - WOAS When in Confinement Escaping.	24 Nov 44	
AA Sec 15(1) - WOAS AWL 4 days 22 hrs.	24-29 Nov 44.	
Signature of Officer making entry.		5 Dec 44
VIII.—Second Trial.		
Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature

IN REPLY PLEASE QUOTE

No. CB 40-M-6239 (SCA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Camp Borden,
Camp Borden, Ontario, 194
25 OCT 45.

5341
OCT 27 1945
655-M-1634
Referred to: admin

District Officer Commanding,
Military District No. 12,
Regina, Sask.

The Secretary,
Dept. of National Defence,
Ottawa, Ontario.

L-1600 Pte. MOSQUITO, S.

Reference HQC 55-M-1634 Adm 3(b)3 dated 23 OCT 45 it is advised AFA 3104 was forwarded to the District Offr Commanding M.D. #12 under CB 1-4-8-2 (SCA) dated 26 Apr 45.

Emmac Auley
(A.C. Spencer)
Major-General
Commander, Camp Borden.

maj

N.D. 24
2000M—10-44 (5769)
H.Q. 1772-101-23

HQC 55-M-1634 Adm 3(b)3

CONFIDENTIAL

23 Oct 45

Commander,
Camp Borden Military Camp,
Camp Borden, Ontario.

District Officer Commanding,
Military District No 12,
Regina, Saskatchewan.

- For infm (ref R.1-M-2262 (AJAG) d/13 Oct 45)

L-1600 Pte MOSQUITO, S.

This SUS was returned from overseas and committed to No 62 MDB in or about Apr 45. The DOC, MD 12 has requested AFA 3104 from this HQ.

2. NDHQ forwarded, originally, AFA 3104 to Comd, Camp Borden under cover of letter HQS 8536-6 Adm 3(b)2 dated 16 Apr 45.

3. A search has been made at Records, NDHQ, and the said document cannot be found. It is requested please that Comd, Camp Borden make a further search for this document and forward the form to DOC, MD 12, with infm to this HQ.

(W. B. Walford)
Major-General
Adjutant-General

WBG:HB

LEZ

IN REPLY PLEASE QUOTE No. R.1-M-2262(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Dep. of Nat. Def.
A.G. Registry
OCT 16 1945
Ottawa

REGINA, Sask., 13 Oct, 1945.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

L.1600 - Pte. MOSQUITO, S.

Reference HQ 405-M-1242 Adm 3(b)3 dated 25 September 45.

2. The balance of the sentence of the m/n soldier was remitted by the D.O.C. effective 5 October 45.

3. May AF 3104 relative to this soldier be submitted to this Headquarters for completion.

(G.A.H. Trudeau), Brigadier,
District Officer Commanding,
M.D. No.12.

Please Receipt to
Det. Chatham
Have AF 3104

NAT. DEF. R. 440
(3000M-4-44 4321)
M.G. 1772-24 767

HQC 55-
M 1634(CMHR-4)
Case No--------6665--

REVIEW OF SENTENCE

1. No, Rank and Name: L.1600, Pte. MOSQUITO, S.

2. Unit at date of offence: X-4 List, CH of O, on Strength 9 Bn 2CBRG, GAO

3. Charges: 1. AA 41 - Committing a civil offence (in the field stealing from a civilian)
2. AA 41 - Committing a civil offence (in the field stealing from a civilian)
3. AA 22 - When in confinement escaping
4. AA 15(1) - A.W.L.
5. AA 22 - When in confinement escaping
6. AA 15(1) - A.W.L.

4. Place and Date of Trial: In the Field - 5 Dec 44

5. Finding: Guilty of all charges

6. (a) Sentence: by Superior Military Authority - 2 years less 28 days imprisonment with hard labour and to be discharged with ignominy.
(b) Date of Sentence: 26 Dec 44

7. Date of Confirmation:

8. Date of Promulgation: 30 Dec 44

9. Being served at Provincial Gaol Regina, Sask. in MD 12

Adm 3(b)3 -
We spoke -
For your action re
Form of Remission,
pls. Hartshorn
18 Oct 45

(N.B. - Discharged under RO 1029 (9) ~~XXX~~ with ignominy wef 14 May 45).

10. Date of enlistment - 10 Oct 39

11. Past History:

This soldier enlisted 10 Oct 39 at Saskatoon, Sask. and he is now 24 years of age. Since enlitment he has been found guilty of 24 offences under AA Sec 15(1), of 2 offences under each of AA Secs 22 and 24(2), and of 1 offence under each of AA Secs 10(4) and 40. In addition to the court martial set forth in para 1 (the one in question) he has had 6 previous FOC'sM. On 4 Apr 41 he was awarded 1 year imprisonment with hard labour for 2 offences of absence without leave and an offence under AA Sec 24(2). On 16 Sep 42 he was awarded 12 months detention also for absence without leave. On 8 Sep 43 he was awarded 2 years detention for 43 days absence without leave, which sentence was suspended 30 Mar 44. On 19 Mar 44 he was awarded 90 days detention for losing a weapon. On 5 Jul 44 he was awarded 161 days detention for absence without leave while in confinement which sentence was suspended 11 Aug 44. On 4 Oct 44 he was awarded 1 year detention for 7 days absence without leave. On 18 Dec 44 to clarify his record, the remainder of all sentences either suspended or in execution .... were remitted.

This soldier was also convicted by a civil court 22 Dec 40 of larceny and sentenced to 3 months imprisonment with hard labour.

12. Recommendation by CMHQ:

Sentence should be served in full.

Reviewed by (A.B. Hold) Lieut.

13. Decision of the Board:

143

14. Recommendation of the Board

No remission recommended.

Date OCT 10 1945

Major
Secretary
Courts-Martial Board of Review

HQ 405-M-1242
Adm 3(b)3

OTTAWA, Ontario, 25 Sep 5

District Officer Commanding,
Military District No 12,
Regina, Saskatchewan.

CONFIDENTIAL

L.1600 Pte MOSQUITO, S.

Enclosed herewith is copy of letter dated 16 Sep 45 received by this ex-soldier who is now serving balance of sentence at the Provincial Gaol, Regina.

2. The same is passed to you for whatever action you consider proper and for reply.

3. Although his request appears to be directed to the "Review Board" for remission, any action that might be taken in connection with the question of remission may of course be carried out by you in your discretion.

for (A. E. Walford)
Major-General
Adjutant-General

WBG:HB

Encl (1)

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SASKATCHEWAN 40S-M-1242

PROVINCIAL GAOL

Director of Re...
A.G. Br...
SEP 21 1945
Nat. Defence
Ottawa.

P.O. BOX 417

REGINA. Sept. 16. 1945

Sir

I am a discharged soldier undergoing a term of sentence. I feel that being still under the Army's jurisdiction that I should submit my request for remission of sentence to the Review Board.

I am a Treaty Indian wishing to regain my respect and to be given the opportunity, to prove and to improve myself in every purpose as a member of the Treaty.

And it is utterly wrong that I should be put in this Institution, for the cause that I mingle with criminals for I am not a criminal or even potentially and be put in such confinement, for there is a limit to my mental being.

I have never been in trouble before the war. And that I have a very important job to do, not merely helping in my Fathers farm But to teach and convert the Treaty Indians to live like human beings that this our Canada is not a primitive country any more.

Hoping that you will approve

Your Cordially

"L.16.00. Pte Mosquito. S."

Form 3-20—(30)-9-43-MX

AIR MAIL
SPECIAL DELIVERY

IN REPLY PLEASE QUOTE
No. R.1-M-2262(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CENTRAL SECRETARY Army
SEP 13 1945
Referred CMBR

341434 Regina, Sask., 11 Sept. 1945.

CMBR 6/9/45
C.S.F. Bn. 634

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

L.1600 - Pte. MOSQUITO, S.

Reference H.Q.55-1-49 F.D.4(C.M.B.R.) confidential dated 8 September, 1945.

2. This soldier was sentenced overseas and no M.F.M. 288 or A.F.3104 has been received at this Headquarters.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

D. Adm:-
Can you locate AFA 3104. pls.
A.A. Stitwell maj
15/9/45

CMBR
maj Stitwell - Capt Pardon
we spoke - pls see folio 26
18 Sep 45.

N.D. 23
3000M—10-44 (5769)
H.Q. 1272-101-23

HQC 55-M-1634
Adm 3(b)3

12

CONFIDENTIAL

OTTAWA, Ontario

31 May, 1945

District Officer Commanding,
Military District No 12,
REGINA, Saskatchewan

L.1600 Ex-Pte MOSQUITO, S
~~SUS~~ Returned from O/S in Custody

Ref R.1-M-2262 (DAPM) dated 22 May 45.

2. Returned herewith, original letter written by this ex-soldier which was enclosed in your letter under reference.

3. This letter is not considered a Petition under KR (Can) 574 and need not be treated as such.

4. May an appropriate reply be forwarded, pls, to the Supt of the Provincial Jail, Regina, Saskatchewan replying to this ex-soldier's letter.

5. There is no information at this HQ that would indicate that this soldier is entitled at the present time to a greater remission of sentence than he would normally earn by his industry and good conduct.

A.E.W.

(A E Walford)
Major-General
Adjutant - General

Encl.

WBC:da

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MEMORANDUM

Department of National Defence
(Army)

TO:

JAG

H.QC 55-M-1634 Adm 3(b)3

OTTAWA, Ont. 29 May 45

Ex L.1600 Pte MOSQUITO, S

I

Ref letter from DOC MD 12 dated 22 May 45 at folio 36 herein enclosing copy of letter received from this ex-soldier. It appears that this ex-soldier has been committed to the Provincial Gaol, Regina, there to serve the balance of his sentence.

2. Your opinion is sought as to whether this is intended as a Petition under KR(Can) 574.

3. If this is to be treated as such your directions are sought please as to how and by whom this matter should be dealt with.

for (J.E. MacDermid)
Colonel
D Adm

WBG/jh

II

D Adm. 29 May 45

It is considered that the above letter is not a petition under K R (Army) 574.

Approved
D JAG.

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IN REPLY PLEASE QUOTE No. R.1-M-2262 (DAPM)

205-M-1242

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

See C

Regina, Sask.,
22 May, 1945.

Secretary,
Department of National Defence,
OTTAWA, Ontario.

Director of Records
A. G. Branch.
MAY 25 1945
Nat. Defence Hqr
Ottawa, - Canada.

Ex L. 1600 Pte. MOSQUITO, S.
SUS Returned from O/S in Custody

Reference your HQS 8535-6 Adm 3(b)2 d/21 Apr 45 insofar as it concerns the m/n who was discharged from the Army.

2. This soldier was committed to the Provincial Gaol, Regina, Sask., on 14 May 45, there to serve the balance of his sentence.

3. Herewith letter of this soldier d/21 Apr 45 requesting review and mitigation of sentence, forwarded to this Headquarters by the Commander, Camp Borden.

4. In view of your instructions to discharge this soldier and commit him to a civil prison, this letter is forwarded for such action as is considered necessary.

J.E. Moodie Major
for (G.A.H. Trudeau) Brigadier,
D.O.C., M.D. No. 12.

JE/J.

12

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NAT. DEF. R. 440
25000M-4-44 (4321)
H.Q. 1776-29-767

C.R.
C 55-M-1634

IN REPLY PLEASE QUOTE
NO. RS.3-1-77K(L.

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

REGINA, Sask., May 15, 1945.

Director of Records
R.C.A.F. Branch,
MAY 18 1945
Nat. Defence Hqr
Ottawa, Canada.

The Secretary,
Department of National Defence,
OTTAWA, Ont.

SUS Returned from OS in Custody
L.1600 Pte. MOSQUITO, S.

Please be advised that the marginally noted soldier has been committed to the Provincial Jail, Regina, Sask., and has also been discharged from the Canadian Army, both on the 14th May, 1945.

Capt.
Staff Capt. (A)
For (G.A.H. TRUDEAU),
Brigadier,
D.O.C., M.D. No. 12.

SBR/LML

34

N.D. 28
3 Mil.—11-43 (2979)
H.Q. 1773-101-23

IN REPLY PLEASE QUOTE No.

R.4-12-3(DAPM)
R.1-M-2262

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CR.= C55-M-1654

District Headquarters,
REGINA, Sask., 15 May 45.

The Secretary,
National Defence Headquarters,
OTTAWA, Canada.

A. G. D. Registrar of Records
MAY 17
Nat. Defence HQ
Ottawa, Canada

CENTRAL REGISTRY Army
MAY 1945
File
Chgd. to
Referred to

TRANSFER OF S.U.S. TO CIVIL PRISON
L.1600 - Pte. MOSQUITO, S.
12 District Depot

Notice is hereby given under provisions of C.A.R.O. 4567 of the transfer of the m/n from 12 District Depot Guard Room to the Provincial Gaol, Regina, Sask.

2. Effective date is 14 May 45.

3. For your information, please.

for (G.A.H. Trudeau),
Brigadier,
District Officer Commanding,
Military District No. 12.

KR.

33

CANADA

Department of National Defence

IN REPLY PLEASE QUOTE
1-M-2262 (DAAG)
No. RS 3-1-77K (DAAG)

CONFIDENTIAL
REGINA, Sask.,
12 May 1945

314113

CENTRAL REGISTRY Army
CONF. SEC.
MAY 15 1945
File 8536-6
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ont

SUS RETURNED FROM OS IN CUSTODY
L-1600, Pte. MOSQUITO, S.

1. Reference HQS 8536-6 Adm 3(b)2 dated 9 May 45.

2. Documentation and medical boards for the mn soldier are now complete and he will be committed to civilian institution 14 May 45.

3. There has been considerable delay in this case due to the fact that the soldier's documents on receipt in this District did not show that he had been SOS 6 DD and TOS 2 DD, nor did they show him as SOS 2 DD to 12 DD. These lacunae have now been remedied, however, and proceedings are now virtually complete.

Capt.
Staff Capt. (A)
For (G.A.H. Trudeau) Brig.,
District Officer Commanding
Military District No 12

RECEIVED
MAY 15 1945
A.G.H.Q.

Next

32

M.F.B. 239

HQS 8536-6
Adm 3(b)2

AIRMAIL
(where-applicable)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

OTTAWA

9 May 45

CONFIDENTIAL

GOC-in-Chief,
Pacific Command,
VANCOUVER, B.C.

District Officers Commanding,
MD 1,
MD 2,
MD 3,
MD 5,
MD 10,
MD 12

SUS RETURNED FROM O/S IN CUSTODY

Further to Ranks 7009 dated 21 Apr and letter of this HQ, numbered as above and dated 21 Apr 45.

2. Forward report to reach this HQ not later than 14 May 45, as to progress made in committing to civil prison the SUS despatched from No 62 MDB on the authority of the above reference.

for (A E Walford)
Major-General
Adjutant-General

W. A. Stabell
Major

31

HQS 8536-6
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

OTTAWA CANADA

GOC-in-Chief,
Pacific Command
VANCOUVER, B.C.

23 Apr 45 CONFIDENTIAL

District Officers Commanding,
MD 1
MD 2
MD 3
MD 4
MD 5
MD 10
MD 12

Commander,
CAMP BORDEN

SUS RETURNED FROM O/S IN CUSTODY

Further to Memo 7009, dated 21 Apr 45.

2. Certain SUS have been returned from O/S in custody under GO 131/44 to serve the balance of sentences awarded by FGCsM O/S. Each of these SUS has been classed as an incorrigible and has been returned with the firm recommendation of CMHQ that he be required to serve the balance of the sentence awarded in full and thereafter be discharged either for misconduct under RO 1029(8) or with ignominy under RO 1029(9), in accordance with the sentence of the Court.

3. All such SUS have been taken on strength No 2 DD and despatched to No 62 MDB. It is proposed to transfer certain SUS serving sentences of imprisonment with hard labor to the DD serving the place of their residence immediately prior to their enlistment and from there to be committed to a civil institution, other than a penitentiary, to serve the balance of the sentence awarded. Information at this HQ indicates the DD serving such place of residence of each SUS is as shown in the attached list. If there is any variation to be made in this regard, Comd Camp Borden will inform this HQ by wire.

4. The SUS referred to will accordingly be released from No 62 MDB by Order of the Comd Camp Borden in the form annexed hereto and will be despatched as soon as possible to the DD indicated. Comd Camp Borden will inform the DOC concerned, as early as possible the date and time of arrival with informationto this HQ.

5. Documents will be completed to date and a memo indicating the remission earned in each case while in military custody, will be despatched to the DD concerned either with the escort or by registered mail to reach the Depot concerned not later than the date on which the SUS is to arrive.

6. CARO 1570 and circular letter R.615 dated 6 Mar 44 on HQ 1772-39-1927 Adm 3(b)5 will be strictly observed.

7. Immediate arrangements are to be completed by the DOC concerned with the civil authorities for the acceptance of the SUS to be despatched to his District. The SUS will be committed to the civil institution following receipt of the SUS and the completion of medical examination and documentations as set below. Despatch and arrangement for escort will be co-ordinated between the respective DOCs and Comd Camp Borden. It will be necessary that SUS leave No 62 MDB not later than 2 May 45.

.....2

8. For the purpose of carrying out committal to civil institutions, the following procedure will be adopted;/

(a) The SUS will be despatched to and TOS the DD of the District serving the place of residence of the SUS immediately prior to his enlistment.

(b) In cases where SUS are serving sentences of two years imprisonment, one day of the sentence will be remitted prior to committal.

(d) SUS shall be medically rebeasted and the documents prepared for discharge prior to committal to the civil institution. Discharge will be effected on the date of the admission to the civil institution or as soon thereafter as is practicable.

(d) In every case documents will be completed up to date and all information relative to the record of the soldier will be made available.

(e) The DOC of the District in which such institution is situated will prepare a warrant of committal of the soldier directed to the Warden, Superintendent, Governor or Chief Officer of such institution, who will also be provided with the particulars of the offence upon which such SUS is to be committed, previous offences, and a statement of any remission earned by the SUS while in military custody.

9. The principles relating to discharge set out in NDHQ circular letter R.801 dated 12 Mar 45, will apply.

10. The attached list indicates the DD to which each SUS is to be despatched in accordance with above, together with particulars of sentence awarded.

11. This HQ is to be informed on the committal of these SUS and the effective date of discharge in each instance.

12. Ack.

(A E Walford)
Major-General
for Adjutant-General

29

ORDER FOR REMOVAL

TO:
The Commandant
No 62 Military Detention Barracks,
Camp Borden, Ontario.

WHEREAS

of the Regiment,

is now in your custody undergoing a sentence of imprisonment with hard labour awarded by Field General Court-Martial.

I, THE undersigned, being a competent military authority, do hereby, in pursuance of the Army Act, Military Prisoner's Transfer Order 1944, being PC 1304 dated the 4th day of March, 1944, and all other Acts and powers enabling me in this behalf, order you to deliver the said soldier into the custody of the officer, non-commissioned officer or other rank presenting this Order.

AND I do hereby order the said officer, non-commissioned officer and other rank and all other officers, non-commissioned officers and other ranks into whose custody the said soldier shall be delivered, to keep the said soldier in military custody and to bring him to No District Depot until such time as he shall be committed to such civil jail, prison, reformatory or similar civil institution as may be determined by the competent military authority and to convey him in military custody to such jail, prison, reformatory or similar civil institution, there to undergo the remainder of his sentence and for so doing, this shall be your sufficient warrant.

SIGNED at Camp Borden, Ontario this

day of , 1945

.....
Commander,
CAMP BORDEN

SUS RETURNED FROM O/S IN CUSTODY

DD	NO	NAME	SENTENCE	DATE OF AWARD
1	A.54595	Hilton H C	2 yrs imp HL	22 Aug 44
	B.51970	Stone W G	2 yrs imp HL disch ign.	14 Nov 44
2	B.79821	Collins F J	2 yrs imp HL	2 Oct 44
	B.64498	Phillips H M	18 mths imp HL	15 Jun 44
	B.75131	Palmatier L C	1 yr imp HL	13 Jul 44
3	C.10594	Bilmore B A	2 yrs imp HL disch Ign.	29 Aug 44
	C.20989	Dagg W H	2 yrs imp HL disch ign.	21 Aug 44
	C.4635	Hansford A F	23 mths imp HL disch ign	13 Jul 44
4	D.61675	Dube M	2 yrs imp HL disch ign.	6 Dec 44
	D.61892	Sauriol E	2 yrs imp HL disch ign.	5 Dec 44
5	E.5847	Caron H	2 yrs imp HL disch ign.	5 Dec 44
	E.4675	Wilson R	18 mths imp HL disch ign	28 Jul 44
	E.26325	Couillard A	1 yr imp HL disch ign.	20 Nov 44
10	H.16488	Heathman C M	23 mths imp disch ign. HL	23 Aug 44
11	K.2331	Clarke E M	2 yrs imp HL disch ign.	4 Sept 44
	K.15235	Gordon R S	2 yrs less 12 days imp HL disch ign.	16 A g 44
	K.85202	Woods F C	2 yrs imp HL	30 Jun 44
12	L.36327	Dennis R W	1 yr imp HL disch ign.	25 Nov 44
	L.1600	Mosquito S	2 yrs less 28 days imp HL disch ign.	5 Dec 44

H.Q.S. 8536-6
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

OTTAWA, Ontario

18 APR 45

CONFIDENTIAL

Commander,
CAMP BORDEN, Ontario

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario. (for information)

L.1600 Pte MOSQUITO, S

1. This SUS has been returned from overseas in custody to complete sentence, and is to be committed to No. 62 M.D.D.

2. Herewith is copy of letter from C.M.P.Q. together with original AFA 5104.

3. Subject to the recommendations contained in copy of C.M.P.Q. letter enclosed, the procedure for the disposition of this SUS is outlined in Circular Letter R.751 HQS 8536-6 (Adm 3) d/ 9 Sep 44 and HQS 8536-6 (Adm 3(b)2) d/26 Dec 44.

4. On completion of sentence this SUS will be discharged with ignominy under C.A.R.O. 1049(9).

5. The original AFA 5104 is to be returned to this Headquarters when it has served its purpose.

(A E Walford)
Major-General
Adjutant-General

Encl.

26

H.Q.C.55-M-1634(JAG/D)

Quote No.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

OTTAWA, Canada 6th April 1945.

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial
L.1600 Pte. MOSQUITO, S.

L.1600 Pte. MOSQUITO, S.

1. 10/Mosquito, S/1 Receipt is acknowledged of your 5th March dated 194 , under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your A.F.M.A.S104 in respect of the m/n F.G.C.M. is also acknowledged.

E.L.M. Capt.

for (R.J. Orde), Brigadier,
Judge Advocate-General.

WBB:ELM

21

THIS COPY FOR H.Q.C. 55-M-1634
M.D. 10/Mosquito S/1

G.S.

MEMORANDUM - ~~DISTRICT~~ FEILD GENERAL COURT-MARTIAL

No. L.1600 Name MOSQUITO. Soloman

Rank Pte Unit A 4 List C.H. of O. on stregnth 9 Bn 2 C.B.R.G.

Charge (1st) A.A. 41 - W.O.A.S. Committing a civil offence

(2nd) A.A. 41 - W.O.A.S. Committing a civil offence ...
(3rd) A.A. 22 - W.O.A.S. When in confinement escaping.
(4th) A.A. 15 (1) - W.O.A.S. A.W.L.

(5th) A.A. 22 - W.O.A.S. When in confinement escaping .

(6th) A.A. 15 (1) - W.O.A.S. A.W.L.

Date of Crime (1) 19-10-44 to 4-11-44; (2) 22-9-44; (3 & 4) 19-10-44; (5) 24-11-44; (6) 24-11-44 to 29-11-44.

Date of Arrest (4) 5-11-44; (5) 24-11-44 Charge Signed 2-12-44

Orders for ~~G.C.M.~~ F.G.C.M. Brig Cmdg 2 C.B. .G.

Place and Date of Trial Field 5-12-44

Sentence Imprisonment W.H.L. 2 yrs; discharged with ignominy

Date of Confirmation 6-12-44

Date of Promulgation 8-12-44 ~~8~~ 30-12-44

Entered in Records of J.A.G. as No. 3449

Date 6-4-45

MEMO DJAG advises sentence invalid, same is removed and accused relieved of consequenses and sentenced to Imprisonment W.H.L. 2 yrs less 28 days; ~~discharged with ingominy by Conf Auth 26-12-44~~

Proceedings reviewed at C.M.H.Q.

Superior Military Authority

24

for Judge Advocate-General

10M-1-45(M-4629)

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Mosquito, S/1

CANADIAN MILITARY HEADQUARTERS

The Secretary,
Department of National Defence,
OTTAWA, Canada.

LONDON 6 Mar 45.

C35-11-1639

L.1600 Pte Mosquito, S.

1. The marginally named soldier is serving a sentence of 2 years less 28 days imprisonment with hard labour and discharge with ignominy from His Majesty's Service awarded 5 Dec 44 by FGCM for 2 offences under each of AA Secs 15(1), 22 and 41. His 2 absences without leave were both terminated by apprehension, his 2 escapes took place from his unit guard room and the offences under AA Sec 41 were for thefts from two civilian women of 69,000 Belgian francs and 1,200 French francs. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues so to do is 17 Mar 46.

2. This soldier enlisted 10 Oct 39 at Saskatoon, Saskatchewan, and he is now 24 years of age. Since enlistment he has been found guilty of 24 offences under AA Sec 15(1), of 2 offences under each of AA Secs 22 and 24(2), and of 1 offence under each of AA Secs 10(4) and 40. In addition to the court martial set forth in paragraph 1 hereof he has had 6 previous FGC'sM. On 4 Apr 41 he was awarded 1 year imprisonment with hard labour for 2 offences of absence without leave and an offence under AA Sec 24(2). On 16 Sep 42 he was awarded 12 months detention also for absence without leave. On 8 Sep 43 he was awarded 2 years detention for 43 days absence without leave, which sentence was suspended 30 Mar 44. On 19 May 44 he was awarded 90 days detention for losing a weapon. On 5 Jul 44 he was awarded 161 days detention for absence without leave while in confinement which sentence was suspended 11 Aug 44. On 4 Oct 44 he was awarded 1 year detention for 7 days absence without leave. On 18 Dec 44 to clarify his record, the remainder of all sentences either suspended or in execution except the sentence set forth in paragraph 1 above, were remitted.

3. This soldier was also convicted by a civil court 22 Dec 40 of larceny and sentenced to 3 months imprisonment with hard labour.

4. This soldier was reboarded 12 Feb 45 and placed in Pulhems Grade S5 on a diagnosis of psychopathic personality, inadequate. The Medical Board states that he is fit to undergo detention.

5. The Neuropsychiatrist and Selection of Personnel Officer who have examined this soldier state that he is of average intelligence; that he is impulsive and restless in behaviour; that he is immature in judgment; and that he is wholly irresponsible and unable to tolerate stress when not in confinement.

6. By the numerous suspensions of his sentences in the past every effort has been made to encourage this soldier to render some effective service to the army. Since he has failed to take any advantage of these suspensions the present award is more than warranted and the sentence of imprisonment should be served in full and thereafter this soldier should be discharged with ignominy from His Majesty's Service in accordance with paragraph 9 of Appendix to C.A.R.O. 1029, and it is so recommended. It is not considered that this soldier has misconducted himself for the purpose of obtaining his discharge.

7. It has accordingly been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 5 Dec 44, and original A.F. A3104 in respect thereof on which this direction has been endorsed.

Enc.2.

3x19

for (E.G. WEEKS) Major-General
i/c Administration
Canadian Military Headquarters.

RECORDED AT CMHQ IN AB 160 4K-129

FIELD GENERAL COURT-MARTIAL

(Form in lieu of AFAB) 40/P & S/1668 (4930)

4/388

Convened by Order of Brig G Francoeur Comd 2 CBRG dated 3 DEC 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-1600	Pte		Selman	MOSQUITO	X-4 List of G, 2 CBR Bn

Judge Advocate's Legal Officer 16 Jan 45

REVIEWING OFFICER, JUDGE ADVOCATE GENERAL BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date(s)*) 5 DEC 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 17|1

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans ....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans ....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A E KELSEY,	CIC, OC 20 Cdn Spec Emp Coy
Member	Capt	H H HOUSE,	Sask LI, 10 CBR Bn
Member	Lieut	S A HETHERINGTON	CIC, 10 CBR Bn
Judge-Advocate	Captain	E E PEARLMAN,	ADJA, HQ 2 CBRG
Prosecutor	Lieut	G E COLLINS,	CAC, 9 CBR Bn
Defending Offr	Lieut	A B DUBNIENICZ	CAC, 9 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused L-1600 Pte MOSQUITO S. before arraignment make(s) (no) ~~(a)~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRG Vol 2 p80

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. N.O. S.R. (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A8

CHARGE SHEET

The accused, L-1600, Pte Soloman MOSQUITO, X-4 List C.H.of O., on strength 9 Bn 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SEC 41
ARMY ACT

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING.

in that he

in the Field, in BELGIUM, between the 19 Oct 44 and 4 Nov 44 stole 69,000 Belgian Francs (old) the property of Mme Julius HUYS. (Julius spelled "Jules" in Exhibit "A")

SECOND CHARGE
SEC 41
ARMY ACT

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING.

in that he

in the Field, in FRANCE, on the 22 Sep 44 stole 1,200 French Francs from Mme DUMAS, of LION-SUR/MER, FRANCE.

THIRD CHARGE
SEC 22
ARMY ACT

WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT ESCAPING.

in that he

in the Field, at approximately 2130 hours, 19 Oct 44, when in confinement in 9 Bn Guard Room, escaped.

FOURTH CHARGE
SEC 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

in that he

in the Field, absented himself without leave from 2145 hours, 19 Oct 44, until apprehended at approximately 1330 hours, 3 Nov 44. Total time absent, 14 days, 15 hours, 45 minutes.

FIFTH CHARGE
SEC 22
ARMY ACT

WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT ESCAPING.

in that he

in the Field, at approximately 1930 hours, 24 Nov 44, when in confinement in 9 Bn Guard Room, escaped.

SIXTH CHARGE
SEC 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

in that he

in the Field, absented himself without leave from 1930 hours, 24 Nov 44 until apprehended at 1730 hours, 29 Nov 44. Total time absent, 4 days, 22 hours.

H.W.R.

(H.W.Rick), Lt.-Col.
Commanding
9 Bn, 2 C.B.R.Gp.

In the Field
2 Dec 44

APPROVED ON BEHALF OF THE JUDGE ADVOCATE GENERAL - pursuant to KR(Can) 540

(E E Pearlman) Capt
ADJA
HQ 2 Cdn Base Rft Gp

In the Field
3 DEC 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
3 DEC 44

21

Rel

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
L-1600	Pte		Selman	MOSQUITO	X-4 List CH of C, 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 3 DEC 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A E KELSEY	CIC, OC 20 Cdn Spec Emp Cey

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by OC 10 CBR Bn	10 CBR Bn
Lieut	To be detailed by OC 10 CBR Bn	10 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	To be detailed by OC 11 CBR Bn	11 CBR Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	E E PEARLMAN,	ADJA, HQ 2 Cdn Base Rft Gp

On Active Service in the Fd

in BELGIUM (Country.)

G Franceour (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G Franceour)

Date 3 DEC 44

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (In lieu of AFA3) 40/P & S/1607T (4601)

(See overleaf for oaths and notes for use on trial.)

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MEDICAL OFFICERS CERTIFICATE

(KR(Can)Para 557)
CMHQ CL 173

I certify that I have this day examined L. 1600 (Number)

Pte (Rank) Mosquito S. (Name) and in my opinion he is

~~unfit~~ fit to undergo trial by Court Martial

Station Field

Date 5. DEC-44

J.D. Thompson Capt (Sgd) Medical Officer

(Unit) 9 C.B.R.M. 2 C.B.R. Bde.

Plea for Mitigation of Punishment

In opening this plea I would like to call the attention of the court to the attitude of the accused in facing these charges. He did not attempt to conceal the facts, even making voluntary statements, which are the main exibits in the summary of evidence.

Such an attitude clearly shows this soldier has no intention of trying to get away with anything, but what he needs is a chance to proove his fitness for the job he enlisted for

It is quite obvious by this soldiers crime sheet, the same treatment as administered in the past is of no avail. But we must get at the root of the trouble

This soldier comes of a warrior race and, as the world was plunged into the dark conflict, he gladly come foward to offer his services, and if need be, his life for his country. Yes, Gentlemen, he has confidence in the cause he enlisted to serve.

For a few months things went well, then, for a first and minor offence, which could easily have been accidental, was given CB, and from then began losing confidence in Military Justice. The court can understand, there are some misguided persons who may discriminate against a previous offender, regardless how minor the charge or how blameless he may be. If you check up for the month of Aug 42

and study the offenses and dates in detail you can readily see why this soldier felt he was perpetually haunted and charged.

And so to the present Court-Martial. This boy had a black future before him, which thought drove him almost to desperation. His uneducated, warrior instincts drove him to escape. Has the court considered what confinement is to the Indian? After the escape he had to live, and the appropriation of the means of livelihood was then a necessary second step in the misguided soldiers mind. Yes, Gentlemen, all these charges are only the outcome of mental frustration which drove this soldier to make the first step.

From the details we have heard Gentlemen, it is obvious this uneducated, disillusioned boy has been the victim of bad handling and lack of understanding on many peoples part.

We have come to the turning of the road and it rests with this court whether our country retains this youth who can be a good citizen, whose only real fault till now was a distrust of those who punished him for things he didnt fully understand.

It rests with this court, whether a life so young is utterly ruined.

This court, with courage to have mercy and restore this boys confidence in justice, will save an endless series of

E 3 Stat III

trials which can have only one ultimate end.

There is still this opportunity for this unfortunate, given a chance to prove himself on the field of battle, showing the past a ghastly, unjust mistake.

I implore the court to consider the uselessness of further confinement and the good which will accrue through mercy.

I would like to add that last night bars were removed from the window of the large room where the accused was quartered and other prisoners and four prisoners escaped. But this soldier, who has been looked down upon as a criminal, Handcuffed to the bed when the door was unlocked, handcuffed to his escort when moving anywhere, including his wrists at meal parade. This soldier remained in the barracks

DB Dubuisson (cl)
Defending L 1600
Pt Mosquito. S.
5 Dec 44

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Exhibit "A" - 85 ABU

SUMMARY OF EVIDENCE

in the case of

L-1600, Pte. Soloman MOSQUITO, X-4 List C.H. of O, on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, who is charged with:

(1) WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT ESCAPING. A.A. Sec 22.

(2) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE. AA Sec 15(1).

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS B-74169, Sgt. Penrose, R.S., Cdn Pro Corps, on strength 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"AT 2130 hrs, approximately, on 19 Oct 44, I was on duty in the Guard Room, 9 Bn, 2 C.B.R.Gp. Two L/Cpls of the Regimental Police were present with eight prisoners. Pte. Mosquito was one of the prisoners. I left the guard room at about 2135 hours, and about three minutes later I was called back to the guard room to receive another prisoner from the Provost (Cdn) Corps. On completion of booking in this other prisoner I was informed that Pte Mosquito had escaped. I immediately searched the guard room and the guard room area. Pte. Mosquito could not be found. I then reported this fact to the duty officer and gave him a description of Pte. Mosquito."

The accused declines to cross-examine the witness.

B-74169, Sgt. Penrose, R.S.

SECOND WITNESS Major P.R.R. Williamson, 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"On 3 Nov 44, at approximately 1330 hrs, while proceeding on Battalion business, to Brussels, I was passing through a small town approximately 10 miles outside of Brussels. My driver drew my attention to a soldier dressed in black coveralls and khaki beret, stating that it was Pte. Mosquito who was at that time A.W.L. from our detention barracks. I verified this by a quick look out of the back of the car and ordered the driver to turn around at the most convenient spot. While turning I noticed the accused cross the street and disappear from sight. I returned to the point where I had last seen him and looked through the gardens of the houses in the vicinity and then followed a narrow street to its end and inquired of some children if they had seen a Canadian soldier in black coveralls. They informed me that he was in one of the houses which we were standing in front of. I went to this house and upon being invited to enter found the accused, whom I now recognize as Pte. Mosquito, in a back room with a priest. He gave me no trouble and I took him with me to a section of the Canadian Provost Corps in Brussels where I handed him over to a Sgt-Major charging him with breaking out of detention and being A.W.L."

The accused declines to cross-examine the witness.

(P.R.R. Williamson), Major.

The accused was questioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with.

(G. E. Collins), Lieut.
Officer detailed to take
the Summary of Evidence.

In the Field

14 Nov 44

ADDITIONAL SUMMARY OF EVIDENCE

in the case of

L-1600, Pte. Soloman MOSQUITO, X-4 List C.H. of C. on strength 9 Bn 2 Canadian Base Reinforcement Group a soldier of the Canadian Army Overseas, who is charged with:

(1) WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING.

(2) WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS

C-30818, CSM. Tait, T.B., No.1 S.I.S., First Canadian Army, having been duly sworn, states:

"On the 15 Nov 44 in company with Sgt C.A.E. Taylor, No.1 S.I.S., I interviewed L-1600, Pte MOSQUITO, Soloman at 9 Bn 2 C.B.R.G., whom I now identify as the accused. I informed Pte Mosquito who I was and that I was making inquiries into the matter of a theft of 69,000 Belgium Francs (old) from Mme Huys, of Dienze, Belgium, which occurred in the latter part of October 1944. I cautioned the accused, this caution being reduced to writing after Pte Mosquito had stated that he wished to give a voluntary statement. This he did, the statement being reduced to writing and the caution and statement signed by the accused after he had read over the same. This statement I now tender as evidence (marked Exhibit "A"). No threats or promises of favour were held out to the accused to induce him to make this statement."

"On the 16th Nov 44 I interviewed L-1600, Pte. MOSQUITO, S. at 9 Bn 2 C.B.R.G., whom I now identify as the accused. I informed him who I was and that I was making inquiries into the matter of a theft of 1,200 French Francs from the home of a Mme Dumas, LION-SUR-MER, FRANCE, which occurred on or about 22 Sep 44. I cautioned the accused after he had elected to make a voluntary statement, the said caution being reduced to writing and signed by the accused after he had read same. The accused then made a voluntary statement which was reduced to writing by me, then read over by the accused and signed by him. This statement I now tender as evidence, (marked Exhibit "B"). No threats or promises were extended to induce the accused to make any statement".

The accused declines to cross-examine the witness.

C-30818 CSM Tait, T.B.

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The accused was questioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything of give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with.

(G.E.Collins), Lieut.
Officer detailed to take
the Summary of Evidence

In the Field

23 Nov 44

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ADDITIONAL SUMMARY OF EVIDENCE

in the case of

L-1600, Pte. Soloman MOSQUITO, X-4 List, C.H. of C., on strength 9 Bn, 2 Canadian Base Reinforcement Group a soldier of the Canadian Army Overseas, who is charged with:-

(1) WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT ESCAPING. AA. Sec 22

(2) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE. AA Sec 15(1)

By the direction of the Commanding Officer, the Summary of Evidence is to be taken on oath.

SIXTH WITNESS E-11109 Pte. Boudreau, A., 61 Coy. 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:-

"At approximately 1930 hours on the 24th Nov 1944 I was on duty in the Guard Room 9 Bn 2 C.B.R.G. I was ordered by the Cpl i/c Guard to take two men to the lavatory. I accompanied the two men to the lavatory and stood outside the door while they were inside. The lavatory consisted of two closed-in cubicles. I waited approximately five minutes and one of the men, Spr Blondin, came out. I did not hear any noise in the other cubicle, and immediately opened the door. There was no one inside and the window was open and a pair of black coveralls were lying on the floor. I then realized that the man, whom I now recognize as Pte Mosquito, had escaped. I reported this fact immediately to the Cpl in charge of the Guard Room".

The accused declines to cross-examine the witness.

A Boudreau
E-11109 Pte Boudreau, A

SEVENTH WITNESS Lieut G.E. Collins, X-4 List CAC., on strength 9 Bn 2 Canadian Base Reinforcement Group having been duly sworn states:

"I produce a certificate pursuant to A.A.163(i)(j) purporting to be signed by the Officer i/c Ghent detachment, 2 Canadian L. of C. Provost Coy, relating to the accused whom I now recognize. (Certificate appended hereto and marked Exhibit "C")

The accused declines to cross-examine the witness.

G.E. Collins Lt
(G.E.Collins)Lieut.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

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I certify that the foregoing Summary of Evidence consisting of two pages, was taken down by me in the presence of the accused and that Rules of Procedure 4(c), (d), (e), (f), and (g) have been complied with

(George E Collins) Lieutenant
Officer detailed to take
the Summary of Evidence.

In the Field

30 Nov 44

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Exhibit "A" 6 1600, Pte Mosquito, Solomon. Pte
9 Bn R.B.R.C. (C.A. of O.)

I have been cautioned by C.S.M. Gait, I.B., No 1 Special Investigation Section that I do not have to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be given in evidence.

S Mosquito

I am Solomon Mosquito, age 24 years and I was born in Old Battleford Saskatchewan. I enlisted in the Canadian Army on 10th Oct 1939. I arrived in England in Dec 1939 and came to France in Aug 1944. I was with the S.L. Inf until Aug 1944 when I was transferred to the 6th R.O. I have been in 6 B.R.R.C. since I was transferred.

I went A.W.O.L. about the 21st Oct 1944 from 9 Bn 2 C.B.R.C. I went down to Lille in France and I stayed there about a week, then I came back to Deinze, stayed at the same place, this woman's place. Her name is Suys. I stayed there the weekend. I was gone about 14 days altogether and I stayed at their place two weekends. The second weekend I took the money from a drawer — in a

S Mosquito

stand as mean. It had a sort of a round mirror with straight sides, and it had two small drawers on the top with large doors on the front. There was 56 one thousand franc bills and a ten thousand franc bill and seven 500 franc bills. The money was in the left hand drawer, and it was wrapped up in a piece of newspaper. It wasn't tied up.

After I took that money I left the house in Deinze, and got a lift in a truck on his way to Alost. When I got into Alost I found out that the money was no good when I went to the bank. I went in a café and went to the toilet and I threw it down the toilet on the seat.

S Mosquito.

Witness
E B Jackson.
15 Nov. 1944

[illegible] Sgt.
15 Nov. 1944.

"This is Exhibit "A" referred to in the Summary of Evidence in the case of L-1600 Pte MOSQUITO, S. taken before me this 23rd day of November 1944.

(G.E.Collins) Lieut

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Exhibit B, Statement of Lo 1600, Pvt Mosquito (Atoto) 9 Bn 608 RCA.

Dolmo.

I have been cautioned by G.S.M. Said I.B. No 1 Special Investigation Section, Short Can Army, that I do not have to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be given in evidence.

S Mosquito.

On the 22nd Sept 1944 at about noon time when Mrs Dumais, of Leo-Dai-Ner, was away ~~[illegible]~~ of the house, I tried the front door on the street and found it locked, so I went around the back way. I tried the back door. It was also locked too. There was a broken window there. I climbed through it and went in the Kitchen, and I went through to the Store. I went to the counter and found a key there. I opened the drawer and took the money that was there, I don't know the amount of it, and I left. This was the woman I had stayed with for a night and I used to visit her place when I was at Deliverance.

S Mosquito.

6

"This is Exhibit "B" referred to in the Simmary of Evidence in the case of L-1600 Pte MOSQUITO, S taken before me this 23rd day of November 1944.

G E Collins Lt

(G.E. Collins)Lieut

"This is Exhibit "C" referred to in the Summary of Evidence in the case of..L-1600 Pte Soloman, MOSQUITO.....taken before me this ..
.....2nd.....day of...December.....1944

(G.E.Collins)Lieut

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CERTIFICATE UNDER ARMY ACT. SECTION 168 (1) (1)

Certified that No. 21600 Rank PTE. Name MOSQUITO S.

of the 9 BN. 2. C. B. R. G. 21. A. GRP. Regt., ~~surrendered to~~ No. A3315

was apprehended by

Rank SGT. Name SLEEMAN R of the 2 CDN. L. of C. PROV. COY.

GHENT DETACH at GHENT BELGIUM at 1730 hrs, on the

29 day of NOV. 44. as an absentee without leave.

He was wearing Military Uniform at the time of his ~~Surrender~~ ~~Civilian Clothes~~ Arrest.

Place GHENT BELGIUM

Date 29 - NOV. 44.

R A McDonald LIEUT

~~(G. WOOD) CAPTAIN~~, ~~R.A.P.C.~~ GHENT DETACH

2. CDN. L of C. PROV. COY

21. A. GRP.

Exhibit "B" - E.2

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
L-1600	Pte	Soloman MOSQUITO	X-4 List C.H. of O. (9 Bn, 2 C.B.R.Gp.)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, punishments being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.W.L. AA 15(1) 6 times.

For C.P.G.O. & M.D. AA 40 1 times.

For _____ _____ times.

For _____ _____ times.

Date of first entry in Field Conduct Sheet 1 Jul 40

Date of last entry in Field Conduct Sheet 20 Sep 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~3. The accused at the present time is under sentence for _____ beginning on the _____ day of _____~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 32 days in military custody, *i.e.*, Nil days in open arrest, 32 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 yrs, 8 months

6. The date of his attestation is 10 Oct 39

~~7. The service which the accused is allowed to reckon is _____~~

~~8. The accused is in possession of _____~~

†State the military decorations (if any) held by accused.

~~9. (If the accused is a warrant officer or N.C.O.) The accused has served continuously, without reduction, to the present date as _____ Date of Promotion~~

~~In the substantive rank of _____ _____~~

~~In the war substantive rank of _____ _____~~

~~In the acting rank of _____ _____~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

3

(21114) W1.8000/988 100,000 5/42 A.& E.W.Ltd. Gp.598 Forms/B.296(War)/2
(22939) W1.20206/1879 60,000 9/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	4 Apr 41	(1) AA 15(1) A.W.L. (2) AA 15(1) A.W.L. (3) AA 24(2) Losing by neglect	1 yr imprisonment HL. Stoppage-29.17.4d. Sentence committed to Detn.	Remission of 118 days
F.G.C.M.	16 Sep 42	AA 15(1) A.W.L.	12 mons Detn.	120 days remission
F.G.C.M.	8 Sep 43	A.A. 15(1) A.W.L.	2 yrs detention	526 days remission
F.G.C.M.	19 May 44	A.A. 24(2) Losing by neglect	90 days Detn.	
F.G.C.M.	5 Jul 44	Not known	161 days Detn	Sentence suspended
F.G.C.M.	4 Oct 44	A.A. 15(1) A.W.L.	1 yr Detention	Sentence suspended
Civil Offence	22 Dec 40	Larceny	3 months imp.HL	84 days remission

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 5th day of ~~November~~ Dec, 1944

for (C.L. Nelson), Capt & Adjt.
9 Bn, 2 C.B.R.Gp.

CAPT. & ADJT.
9 BN. 2 C.B.R. GP.

COMPILED FROM MFM 4 ORIGINAL INCOMPLETE LAST SHEET DESTROYED 10 APR 40 Exhibit C #2

No. L1600 Name Solomon MOSQUITO Regt. Battery, or Company Corps Cdn Inf Corps Date of enlistment 10 Oct 39 Badges N/A Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 3 Apr 40 and date of last drunk n/a Period not reckoning towards freedom from extra fine n/a Sheet No 1 Signature OC Company, etc. A Wisholle Capt Character

3/17 MFM 6 (AFB 122) 40(P)(B)130 (5413)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA.15(1) AWL 2 days 20 hrs		7 days C B	1 Jul 40	DO-5-11/40	Forf 3 days pay for AWL
Field		Pte		AA.15(1) AWL 6 days 9 hrs 30 mi		21 days Detn	16 Aug 40	DO-8-12/40	Forf 7 days pay for AWL
Field		Pte		Civil Offence(larceny)	Documentary	3 months Impt HL Released 27 Feb 41	22 Dec 40	Civil Court	
Field	12 sep 40	Pte		AA.15(1) AWL fr 0430 hrs 12 Sep 43 till 1730 hrs 30 Oct 40(48 days 13 hrs)	Documentary	One year Impt HL. Stop; £9-17-4½ Sentence		F.G.C.M.	Forf 70 dys pay for AWL & 37 dys pay for time in arrest
				AA.15(1) AWL 1645 hrs 6 Dec 40 till 0850 hrs 27 Dec 40(20 dys. 16 hrs 5 mi)		committed to Detn Released from Detn 5 Dec 41 Remission of 118 days			

Certified true copy taken from Regtl (over) books in my possession. Hbleakin Capt

officer having custody of original documents (PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2Jul42	Pte		AA.24(2) Losing by neglect his equipment clothing and regt'l necessaries to the amount of £9-17-4½	Documentary				
				AA.40 Conduct to the Prejudice Good order & Mil Disc(failing to clean kitchen before going off duty	Documentary	7 days C B	3 JUL 42	DO 30/42	Forf 5 days apy for AWL
Field	11 Jul 42	Pte		AA.15(1) AWL fr 0200 hrs 11 JUl 42 till 0245 hrs 15 Jul 42(4 days 45 min)	Documentary	10 days pay	15 Jul 42	D O 32/42	Forf 5 days pay for AWL
Field	23 Jul 42	Pte		AA.15(1) AWL fr 2400 hrs 23 JUl 42 till 0350 hrs 28 JUl 42(4 dys 3 hrs 50 min)	Documentary	28 days pay	28 Jul 42	D O 35/42	

COMPILED FROM MFM 4 ORIGINAL INCOMPLETE LAST SHEET DESTROYED 11C Apr 40

COPY

No. L1600 Name MOSQUITO S. Sqn, Battery, or Company | Corps C I C | Date of enlistment 10 Oct 39 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&R/196 (5413)

Date of last entry in Company Conduct Sheet 3 Apr 42 | No. and date of last drunk n/a | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc A Wishalle Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 Aug 42	Pte		AA.15(1) AWL fr 1600 hrs 16 Aug 42 till 2350 hrs 16 Aug 42(7 hrs 50 min)	Documentary	7 days C.B.	17 Aug 42	D.O.45/42	Forf 1 days pay for AWL
Field	26 Aug 42	Pte		AA.15(1) AWL fr 1500 hrs 26 Aug 42 till 2215 hrs 26 Aug 42 (7 hrs 15 min)	Documentary	10 days pay	27 Aug 42	D.O. 129/ 42	Forf 1 day pay for AW
Field	27 Aug 42	Pte		AA.15(1) AWL fr 1900 hrs 27 Aug 42 till 0930 hrs 6 Sep 42(9 days 14 hrs 30 min)	Documentary	12 Mos Detn (Rel 15 Jun 43 with 120 dys remission)	16 Sep 42	FGCM	Forf 10 days Conc with pr previous Awd

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17 Jul 43	Pte		AA.15(1) AWL Fr 2300 hrs 17 JUL 43 till 1405 hrs 30 Aug 43(43 days 4 hrs 6 min)	Documentary (Sentence suspended 30 Mar 44)	2 yrs Detn (526 days)	8 Sep 43	FGCM	Forf 44 days pay for AWL (Released
Field	28 Apr 44	Pte		A.A.24(2) Loss of kit & Regt'l necessaries, in that he lost one .38 cal. pistol.	L/C Edguton L/C MacLeod Civil Police	90 days Detn Forf $23.48	19 May 44		
In the Field	5 Jul 44			Was awarded 161 days Detention by F.G.C.M. sentence suspended wef 5 Jul 44 by confirming authority Authority For this entry 10/MOSQUITO S./1(A.G. 5b) d/11 Aug 44 No further details available	Sgd (G.S. Lynch) Capt O C 42 Coy				
Field	20 Sep 44	Pte		AA.15(1) AWL from 1330 hrs 20 Sep 44 to 1915 hrs 27 Sep 44 (absent 7 dys 5 hrs 45 mins)	Documentary Cpl Patterson CQMS Bateman	1 yr Detn	4 Oct 44	FGCM	Forf 8 days pay for absence

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes: through my Chief Clerk - Mr Cole.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. ISP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L-1600 Pte Sulaman MOSQUITO, X-4 List CH of C, 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 41	Guilty	Guilty	
2nd Sec 41	Guilty	Guilty	
3rd Sec 22	Guilty	Guilty	Extracts entered as No 3449 in the Record of Courts Martial kept in the office of the Judge Advocate General this 6 day of April 1962. RR
4th Sec 15 (1)	Guilty	Guilty	
5th Sec 22	Guilty	Guilty	
6th Sec 15 (1)	Guilty	Guilty	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for One years detention beginning on (date) 4 OCT 44 (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which Nil days were spent in hospital. (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for a period of two years and to be discharged from H.M. ~~Service~~ Navy with ignominy

(Sgd) [illegible] Judge-Advocate, if any. 5 Dec 44 Date awarded. (Sgd) [illegible] President. (PP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1. AA 57A. Delete if not used.)

(Sgd) [illegible]

Date 6 Dec '44 Commanding 2 CBRG Confirming Officer Brig

PART IV. PROMULGATED AND EXTRACTS TAKEN. (PP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L1600 Pte Solomon MOSQUITO, X4 List CH of C, 9 CBR. Bn.	8 Dec 44	[illegible] CAPT, C.A.T. 9 BN. 2 C.B.R. GP.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

The Deputy Judge Advocate General, Cdn Sec GHQ 1 Ech 21 Army Group, having advised that the sentence in these proceedings is invalid, I hereby direct that the sentence be and the same is hereby removed and the accused relieved from all consequences of such sentence, and I do hereby sentence the accused L-1600 Pte Soloman Mosquito to be imprisoned with hard labour for a period of two years less twenty-eight (28) days and to be discharged with ignominy from His Majesty's Service, such sentence to be effective as if passed by the Court-Martial on 5 Dec 44.

E.L.M. Burns

(E.L.M. Burns) Maj-Gen
OIC
Cdn Sec GHQ 1 Ech - 21 A Gp
Superior Military Authority

In the Field
26 Dec 44.

I hereby certify that substitution of a valid sentence as directed by OIC Cdn Sec GHQ 1 Ech, 21 A Gp and contained in correcting minute attached at Part III above has been promulgated to accused, L-1600 Pte Soloman Mosquito, L-4 List OR of O, 9 CBR Bn, in the field, in BELGIUM, on the 30th day of December, and I further certify that extracts were taken on the said date and all records amended accordingly.

(G L Nelson) Capt & Adjt,
9 CBR Bn
Officer i/c Documents

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L-1600 Pte Solomon MOSQUITO, X-4 List CH of O, 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 41	Guilty	Guilty	
2nd Sec 41	Guilty	Guilty	
3rd Sec 22	Guilty	Guilty	
4th Sec 15(1)	Guilty	Guilty	
5th Sec 22	Guilty	Guilty	
6th Sec 15(1)	Guilty	Guilty	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for one years detention beginning on (date) 4 OCT 44 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To be imprisoned with hard labour for a period of two years and to be discharged from H.M. Service xxxxxxxxxx AEK with ignominy.

(Sgd) "E.E. Pearlman" Capt. — Judge-Advocate, if any.
5 Dec 44 — Date awarded.
(Sgd) "A.E. Kelsey" Major — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:
Confirmed GF

I direct that the accused be not committed to prison or detention barracks until further orders.(1) GF
~~I direct that the accused be not committed to prison or detention barracks until further orders.~~
(1. AA 57A. Delete if not used.)

(Sgd) "G. Francoeur" Brig
Date 6 Dec 44 — Commanding 2 CBRG — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L.1600 Pte Solomon MOSQUITO, X-4 List CH of O, 9 C.B.R. Bn	8 Dec 44	"C.L. Nelson" Capt & Adjt, 9 Bn, 2 C.B.R. Gp.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 16 Jan 1945 JAG BRANCH

RECORDED AT CMHQ IN AB 160 4K-129

CFA66 (To take place of AFA21) 40/P 2 of 1908 (49/61) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig G. Francoeur Comd 2 CBRG dated 3 DEC 44

Certified true copy of original proceedings herein. 27 Mar 46 John de Fauvere Capt

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, or (b) substantial service, see AA 93, fns, KR Can 308, 328, 330.)

Number.	Rank.	A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-1600	Pte		Soloman	MOSQUITO	X-4 List CH of O 9 CBR Bn

PROCEEDINGS REVIEWED "F. desRivieres" Lieut. 16 Jan 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.
J.A.G. Rev. I.
PROCEEDINGS REVIEWED DATE 5 Jan 45 "W.H. Waugh" Major, D.J.A. Cdn Sec GHQ 2 Ech 21 Army Gp.

NCF

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 5 DEC 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 17/1

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnin ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ C.E.P.
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans .....~~
~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~ C.E.P.
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No sir.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A E KELSEY,	CIC, OC 20 Cdn Spec Emp Coy
Member	Capt.	H H House,	Sask LI, 10 CBR Bn
Member	Lieut.	S A HETHERINGTON,	CIC, 10 CBR Bn
Judge-Advocate	Captain	E E PEARLMAN,	ADJA, HQ 2 CBRG
Prosecutor	Lieut.	G E COLLINS,	CAC, 9 CBR Bn
Defending Offr	Lieut.	A B DUBNIEWICZ,	CAC, 9 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused L-1600 Pte MOSQUITO, S. before arraignment make(s) (no) ~~(a)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RuP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO SIR.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans..... Do you intend to call witnesses on your behalf?

Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. NO SIR.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes through Maj Def Officer - See Notes.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

The Deputy Judge Advocate General, Cdn Sec GHQ 1 Ech 21 Army Group, having advised that the sentence in these proceedings is invalid, I hereby direct that the sentence be and the same is hereby removed and the accused relieved from all consequences of such sentence, and I do hereby sentence the accused L-1600 Pte Soloman Mosquito to be imprisoned with hard labour for a period of two years less twenty-eight (28) days and to be discharged with ignominy from His Majesty's Service, such sentence to be effective as if passed by the Court-Martial. on 5 Dec 44.

"E.L.M. Burns"
(E.L.M. Burns) Maj-Gen
OIC
Cdn Sec GHQ 1 Ech - 21 A Gp
Superior Military Authority

In the Field
26 Dec 44.

I hereby certify that substitution of a valid sentence as directed by OIC Cdn Sec GHQ 1 Ech, 21 A Gp and contained in correcting minute attached at Part III above has been promulgated to accused, L-1600 Pte Soloman Mosquito, X-4 List CH of O, 9 CBR Bn, in the field, in BELGIUM, on the 30th day of December, and I further certify that extracts were taken on the said date and all records amended accordingly.

"C.L. Nelson"
(C.L. Nelson) Capt & Adjt,
Officer i/c Documents.

AEK

CHARGE SHEET

The accused, L-1600, Pte Soloman MOSQUITO, X-4 List C.H. of O., on strength 9 Bn 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Sec 41
ARMY ACT

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING,

in that he

in the Field, in BELGIUM, between the 19 Oct 44 and 4 Nov 44 stole 69,000 Belgian Francs (old) the property of Mme Julius HUYS. (Julius spelled "Jules" in Exhibit "A")

SECOND CHARGE
Sec 41
ARMY ACT

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING,

in that he

in the Field, in FRANCE, on the 22 Sep 44 stole 1,200 French Francs from Mme DUMAS, of LION-SUR/MER, FRANCE.

THIRD CHARGE
Sec 22
Army Act

WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT ESCAPING.

in that he

in the Field, at approximately 2130 hours, 19 Oct 44, when in confinement in 9 Bn Guard Room, escaped.

FOURTH CHARGE
Sec 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he

in the Field, absented himself without leave from 2145 hours, 19 Oct 44, until apprehended at approximately 1330 hours, 3 Nov 44. Total time absent, 14 days, 15 hours, 45 minutes.

FIFTH CHARGE
Sec 22
ARMY ACT

WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT ESCAPING,

in that he

in the Field, at approximately 1930 hours, 24 Nov 44, when in confinement in 9 Bn Guard Room, escaped.

SIXTH CHARGE
Sec 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he

in the Field, absented himself without leave from 1930 hours, 24 Nov 44 until apprehended at 1730 hours, 29 Nov 44. Total time absent, 4 days, 22 hours.

HWR

PROVED ON BEHALF
THE JUDGE ADVOCATE
NERAL - pursuant to
(Can) 540

In the Field
2 Dec 44

"H.W. Rick"
(H.W. Rick) Lt.-Col.
Commanding
9 Bn, 2 C.B.R.Gp.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

E. Pearlman"
E Pearlman) Capt.
ADJA
Cdn Base Rft Gp

"G. Francoeur"
(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

he Field
ec 44

In the Field
3 Dec 44

AEK

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2)
40/PAS/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-1600	Pte.		Soloman	MOSQUITO	X-4 List CH of O
					9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 3 DEC 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A E KELSEY	CIC, OC 20 Cdn Spec Emp Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by OC 10 CBR Bn	10 CBR Bn
Lieut.	To be detailed by OC 10 CBR Bn	10 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	To be detailed by OC 11 CBR Bn	11 CBR Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	E E PEARLMAN,	ADJA, HQ 2 Cdn Base Rft Gp

On Active Service in the Fd

in BELGIUM (Country.)

"G. Francoeur" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G. Francoeur)

Date 3 DEC 44

Commanding 2 Cdn Base Rft Gp.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

AEK

MEDICAL OFFICERS CERTIFICATE

(KR(Can)Para 557)
CMHQ CL 173

I certify that I have this day examined L.1600
(Number)

Pte. MOSQUITO, S. and in my opinion he is
(Rank) (Name)

fit to undergo trial by Court Martial.
~~xxxx~~

Station Field "J.H.S. Thompson" Capt. (Sgd)
Medical Officer

Date 5 Dec 44 (Unit) 9 C.B.R. Bn. 2 CBRGp

PLEA FOR MITIGATION OF PUNISHMENT

In opening this pleas I would like to call the attention of the court to the attitude of the accused in facing these charges. He did not attempt to conceal the facts, even making voluntary statements, which are the main exhibits in the summary of evidence.

Such an attitude clearly shows this soldier has no intention of trying to get away with anything, but what he needs is a chance to prove his fitness for the job he enlisted for.

It is quite obvious by this soldiers crime sheet, the same treatment as administered in the past is of no avail. But we must get at the root of the trouble.

This soldier comes of a warrior race and, as the world was plunged into the dark conflict, he gladly came forward to offer his services, and if need be, his life for his country. Yes, Gentlemen, he had confidence in the cause he enlisted to serve.

For a few months things went well, then, for a first and minor offence, which could easily have been accidental, was given C.B., and from then began losing confidence in Military Justice. The court can understand there are some misguided persons who may discriminate against a previous offender, regardless how minor the charge or how blameless he may be. If you check up for the month of Aug 42

E.3 Sheet II

and study the offences and dates in detail you can readily see why this soldier felt he was perpetually haunted and charged.

And so the the present Court-Martial. This boy had a black future before him, which thought drove him almost to desperation. His uneducated, warrior instincts drove him to escape. Has the court considered what confinement is to the Indian? After the escape he had to live, and the appropriation of the means of livelihood was then a necessary second step in the misguided soldiers mind. Yes, Gentlemen, all these charges are only the outcome of mental frustration which drove this soldier to make the first step.

From the details we have heard Gentlemen, it is obvious this uneducated, disillusioned boy has been the victim of bad handling and lack of understanding on many peoples part.

We have come to the turning of the road and it rests with this court whether our country retains this youth who can be a good citizen, whose only real fault till now was a distrust of those who punished him for things he didn't fully understand.

It rests with this court, whether a life so young is utterly ruined.

This court, with courage to have mercy and restore this boys confidence in justice, will save an endless series of

E.3 Sheet III

trials which can have only one ultimate end.

There is still this opportunity for this unfortunate, given a chance to prove himself on the field of battle, showing the past a ghastly, unjust mistake.

I implore the court to consider the uselessness of further confinement and the good which will accrue through mercy.

I would like to add that last night bars were removed from the window of the large room where the accused was quartered with other prisoners and four prisoners escaped. But this soldier, who has been looked down upon as a criminal, handcuffed to the bed when the door was unlocked, handcuffed to his escort when moving anywhere, including tied wrists at meal parade, this soldier remained in the barrack room.

"A.B. Dubniewicz" Lt.
Defending L.1600
Pte. Mosquito, S.,
5 Dec 44.

SUMMARY OF EVIDENCE

in the case of

L-1600, Pte. Soloman MOSQUITO, X-4 List C.H. of O, on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, who is charged with:

(1) WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT ESCAPING. A.A. Sec 22.

(2) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE. AA Sec 15(1).

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS B-74169, Sgt. Penrose, R.S., Cdn Pro Corps, on strength 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"At 2130 hrs, approximately, on 19 Oct 44, I was on duty in the Guard Room, 9 Bn, 2 C.B.R.Gp. Two L/Cpls of the Regimental Police were present with eight prisoners. Pte. Mosquito was one of the pris-
GEC oners. I left the guard room at about 2135 hours, and about three minutes later I was called back to the guard room to receive another prisoner from the Provost (Cdn) Corps. On completion of booking in this other prisoner I was informed that Pte Mosquito had escaped. I immediately searched the guard room and the guard room area. Pte. Mosquito could not be found. I then reported this fact to the duty officer and gave him a description of Pte. Mosquito."

The accused declines to cross-examine the witness.

"R.S. Penrose"
B-74169, Sgt. Penrose, R.S.

SECOND WITNESS Major P.R.R. Williamson, 9 Bn, 2 C.B.R.Gp., having been duly sworn, states:-

"On 3 Nov 44, at approximately 1330 hrs, while proceeding on Battalion business, to Brussels, I was passing through a small town approximately 10 miles outside of Brussels. My driver drew my attention to a soldier dressed in black coveralls and khaki beret, stating that it was Pte. Mosquito who was at that time A.W.L. from our detention barracks. I verified this by a quick look out of the back of the car and ordered the driver to turn around at the most convenient spot. While turning I noticed the accused cross the street and disappear from sight. I returned to the point where I had last seen him and looked through the gardens of the houses in the vicinity and then followed a narrow street to its end and inquired of some children if they had seen a Canadian soldier in black coveralls. They informed me that he was in one of the houses which we were standing in front of. I went to this house and upon being invited to enter found the accused, whom I now recognize as Pte. Mosquito, in a back room with a priest. He gave me no trouble and I took him with me to a section of the Canadian Provost Corps in Brussels where I handed him over to a Sgt-Major charging him with breaking out of detention and being A.W.L."

The accused declines to cross-examine the witness.

"P.R.R. Williamson"
(P.R.R. Williamson), Major.

The accused was questioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e), and (f) ahve been complied with.

"G.E. Collins"
(G.E. Collins) Lieut.
Officer detailed to take
the Summary of Evidence.

In the Field

14 Nov 44.

ADDITIONAL SUMMARY OF EVIDENCE

in the case of

L-1600, Pte. Soloman MOSQUITO, X-4 List C.H. of O. on strength 9 Bn 2 Canadian Base Reinforcement Group a soldier of the Canadian Army Overseas, who is charged with:

(1) WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING.

(2) WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING.

The commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS C-30818, CSM, Tait, T.B., No. 1 S.I.S., First Canadian Army, having been duly sworn, states:-

"On the 15 Nov 44 in company with Sgt. C.A.E. Taylor, No. 1 S.I.S., I interviewed L-1600, Pte. MOSQUITO, Soloman at 9 Bn 2 C.B.R.G., whom I now identify as the accused. I informed Pte Mosquito who I was and that I was making inquiries into the matter of a theft of 69,000 Belgium Francs (old) from Mme Huys, of Dienze, Belgium, which occurred in the latter part of October 1944. I cautioned the accused, this caution being reduced to writing after Pte Mosquito had stated that he wished to give a voluntary statement. This he did, the statement being reduced to writing and the cuation and statement signed by the accused after he had read over the same. This statement I now tender as evidence (marked Exhibit "A"). No threats or promises of favour were held out to the accused to induce him to make this statement."

"On the 16th Nov 44 I interviewed L-1600 Pte. MOSQUITO, S. at 9 Bn 2 C.B.R.G., whom I now identify as the accused. I informed him who I was and that I was making inquiries into the matter of a theft of 1,200 French Francs from the home of a Mme Dumas, LION-SUR-Mer, FRANCE, which occurred on or about 22 Sep 44. I cautioned the accused after he had elected to make a voluntary statement, the said caution being reduced to writing and signed by the accused after he had read same. The accused then made a voluntary statement which was reduced to writing by me, then read over by the accused and signed by him. This statement I now tender as evidence, (marked Exhibit "B"). No threats or promises were extended to induce the accused to make any statement".

The accused declines to cross-examine the witness.

"T.B. Tait"
C-30818 CSM Tait, T.B.

The accused was questioned as follows:-

Do you wish to make any statment or to give evidence on oath? You are not obliged to say anything of give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with.

"G.E. Collins" Lt.,
(G.E. Collins) Lieut.,
Officer detailed to take
the Summary of Evidence.

In the Field

23 Nov 44

ADDITIONAL SUMMARY OF EVIDENCE

in the case of

L-1600, Pte. Soloman MOSQUITO, X-4 List, C.H. of O., on strength 9 Bn, 2 Canadian Base Reinforcement Group a soldier of the Canadian Army Overseas, who is charged with:-

(1) WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT ESCAPING. A.A. Sec 22.

(2) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE A.A. Sec 15(1)

By the direction of the Commanding Officer, the Summary of Evidence is to be taken on oath.

SIXTH WITNESS E-11109 Pte. Boudreau, A., 61 Coy. 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:-

"At approximately 1930 hours on the 24th Nov 1944 I was on duty in the Guard Room 9 Bn 2 C.B.R.G. I was ordered by the Cpl i/c Guard to take two men to the lavatory. I accompanied the two men to the lavatory and stood outside the door while they were inside. The lavatory consisted of two closed-in cubicles. I waited approximately five minutes and one of the men, Spr Blondin, came out. I did not hear any noise in the other cubicle, and immediately opened the door. There was no one inside and the window was open and a pair of black coveralls were lying on the floor. I then realized that the man, whom I now recognize as Pte. Mosquito, had escaped. I reported this fact immediately to the Cpl in charge of the Guard Room".

The accused declines to cross-examine the witness.

"A. Boudreau"
E-11109 Pte Boudreau, A.

SEVENTH WITNESS Lieut G.E. Collins, X-4 List CAC., on strength 9 Bn 2 Canadian Base Reinforcement Group having been duly sworn states:

"I produce a certificate pursuant to A.A.163(i)(j) purporting to be signed by the Officer i/c Ghent detachment, 2 Canadian I. of C. Provost Coy, relating to the accused whom I now recognize. (Certificate appended hereto and marked Exhibit "C").

The accused declines to cross-examine the witness.

"G.E. Collins" Lt.
(G.E. Collins) Lieut.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of two pages, was taken down by me in the presence of the accused and that Rules of Procedure 4(c), (d), (e), (f), and (g) have been complied with

"G.E. Collins" Lt.
(George E. Collins) Lieutenant
Officer detailed to take
the Summary of Evidence.

In the Field

30 Nov 44

This is Exhibit "A" referred to in the Summary of Evidence in the case of L-1600 Pte MOSQUITO S. taken before me this 23rd day of November 1944.

AEK

"G.E. Collins" Lt.
(G.E. Collins) Lieut.

Ex. "A" EAK

L.1600 Pte. Mosquito, Soloman, 9 Bn C.B.R.G. (C.H. of O)

I have been cautioned by CSM Tait, T.B., No. 1 Special Investigation Section, that I do not have to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be given in evidence.

"S. Mosquito".

I am Soloman Mosquito, age 24 years and I was born in Old Battleford Saskatchewan. I enlisted in the Canadian Army on 10th Oct 1939. I arrived in England on 17 Dec 1939 and came to France in Aug 1944. I was with the S.L. Inf. until Aug 1944 when I was transferred to the C.H. of O. I have been in C.B.R.G. since I was transferred.

I went A.W.O.L. about the 21st Oct 1944 from 9 Bn. 2 C.B.R.G. I went down to Lille in France and I stayed there about a week, then I came back to Deinze, stayed at the same place, this woman's place. Her name is Huys. I stayed there the weekend. I was gone about 14 days altogether and I stayed at their place two weekends. The second weekend I took the money from a drawer in a stand or bureau. It had a sort of mirror with straight sides, and it had two small drawers on the top with large doors on the front. There was 56 one thousand franc bills and a ten thousand franc bill and seven 500 franc bills. The money was in the left hand drawer and it was wrapped up in a piece of newspaper. It wasn't tied up.

SM

After I took that money I left the house in Deinze and got a lift in a truck on his way to Alost. When I got into Alost I found out that the money was no good when I went to the bank. I went in a cafe and went to the toilet and I threw it down the toilet by the seat.

"S. Mosquito"

Witness.

"T.B. Tait" Csm
15 Nov 1944

"???? Taylor" Sgt.
15 Nov 1944

This is Exhibit "B" referred to in the Summary of Evidence in the case of L-1600 Pte MOSQUITO, S. taken before me this 23rd day of November 1944.

"G.E. Collins" Lt.
(G.E. Collins) Lieut.

AEK

AEK

Ex. "B"

Statement of L.1600 Pte. Mosquito, Soloman, (GH of O) 9 Bn, CBRG.

I have been cautioned by CSM Tait, T.B., No. 1 Special Investigation Section, First Cdn Army, that I do not have to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be given in evidence.

"S. Mosquito"

On the 22nd Sept 1944 at about noon time when Mme Dumas of Lion-Sur-Mer, was away from home I tried the front door of her house on the street and found it locked so I went around the back way. I tried the back door. It was also locked too. There was a broken window there. I crawled through it and went in the kitchen, and I went through to the store. I went to the counter and found a key there. I opened the drawer and took the money that was there, I don't know the amount of it, and I left. This was the woman. I had stayed with for a night and I used to visit her place when I was at Delwerande.

"????????????????"
16 Nov 44

"S. Mosquito".

AEK

"This is Exhibit "C" referred to in the Summary of Evidence in the case of L-1600 Pte. Soloman MOSQUITO taken before me this 2nd day of December 1944.

"G.E. Collins" Lt.

(G.E.Collins) Lieut.

CERTIFICATE UNDER ARMY ACT, SECTION 163(1) (j) AEK

Certified that No L.1600 Rank Pte. Name MOSQUITO, S.

of the 9 Bn. 2 C.B.R.G., 21 A. Grp. Regt ~~surrendered to~~ No. A.3315

was apprehended by

Rank Sgt. Name SLEEMAN, R. of the 2 Cdn L of C Prov Coy

Ghent Detach at Ghent Belgium at 1730 hrs, on the

29 day of Nov 44 as an absenteed without leave.

He was wearing Military Uniform at the time of his ~~Surrender~~ Arrest
~~Civilian Clothes~~

Place Ghent Belgium

Date 29 Nov 44

"B.A. McDonald" Lieut.
I/c Ghent Detach 2 Cdn L of C
Prov Coy, 21 A. Grp.

Exhibit "B" - E2 AEK

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
L.1600		Soloman MOSQUITO	X-4 List C.H. of O. (9 Bn. 2 C.E.R.Gp.)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.W.L. AA 15(1) 6 times.

For C.P.G.O. & M.D. AA 40 1 times.

For _____ _____ times.

For _____ _____ times.

Date of first entry in Field Conduct Sheet 1 Jul 40

Date of last entry in Field Conduct Sheet 20 Sep 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

CLN ~~3. The accused at the present time is under sentence for~~

CLN ~~beginning on the _____ day of~~

4. The accused has been awaiting trial on the present charges for CLN Nil days in civil custody; and for 32 days in military custody, *i.e.*,

CLN Nil days in open arrest, 32 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 yrs 8 months

6. The date of his ~~calling up for military service~~ CLN attestation is 10 Oct 39

CLN ~~7. The service which the accused is allowed to reckon is~~

CLN ~~8. The accused is in possession of~~

†State the military decorations (if any) held by accused.

9. ~~If the accused is a warrant officer or N.C.O.,~~ CLN ~~The accused has served continuously without reduction, to the present date~~

~~Date of promotion~~

CLN ~~In the substantive rank of~~

CLN ~~In the war-substantive rank of~~

CLN ~~In the acting rank of~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W.L.5670/968 100,000 4/42 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2
(22450) W.L.20058/1873 80,000 9/42 " "

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	4 Apr 41	(1) AA 15(1) A.W.L. (2) AA 15(1) A.W.L. (3) AA 24(2) Losing by neglect	1 yr imprisonment HL. Stoppage 29.17.4½. Sentence committed to Detn.	Remission of 118 days.
F.G.C.M.	16 Sep 42	AA 15(1) A.W.L.	12 mons Detn.	120 days remission
F.G.C.M.	8 May 43	A.A. 15(1) A.W.L.	2 yrs detention	526 days remission
F.G.C.M.	19 May 44	A.A. 24(2) Losing by neglect.	90 days Detn.	
F.G.C.M.	5 Jul 44	Not Known	161 days Detn	Sentence suspended
F.G.C.M.	4 Oct 44	A.A. 15(1) A.W.L.	1 yr. detention	Sentence suspended
Civil Offence.	22 Dec 40	Larceny	3 months imp. HL	24 days remission

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 5 Dec. CLN day of XXXXXXXXX 1944

CLN "C.L. Nelson" Capt & Adjt.
9 Bn, 2 C.B.R.Gp.

"W.B. Bleakney" Capt.
for (C.L. Nelson), Capt & Adjt.
9 Bn., 2 C.B.R.Gp.

COMPILED FROM MFM 4

ORIGINAL INCOMPLETE

LAST SHEET DESTROYED 10 APR 40

Exhibit "C" AEK 2

MFM 4 (AFB 121) E 40/F&S/150 (3430)

No L.1600 Name Solomon MOSQUITA Sqn. Battery. Company

Corps Cdn Inf Corps

Date of last entry in Company Conduct Sheet 3 Apr 40

No and date of last drunk n/a

Period not reckoning towards freedom from extra fine n/a

Date of enlistment 10 Oct 39

Service of Medals N/A

Proficiency Pay N/A

Sheet No 1

Signature OC Company, etc A Wisholle Capt.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of order dispensing with trial	By whom awarded	Remarks
Field		Pte.		AA 15(1) AWL 2 days 20 hrs.		7 days C B	1 Jul 40	DO-5-11/40	Forf 3 day pay for A.W.L.
Field		Pte		AA 15(1) AWL 6 days 9 hrs 30 mi		21 days Detn	16 Aug 40	DO-8-12/40	Forf 7 days pay for AWL
Field		Pte.		Civil Offence (larceny)	Documentary	3 months Impt HL Released 27 Feb 41	22 Dec 40	Civil Court	
Field	12 Sep 40	Pte.		AA.15(1) AWL fr 0430 hrs 12 Sep 43 till 1730 hrs 30 Oct 40(48 days 13 hrs)	Documentary	One year Impt HL Stop; 29- 17-4½ Sentenc committed to D Released from De Remission of 21d days		F.G.C.M.	Forf 70 dys pay for AWL & 37 dys pay for time in arrest.
				AA.15(1) AWL 1645 hrs 6 Dec 40 till 0850 hrs 27 Dec 40(20 dys, 16 hrs 5 mi)					

Certified true copy taken from Regtl (over) books in my possession. "W.B. Bleakney" Capt.

officer having custody of ori[illegible] documents. (PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				AA.24(2) Losing by neglect his equipment clothing and regt'l necessaries to the amount of £9-17-4½	Documentary				
Field	2 Jul 42	Pte		AA.40 Conduct to the Prejudice to Good order & Mil Disc(failing to clean kitchen before going off duty.	Documentary	7 days C.B.	3 JUL 42	DO 30/42	
Field	11 Jul 42	Pte.		AA.15(1) AWL fr 0200 hrs 11 JUL 42 till 0245 hrs 15 Jul 42(4 days 45 min)	Documentary	10 days pay	15 Jul 42	DO 32/42	Forf 5 days pay for AWL
Field	23 Jul 42	Pte.		AA.15(1) AWL fr 2400 hrs 23 JUL 42 till 0350 hrs 28 JUL 42(4 dys 3 hrs 50 mins)	Documentary	28 days pay	28 Jul 42	DO 35/42	Forf 5 days pay for AWL.

COMPILED FROM MFM 4

COPY

ORIGINAL INCOMPLETE

LAST SHEET DESTROYED 10 APR 40

No L.1600 Name MOSQUITO, S | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 10 Oct 39 | CC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3488)

Date of last entry in Company Conduct Sheet 3 Apr 40 | No and date of last drunk n/a | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc A Wishalle Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 Aug 42	Pte		AA 15(1) AWL fr 1600 hrs 16 Aug 42 until 2350 hrs 16 Aug 42(7 hrs 50 min)	Documentary	7 days C.B.	17 Aug 42	DO 45/42	Forf 1 days pay for AWL
Field	26 Aug 42	Pte		AA 15(1) AWL fr 1500 hrs 26 Aug 42 till 2215 hrs 26 Aug 42(7 hrs 15 min)	Documentary	10 days pay	27 Aug 42	DO 129/42	Forf 1 day pay for AWL
Field	27 Aug 42	Pte		AA 15(1) AWL fr 1900 hrs 27 Aug 42 till 0930 hrs 6 Sep 42 (9 days 14 hrs 30 min)	Documentary	12 Mos Detn (Rel 15 Jun 43 with 120 dys remission)	16 Sep 42	FGCM	Forf 10 days Conc with previous awd

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17 Jul 43	Pte		AA.15(1) AWL fr 2300 hrs 17 JUL 43 till 1405 hrs 30 Aug 43(43 days 4 hrs 6 min)	Documentary	2 yrs Detn suspended (Sentence 30 Mar 44)	8 Sep 43 (526 days)	FGCM	Forf 44 days pay (Released for AWL
Field	28 Apr 44	Pte		AA 24(2) Loss of kit & Regtl necessaries in that he lost one .38 cal. pistol.	L/C Edguton L/C MacLeod Civil Police	90 days Detn Forf $23.48	19 May 44		
In the Field	5 Jul 44			Was awarded 161 days Detention by FGCM Sentence suspended wef 5 Jul 44 by confirming authority Authority for this entry 10/MOSQUITO S./1(A.G. 5b) d/11 Aug 44 No further details available.	Sgd(G.S. Lynch) Capt. O C 42 Coy				
Field	20 Sep 44	Pte.		AA 15(1) AWL from 1330 hrs 20 Sep 44 to 1915 hrs 27 Sep 44 (absent 7 dys 5 hrs 45 mins)	Documentary Cpl Patterson CQMS Bateman	1 yr Detn	4 Oct 44	FGCM	Forf 8 days pay for absence

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L.1600 Pte Soloman MOSQUITO, X-4 List CH of O, 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 41	Guilty	Guilty	
2nd Sec 41	Guilty	Guilty	
3rd Sec 22	Guilty	Guilty	
4th Sec 15(1)	Guilty	Guilty	
5th Sec 22	Guilty	Guilty	
6th Sec 15(1)	Guilty	Guilty	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for One years detention beginning on (date) 4 Oct 44 (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for a period of two years and to be discharged from H.M. Service with ignominy

(Sgd) "E.E. Pearlman" Capt 5 Dec 44 (Sgd) "A.E. Kelsey" Major

The Deputy Judge Advocate General, Cdn Sec GHQ 1 Ech 21 Army Group, having advised that the sentence in these proceedings is invalid, I hereby direct that the sentence be and the same is hereby removed and the accused relieved from all consequences of such sentence, and I do hereby sentence the accused L.1600 Pte Soloman Mosquito to be imprisoned with hard labour for a period of two years less twenty-eight (28) days and to be discharged with ignominy from His Majesty's Service, such sentence to be effective as if passed by the Court Martial on 5 Dec 44.

"E.L. M. Burns"

(E.L.M. Burns) Maj-Gen
OIC
Cdn Sec GHQ 1 Ech - 21 A Gp
Superior Military Authority

In the Field
26 Dec 44

I hereby certify that substitution of a valid sentence as directed by OIC Cdn Sec GHQ 1 Ech, 21 A Gp and contained in correcting minut attached at Part III above has been promulgated to accused, L.1600 Pte Soloman Mosquito, X-4 List CH of O, 9 CBR Bn, in the field, in BELGIUM, on the 30th day of December, and I further certify that extracts were taken on the said date and all arecords amended accordingly.

"C.L. Nelson"

(C.L. Nelson) Capt & Adjt
9 CBR Bn
Officer i/c Documents

4K-127

CFA86 (in lieu of AFA1) 40/F & B/1698

4/388

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig G Francoeur Comd 2 CBHQ dated 3 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L.1600	Pte		Soloman	MOSQUITO	X-4 List CHof O 9 CBR Bn

Certified True Copy
for Deputy Judge Advocate
D J A,
Cdn Sec G.H.Q. 2 Ech, 21 Army Gp.

PROCEEDINGS REVIEWED
Date
Cdn. Sec. G.H.Q. 2 Ech. 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 5 Dec 44

17/1

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1600 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A.E. Kelsey	CIC,	OC 20 Cdn Spec Emp Coy
Member	Capt	R.H. House,	Sask LI,	10 CBR Bn
Member	Lieut	S.A. Netherington,	CIC,	10 CBR Bn
Judge-Advocate	Captain	E.E. Pearlman	ADJA HQ 2 CBHQ	
Prosecutor	Lieut	G.E. Collins,	CAC,	9 CBR Bn
Defending Offr	Lieut	A.B. Dubniewicz,	CAC,	9 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused L.1600 Pte Mosquito S. before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No Sir (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. ..... (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 12. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans. ..... Do you intend to call witnesses on your behalf?

Ans. ..... Are they witnesses as to character only? Ans. .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(s).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes through my Def Officer - See notes (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 87(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(16), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	17 Jul 43	Pte		AA 15(1) AWL fr 2300 hrs 17 Jul 43 till 1405 hrs 30 Aug 43 (43 days 4 hrs 5 min)	Documentary	2 yrs Detn (Sentence suspended 30 Mar 44)	8 Sep 43 (526 days)	FGCM	Forf 44 days pay (Released for AWL
Field	28 Apr 44	Pte		AA 24(2) Loss of kit & Regt'l necessaries, in that he lost one .38 cal pistol.	L/C Edguton L/C MacLeod Civil Police	90 days Detn Forf $23.48	19 May 44		
In the Field	5 Jul 44			Was awarded 161 days Detention by FGCM. Sentence suspended wef 5 Jul 44 by confirming authority Authority for this entry 10/MCS QUITO S./1(AG5b) d/11 Aug 44 No further details available	Sgd (G.S. Lynch) Capt OC 42 Coy				
Fi[illegible]	20 Sep 44	Pte		AA15(1) AWL from 1330 hrs 20 Sep 44 to 1915 hrs 27 Sep 44 (absent 7 dys 5 hrs 45 mins)	Documentary Cpl Patterson CQMS Bateman	1 yr Detn	4 Oct 44	FGCM	Forf 8 days pay for absence

Place	Date of Offence	Rank	Corps of Unit	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Field	17 Jul 43	Pte		AA 15(1) AWL fr 2300 hrs 17 Jul 43 till 1405 hrs 30 Aug 43 (43 days 4 hrs 5 min)	Documentary	2 yrs Detn (Sentence suspended 30 Mar 44)	8 Sep 43 (526 days)	FGCM	Forf 44 days pay (Released for AWL
Field	28 Apr 44	Pte		AA 24(2) Loss of kit & Regt'l necessaries, in that he lost one .38 cal pistol.	L/C Edguton L/C MacLeod Civil Police	90 days Detn Forf $23.48	19 May 44		
In the Field	5 Jul 44			Was awarded 161 days Detention by FGCM. Sentence suspended wef 5 Jul 44 by confirming authority Authority for this entry 10/MCS QUTTO S./1(A65b) d/11 Aug 44 No further details available	Sgd (G.S. Lynch)Capt OC 42 Coy		—		
Fi[illegible]	20 Sep 44	Pte		AA15(1) AWL from 1330 hrs 20 Sep 44 to 1915 hrs 27 Sep 44 (absent 7 dys 5 hrs 45 mins)	Documentary Cpl Patterson CQMS Bateman	1 yr Detn	4 Oct 44	FGCM	Forf 8 days pay for absence

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				AA 24(2) L@sing by neglect his equipment clothing and regt'l necessaries to the amount of £9-17-4½	Documentary				
Field	2 Jul 42	Pte		AA 40 Conduct to the Prejudice to Good order & Mil Disc(failing to clean kitchen before going off duty	Documentary	7 days CB	3 Jul 42	DO 30/42	
Field	11 Jul 42	Pte		AA 15(1) AWL fr 0200 hrs 11 Jul 42 till 0245 hrs 15 Jul 42(4 days 45 mins)	Documentary	10 days pay	15 Jul 42	DO 32/42	Forf 5 days pay for AWL
Field	23 Jul 42	Pte		AA 15(1) AWL fr 2400 hrs 23 Jul 42 till 0350 hrs 28 Jul 42(4 dys 3 hrs 50 min)	Documentary	28 days pay	28 Jul 42	DO 35/42	Forf 5 days pay for AWL

COMPILED FROM MFM 4 — ORIGINAL INCOMPLETE — LAST SHEET DESTROYED 10 APR 40

3/17 MFM 6 (AFB 122) 40/2435/130 (503)

No. L1600 Name Solomon MOSQUITO Sqn, Battery, Company — Corps Cdn Inf Corps — Date of enlistment 10 Oct 39 — Trades NA — Service or Proficiency Pay NA

Date of last entry in Company Conduct Sheet 3 Apr 40 — No. and date of last drunk NA — Period not reckoning towards freedom from extra fine NA — Sheet No 1 — Signature OC Company, etc A Wisholle Capt — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA 15(1) AWL 2 days 20 hrs		7 days CB	1 Jul 40	DO-1-11/40	Forf 3 day pay for AWL
Field		Pte		AA 15(1) AWL 6 days 9 hrs 30 min		21 days detn	16 Aug 40	DO-8-12/40	Forf 7 days pay for AWL
Field		Pte		Civil Offence (larceny)	Documentary	3 months Impt HL released 27 Feb 41	22 Dec 40	Civil Court	
Field	12 Sep 40	Pte		AA 15(1)AWL fr 0430 hrs 12 Sep 43 till 1730 hrs 30 Oct 40(48 days 13 hrs)	Documentary	One year Impt HL.Stop; £9-17-4 Sentence commuted to Detn Released from Detn 5 Dec 41 Remission of 118 days		F.G.C.M.	Forf 70 days pay for AWL & 37 dys pa for time in arres
				AA 15(1) AWL 1645 hrs 6 Dec 40 till 0850 hrs 27 Dec 40(20 dys, 16 hrs 5 md)					

(over) (PTO)

Certified true copy taken from Regtl officer having custody of original documents books in my possession.

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ ~~Permanent Force~~ ~~unit~~ ~~dated~~ ~~, and in his regiment (or corps), the rank of~~ ~~dated~~ .

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

~~Date of promotion.—~~

~~In the rank of~~ ~~years.—~~

~~In the rank of~~ ~~years.~~

~~In the rank of~~ ~~years.~~

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Name of Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGCM	4 Apr 41	1)AA15(1)AWL 2)AA15(1)AWL 3)AA24(2)Losing by neglect	1 yr imprison-ment HL. Stop-page-£9.17.4½ Sentence com-muted to Detn	Remission of 118 days
FGCM	16 Sep 42	AA 15(1) AWL	12 mos Detn	120 days re-mission
FGCM	8 Sep 43	AA 15(1) AWL	2 yrs Detn	526 days re-mission
FGCM	19 May 44	AA 24(2) Losing by neglect	90 days Detn	
FGCM	5 Jul 44	Not known	161 days Detn	Sentence Suspended
FGCM	4 Oct 44	AA 15(1) AWL	1 yr Detn	Sentence Suspended
Civil Offence	22 Dec 40	Larceny	3 months imp.HL	24 days remission

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5 day of December 1944 "JB Bleakney" Capt for (CL Nelson) Capt & Adjt 9 Bn 2 CBR Gp

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Exhibit "B" - E-2 ebh

M.F.B. 355
22M—5-41 (572-2)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L.1600	Pte	Soloman MOSQUITO	X-4 List C.H. of O (9 Bn, 2 CBR Gp)

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets or Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AWL	AA 15(1)	times	6	times
For CPGO & MD	AA 40	times	1	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

Date of first entry in Field Conduct Sheet 1 Jul 40

Date of last entry in Field Conduct Sheet 20 Sep 44

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ ..... ~~beginning on the~~ ..... ~~day~~ of .....

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 32 days in military custody, making a total of 32 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 26 yrs 8 months

6. The date of his commission specified in his record of service is attestation attestation paper 10 Oct 39

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon~~ ..... ~~service for the purpose of determining his pension, etc.~~

9. ~~The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military possession of or entitled to). State any air force decoration or reward.~~ military

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ Air Force

CHARGE SHEET

The accused, L.1600, Pte Soloman MOSQUITO, X-4 List CH of O, on strength 9 Bn 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:

1st Charge
Sec 41
Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING

in that he

in the Field, in BELGIUM, between the 19 Oct 44 and 4 Nov 44 stole 69,000 Belgian Francs (old) the property of Mme Julius HUYS. (Julius spelled 'Jules' in Exhibit 'A')

2nd Charge
Sec 41
Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING

in that he

in the Field, in FRANCE, on the 22 Sep 44 stole 1,200 French Francs from Mme DUMAS, of LION-SUR-MER, FRANCE

3rd Charge
Sec 22
Army Act

WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT ESCAPING

in that he

in the Field, at approximately 2130 hours, 19 Oct 44, when in confinement in 9 Bn Guard Room, escaped.

4th Charge
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 2145 hours, 19 Oct 44, until apprehended at approximately 1330 hours, 3 Nov 44. Total time absent, 14 days, 15 hours, 45 minutes.

5th Charge
Sec 22
Army Act

WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT ESCAPING

in that he

in the Field, at approximately 1930 hours, 24 Nov 44, when in confinement in 9 Bn Guard Room, escaped.

6th Charge
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1930 hours, 24 Nov 44 until apprehended at 1730 hours, 29 Nov 44. Total time absent, 4 days, 22 hours.

Approved on behalf of the Judge Advocate General - pursuant to KR(Can)540
"EE Pearlman"
(EE Pearlman)Capt
AJAA
HQ 2 Cdn Base Rft Gp
In the Field
3 Dec 44

In the Field
2 Dec 44

"H.W. Rick"
(H.W. Rick)Lt-col
Commanding
9 Bn 2 CBRGp

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
3 Dec 44

"G. Francoeur"
(G. Francoeur)Brig
Comd 2 Cdn Base Rft Gp

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L.1600	Pte		Soloman	MOSQUITO	X-4 List CH of O 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 3 Dec 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	N.E. Kelsey	CIC, OC 20 Gdn Spec Emp Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by OC 10 CBR Bn	10 CBR Bn
Lieut	To be detailed by OC 10 CBR Bn	10 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	To be detailed by OC 11 CBR Bn	11 CBR Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	L.E. Pearlman	ADJA, HQ 2 Gdn Base Rft Gp

On Active Service in the Fd

in BELGIUM (Country.)

"G. Francoeur" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G Francoeur)

Date 3 Dec 44

Commanding 2 Gdn Base Rft Gp Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

4/38A CFASS (In Lieu of AFAS) 40/P & S/1007 (4931)

MEDICAL OFFICERS CERTIFICATE

KR(Can) Para 557
CMHQ CL 173

I certify that I have this day examined L.1600 Pte Mosquito S. and in my opinion he is fit to undergo trial by Court Martial.

"J.H.D. Thompson" Capt
Medical Officer
9 CER Bn 2 CBRG

Station Field

Date 5 Dec 44

Plea for Mitigation of Punishment

In opening this plea I would like to call the attention of the court to the attitude of the accused in facing these charges. He did not attempt to conceal the facts, even making voluntary statements, which are the main exhibits in the summary of evidence.

Such an attitude clearly shows this soldier has no intention of trying to get away with anything, but what he needs is a chance to prove his fitness for the job he enlisted for.

It is quite obvious by this soldiers crime sheet, the same treatment as administered in the past is of no avail. But we must get at the root of the trouble.

This soldier comes of a warrior race and, as the world was plunged into the dark conflict, he gladly came forward to offer his services, and if need be, his life for his country. Hes, Gentlemen, he has confidence in the cause he enlisted to serve.

For a few months things went well, then, for a first and minor offence, which could easily have been accidental, was given CB, and from then began losing confidence in Military Justice. The court can understand, there are some misguided persons who may discriminate against a previous offender, regardless how minor the charge or how ~~xb~~ blameless he may be. If you check up for the month of Aug 42 and study the offences and dates in detail you can readily see why this soldier felt he was perpetually haunted and charged.

And so to the presence Court Martial. This by had a black future before him, which thought drove him almost to desparation. His uneducated, warrior instincs drove him to escape. Has the court considered what confinement is to the Indian? After the escape he had to live, and the appropriation of the means of livelihood was then a necessary second step in the misguided soldiers mind. Yes, Gentlemen, all these charges are only the outcome of mental frustration which drove this soldier to make the first step.

From the details we have heard Gentlemen, it is obvious this uneducated, disillusioned boy has been the victim of bad handling and lack of understanding on many peoples part.

We have come to the turning of the road and it rests with this court whether our country retains this youth who can be a good citizen, whose only real fault till now was a distrust of those who punished him for things he didnit fully understand.

It rests with this court, whether a life so young is utterly reined.

This court, with courage to have mercy and restore th's boys confidence in justice, will save an endless series of trials which can have only one ultimate end.

There is still this opportunity for this unfortunate, given a chance to prove himself on the field of battle, showing the past a ghastly, unjust mistake.

I implore the court to consider the uselessness of further confinement and the good which will accrue through mercy.

I would like to add that last night bars were removed from the window of the large room where the accused was quartered with other prisoners and four prisoners escaped. But this soldier, who has been looked down upon as a criminal, handcuffed to the bed when the door was unlocked, handcuffed to his escort when moving anywhere, including tied wrists at meal parades. This soldier remained in the Guard room

"D.B. Dubniewicz" (Mt)
Defending L.1600
Pte Mosquito S

5Dec 44

Exhibit "A-B5"
AEA

SUMMARY OF EVIDENCE

in the case of

L.1600 Pte Soleman MOSQUITO, X-4 List C H of O, on strength 9 Bn 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, who is charged with:

(1) When on active service when in confinement escaping. AA Sec 22.

(2) When on active service absenting himself without leave. AA Sec 15(1)

The Commanding Officer directs that the evidence be taken on oath.

First Witness B.74169 Sgt Penrose, R.S., Cdn Pro Corps, on strength 9 Bn 2 CBRGp having been duly sworn, states:

At 2130 hrs, approximately, On 19 Oct 44, I was on duty in the Guard Room, 9 Bn 2 CBR Gp. Two L/Cpls of the Regimental Police were present with eight prisoners. Pte Mosquito was one of the prisoners. I left the guard room at about 2135 hours, and about three minutes later I was called back to the guard room to receive another prisoner from the Provost (Cdn) Corps. On completion of booking in this other prisoner I was informed that Pte Mosquito had escaped. I immediately searched the guard room and the guard room area. Pte Mosquito could not be found. I then reported this fact to the duty officer and gave him a description of Pte Mosquito.

The accused declines to cross examine the witness.

"R.S. Penrose"
B.74169 Sgt Penrose, R.S.

Second Witness Major P.H.R. Williamson, 9 Bn, 2 CBR Gp, having been duly sworn, states:

On 3 Nov 44 at approximately 1330 hrs, while proceeding on Battalion business, to Brussels, I was passing through a small town approximately 10 miles outside of Brussels. My driver drew my attention to a soldier dressed in black coveralls and khaki beret, stating that it was Pte Mosquito who was at that time AWL from our detention barracks. I verified this by a quick look out of the back of the car and ordered the driver to turn around at the most convenient spot. While turning I noticed the accused cross the street and disappear from sight. I returned to the point where I had last seen him and looked through the gardens of the houses in the vicinity and then followed a narrow street to its end and inquired of some children if they had seen a Canadian soldier in black coveralls. They informed me that he was in one of the houses which we were standing in front of. I went to thiw house and upon being invited to enter found the accused, whom I now recognize as Pte Mosquito, in a back room with a priest. He gave me no trouble and I took him with me to a section of the Canadian Provost Corps in Brussels where I handed him over to a Sgt Major charging him with breaking out of detention and being AWL.

The accused declines to cross examine the witness.

"P.R.R. Williamson"
(P.R.R. Williamson) Major

The accused was questioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obli ed to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines t make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that Rules of Procedure 4(C)(D)(E) and (F) have been complied with

"G.E. Collins"

(G.E. Collins) Lieut
Officer detailed to take
theSummary of Evidence.

n the Field

14 Nov 44

ADDITIONAL SUMMARY OF EVIDENCE

in that case of

L.1600 Pte Soloman MOSQUITO, X-4 List CH of O on strength 9 Bn 2 Canadian Base Reinforcement Group a soldier of the Canadian Army Overseas, who is charged with:

(1) When on active service committing a civil offence, that is to say stealing.

(2) When on active service, committing a civil offence, that is to say, stealing.

The Commanding Officer directs that the evidence be taken on oath.

First Witness C.30818 CSM Tait, TB, No.1 SIS, First Canadian Army, having been duly sworn, states:

On the 15 Nov 55 in company with Sgt C.A.E. Taylor, No.1 SIS, I interviewed L.1600 Pte MOSQUITO, Soloman at 9 Bn 2 CBRG, whom I now identify as the accused. I informed Pte Mosquito who I was and that I was making inquiries into the matter of a theft of 69.000 Belgium Francs (old) from Mme Huys, of Dienze, Belgium, which occurred in the latter part of October 1944. I cautioned the accused, this caution being reduced to writing after Pte Mosquito had stated that he wished to give a voluntary statement. This he did, the statement being reduced to writing and the caution and statement signed by the accused after he had read over the same. This statement I now tender as evidence (marked Exhibit 'A'). No threats or promises of favour were held out to the accused to induce him to make this statement.

On the 16th Nov 44 I interviewed L.1600, Pte MOSQUITO, S. at 9 Bn 2 CBRG, whom I now identify as the accused. I informed him who I was and that I was making inquiries into the matter of a theft of 1200 French Francs from the home of a Mme Dumas, LION-SUR-MER, FRANCE, which occurred on or about 22 Sep 44. I cautioned the accused after he had elected to make a voluntary statement, the said caution being reduced to writing and signed by the accused after he had read same. The accused then made a voluntary statement which was reduced to writing by me, then read over by the accused and signed by him. This statement I now tender as evidence, (marked Exhibit 'B'). No threats or promises were extended to induce the accused to make any statement.

The accused declines to cross examine the witness.

"T.B. Tait"
C.30818 CSM Tait, T.B.

The accused was questioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that Rules of Procedure 4(C)(D)(E) and (F) have been complied with.

"G.E. Collins" Lt

(G.E. Collins)Lieut
Officer detailed to take
the Summary of Evidence

In the Field

23 Nov 44

ADDITIONAL SUMMARY OF EVIDENCE

in the case of

L.1600 Pte Soloman MOSQUITO, X-4 List, C.H. of O, on strength 9 Bn, 2 Canadian Base Reinforcement Group a soldier of the Canadian Army Overseas who is charged with:

(1) When on active service, when in confinement escaping. A.A. Sec 22

(2) When on active service, absenting himself without leave A.A. Sec 15(1)

By the direction of the Commanding Officer, the Summary of Evidence is to be taken on oath.

Sixth Witness E.11109 Pte Boudreau, A, 61 Coy, 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

At approximately 1930 hours on the 24th Nov 1944 I was on duty in the Guard Room 9 Bn 2 CBRG. I was ordered by the Cpl i/c Guard to take two men to the lavatory. I accompanied the two men to the lavatory and stood outside the door while they were inside. The lavatory consisted of two closed-in cubicles. I waited approximately five minutes and one of the men, Spr Blondin, came out. I did not hear any noise in the other cubicle, and immediately opened the door. There was no one inside and the window was open and a pair of black coveralls were lying on the floor. I then realized that the man, whom I now recognize as Pte Mosquito, had escaped. I reported this fact immediately to the Cpl in charge of the Guard Room.

The accused declines to cross examine the witness.

"A Boudreau"

E.11109 Pte Boudreau, A

Seventh witness Lieut G.E. Collins, X-4 List CAC, on strength 9 Bn, 2 Canadian Base Reinforcement Group having been duly sworn states:

I produce a certificate pursuant to A.A. 163(1)(b) purporting to be signed by the Officer i/c Ghent detachment, 2 Canadian L of C Provost Coy, relating to the accused whom I now recognize. (Certificate appended hereto and marked Exhibit 'C')

The accused declines to cross examine the witness.

"G.E. Collins" Lt.
(G.E. Collins)Lieut

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of two pages, was taken down by me in the presence of the accused and that Rules of Procedure 4(C)(D)(E) (H) and (G) have been complied with.

"G.E. Collins" Lt

(G.E. Colling) Lieutenant
Officer detailed to take
the Summary of Evidence

In the Field

30 Nov 44

This is Exhibit 'A' referred to in the Summary of Evidence in the case of L.1600 Pte MOSQUITO, S. taken before me thos 23rd day of November, 1944.

"G.E. Collins" Lt
(G.E. Collins)Lieut

L.1600 Pte Mosquito, Soloman, 9 Bn CERC (CH of O)

I have been cationed by CSM Tait, TB, No.1 Special Investigation Section that I do not have to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be given in evidence.

"S Mosquito"

I am Soloman Mosquito, age 24 years and I was born in Old Battleford Saskatchewan. I enlisted in the Canadian Army on 10th Oct 1939. I arrived in England on 17 Dec 1939 and came to France in Aug 1944. I was with the SL Inf until Aug 1944 when I was transferred to the CH of O. I have been in CERC since I was transferred.

I went AWOL about the 21st Oct 1944 from 9 Bn 2 CERC. I went down to Lille in France and I stayed there about a week, then I came back to Deinze, stayed at the same place, this woman's place. Her name is Huys. I stayed there the weekend. I was gone about 14 days altogether and I stayed at their place two weekends. The second weekend I took the money from a drawer in a stand or bureau. It had a small round morror with straight sides, it had two small drawers on the top with large doors in the front. There was 56 one thousand franc bills and a ten thousand franc bill and seven 500 franc bills. The money was in the left hand drawer, and it was wrapped up in a piece of newspaper. It wasn't tied up.

After I took that money I left the house in Deinze, and got a lift in a truck on his way to Alost. When I got into Alost I found out that the money was no good when I went to the bank. I heard in a cafe and went to the toilet and I threw it down the toilet by the seat.

"S. Mosquito"

Witness. TB Tait, CSM
15 Nov 44

?? Taylor Sgt
15 Nov 44.

S Mosquito

This is Exhibit 'B' referred to in the Summary of Evidence in the case of L.1600 Pte Mosquito, S. taken before me this 23rd day of November 1944.

"G.E. Collins" Lt
(G.E. Collins)Lieut

Statement of L.1600 Pte Mosquito Soloman (CH of O) 9 Bn 2 CBRG

I have been cautioned by CSM Tait TB No.1 Special Investigation Section, First Cdn Army, that I do not have to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be given in evidence.

"S Mosquito"

On the 22nd Sept 1944 at about noon time when Mrs Dumas of Lion-Sur-Mer, was away from home, I tried the front door of her house on the street. and found it locked so I went around the back way. I tried the back door. It was also locked too. There was a broken window there. I crawled through it and went in the kitchen, and I went through to the store. I went to the counter and found a key there. I opened the drawer and took the money that was there. I don't know the amount of it, and I left. This was the woman I had stayed with for a right and I used to visit her place when I was at Deliverande.

TB Tait CSM
16 Nov 44

"S Mosquito"

This is Exhibit 'C' referred to in the Summary of Evidence in the case of L.1600 Pte Soloman MOSQUITO taken before me this 2nd day of December 1944.

"G.E. Collins"Lt
(G.E. Collins)Lieut.

CERTIFICATE UNDER ARMY ACT SECTION 163(1)(j)

Certified that No. L.1600 Rank Pte Name Mosquito S of the 9 Bn 2 CBRG 21 A Gp Regt was apprehended by No. A.3315 Rank Sgt Name Sleeman R. of the 2Cdn L of C Prov Coy Ghent Detach at Ghent Belgium at 1730 hrs, on the 29 day of Nov 44 as an absentee without leave.

He was wearing Military Uniform at the time of his arrest.

Please Ghent Belgium

Date 29 Nov 44

"B.A. McDonald" Lieut i/c
Ghent Detach
2 Cdn L of C Prov Coy
21 A Gp

The Deputy Judge Advocate General, Cdn Sec GHQ 1 Ech 21 Army Group, having advised that the sentence in these proceedings is invalid, I hereby direct that the sentence be and the same is hereby removed and the accused relieved from all consequences of such sentence, and I do hereby sentence the accused L.1600 Pte Soloman Mosquito to be imprisoned with hard labour for a period of two years less twenty-eight (28) days and to be discharged with ignominy from His Majesty's Service, such sentence to be effective as if passed by the Court Martial on 5 Dec 44.

"E.L. M. Burns"

(E.L.M. Burns)Maj-Gen
OIC
Cdn Sec GHQ 1 Ech - 21 A Gp
Superior Military Authority

In the Field
26 Dec 44

I hereby certify that substitution of a valid sentence as directed by OIC Cdn Sec GHQ 1 Ech, 21 A Gp and contained in correcting minute attached at Part III above has been promulgated to accused, L.1600 Pte Soloman Mosquito, X-4 List CH of O, 9 CBR Bn, in the field, in BELGIUM, on the 30th day of December, and I further certify that extracts were taken on the said date and all arecords amended accordingly.

"C.L. Nelson"

(C.L. Nelson)Capt & Adjt
9 CBR Bn
Officer i/c Documents

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : L.1600 Pte Soloman MOSQUITO, X-4 List CH of O, 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 41	Guilty	Guilty	
2nd Sec 41	Guilty	Guilty	
3rd Sec 22	Guilty	Guilty	
4th Sec 15(1)	Guilty	Guilty	
5th Sec 22	Guilty	Guilty	
6th Sec 15(1)	Guilty	Guilty	

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for One years detention beginning on (date) 4 Dec 44 (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned with hard labour for a period of two years and to be discharged from H.M. Service with ignominy

(Sgd) "E.E. Pearlman" Capt — Judge-Advocate, if any. 5 Dec 44 — Date awarded. (Sgd) "A.E. Kelsey" Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~

(1. AA 57A. Delete if not used.)

(Sgd) "G. Francoeur" Brig

Date 6 Dec 44

Commanding 2 CBRG — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L.1600 Pte Solomon MOSQUITO, X4 List CH of O, 9 CBR Bn	8 Dec 44	"C.A. Nelson" Capt & Adjt 9 Bn 2 CBR Gp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4K-129

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA8) 40/P & S/1898 (4000) 4/38B

Convened by Order of Brig G Francoeur Comd 2 CBRG dated 3 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
L.1600	Pte		Soloman	MOSQUITO	X-4 List CHof O 9 CBR Bn

Certified true Copy
D. J. A.
Cdn. Sec G.H.Q. 2 Ech. 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 5 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RIOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused : ~~Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	A.E. Kelsey	CIC,	OC 20 Ddn Spec Emp Coy
Member	Capt	H.H. House,	Sask LI,	10 CBR Bn
Member	Lieut	S.A. Hetherington,	CIC,	10 CBR Bn
Judge-Advocate	Captain	E.E. Pearlman	ADJA	HQ 2 CBRG
Prosecutor	Lieut	G.E. Collins,	CAC,	9 CBR Bn
Defending Offr	Lieut	A.B. Dubniewicz,	CAC,	9 CBR Bn

Questions by President : Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused L.1600 Pte Mosquito S. before arraignment make(s) (no) (~~a~~) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. no sir (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) charge(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. ..... (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans. ..... Do you intend to call witnesses on your behalf?

Ans. ..... Are they witnesses as to character only? Ans. .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding not dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes through my Def Offr. See note (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, L.1600, Pte Soloman MOSQUITO, X-4 List CH of O, on strength 9 Bn 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:

1st Charge
Sec 41
Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING

in that he

in the Field, in BELGIUM, between the 19 Oct 44 and 4 Nov 44 stole 69,000 Belgian Francs (old) the property of Mme Julius HUYS. (Julius spelled 'Jules' in Exhibit 'A')

2nd Charge
Sec 41
Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING

in that he

in the Field, in FRANCE, on the 22 Sep 4 4 stole 1,200 French Francs from Mme DUMAS, of LION-SUR-MER, FRANCE

3rd Charge
Sec 22
Army Act

WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT ESCAPING

in that he

in the Field, at approximately 2130 hours, 19 Oct 44, when in confinement in 9 Bn Guard Room, escaped.

4th Charge
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 2145 hours, 19 Oct 44, until apprehended at approximately 1330 hours, 3 Nov 44. Total time absent, 14 days, 15 hours, 45 minutes.

5th Charge
Sec 22
Army Act

WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT ESCAPING

in that he

in the Field, at approximately 1930 hours, 24 Nov 44, when in confinement in 9 Bn Guard Room, escaped.

6th Charge
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1930 hours, 24 Nov 44 until apprehended at 1730 hours, 29 Nov 44. Total time absent, 4 days, 22 hours.

Approved on behalf of the Judge Advocate General - pursuant to KR(Can)540
"KE Pearlman"
(KE Pearlman)Capt
ADJA
HQ 2 Cdn Base Rft Gp
In the Field
3 Dec 44

In the Field
2 Dec 44

"H.W. Rick"
(H.W. Rick)Lt-col
Commanding
9 Bn 2 CBRGp

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
3 Dec 44

"G. Francoeur"
(G. Francoeur)Brig
Comd 2 Cdn Base Rft Gp

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 67, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L.1600	Pte		Soloman	MOSQUITO	X-4 List CH of O 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 3 Dec 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	N.E. Kelsey	CIC, OC 20 Cdn Spec Emp Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by OC 10 CBR Bn	10 CBR Bn
Lieut	To be detailed by OC 10 CBR Bn	10 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	To be detailed by OC 11 CBR Bn	11 CBR Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	E.E. Pearlman	ADJA, HQ 2 Cdn Base Rft Gp

On Active Service in the Fd

in BELGIUM (Country.)

"G. Rfancoeur" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G Francoeur)

Date 3 Dec 44

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA98 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

KR(Can) Para 557
CMHQ CL 173

I certify that I have this day examined L.1600 Pte Mosquito S. and in my opinion he is fit to undergo trial by Court Martial.

Station Field

Date 5 Dec 44

"J.H.D. Thompson" Capt
Medical Officer
9 CBR Bn 2 CBRG

Plea for Mitigation of Punishment

In opening this plea I would like to call the attention of the court to the attitude of the accused in facing these charges. He did not attempt to conceal the facts, even making voluntary statements, which are the main exhibits in the summary of evidence.

Such an attitude clearly shows this soldier has no intention of trying to get away with anything, but what he needs is a chance to prove his fitness for the job he enlisted for.

It is quite obvious by this soldiers crime sheet, the same treatment as administered in the past is of no avail. But we must get at the root of the trouble.

This soldier comes of a warrior race and, as the world was plunged into the dark conflict, he gladly came forward to offer his services, and if need be, his life for his country. Hes, Gentlemen, he has confidence in the cause he enlisted to serve.

For a few months things went well, then, for a first and minor offence, which could easily have been accidental, was given CB, and from then began losing confidence in Military Justice. The court can understand, there are some misguided persons who may discriminate against a previous offender, regardless how minor the charge or how ~~xb~~ blameless he may be. If you check up for the month of Aug 42 and study the offences and dates in detail you can readily see why this soldier felt he was perpetually haunted and charged.

And so to the presence Court Martial. This by had a black future before him, which thought drove him almost to desparation. His uneducated, warrior instincs drove him to escape. Has the court considered what confinement is to the Indian? After the escape he had to live, and the appropriation of the means of livelihood ~~ws~~ then a necessary second step in the misguided soldiers mind. Yes, Gentlemen, all these charges are only the outcome of mental frustration which drove this soldier to make the first step.

From the details we have heard Gentlemen, it is obvious this uneducated, disillusioned boy has been the victim of bad handling and lack of understanding on many peoples part.

We have come to the turning of the road and it rests with this court whether our country retains this youth who can be a good citizen, whose only real fault till now was a distrust of those who punished him for things he didnit fully understand.

It rests with this court, whether a life so young is utterly reined.

This court, with courage to have mercy and restore this boys confidence in justice, will save an endless series of trials which can have only one ultimate end.

There is still this opportunity for this unfortunate, given a chance to prove himself on the field of battle, showing the past a ghastly, unjust mistake.

I implore the court to consider the uselessness of further confinement and the good which will accrue through mercy.

I would like to add that last night bars were removed from the window of the large room where the accused was quartered with other prisoners and four prisoners escaped. But this soldier, who has been looked down upon as a criminal, handcuffed to the bed when the door was unlocked, handcuffed to his escort when moving anywhere, including tied wrists at meal parades. This soldier remained in the Guard room

"D.B. Dubniewicz" (Mt)
Defending L.1600
Pte Mosquito S

5Dec 44

SUMMARY OF EVIDENCE Exhibit A. B.5

in the case of

L.1600 Pte Solomon MOSQUITO, X-4 List C H of C, on strength 9 Bn 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, who is charged with:

(1) When on active service when in confinement escaping. AA Sec 22.

(2) When on active service absenting himself without leave. AA Sec 15(1)

The Commanding Officer directs that the evidence be taken on oath.

First Witness B.74169 Sgt Penrose, R.S., Cdn Pro Corps, on strength 9 Bn 2 CBRGp having been duly sworn, states:

At 2130 hrs, approximately, On 19 Oct 44, I was on duty in the Guard Room, 9 Bn 2 CBR Gp. Two L/Cpls of the Regimental Police were present with eight prisoners. Pte Mosquito was one of the prisoners. I left the guard room at about 2135 hours, and about three minutes later I was called back to the guard room to receive another prisoner from the Provost (Cdn) Corps. On completion of booking in this other prisoner I was informed that Pte Mosquito had escaped. I immediately searched the guard room and the guard room area. Pte Mosquito could not be found. I then reported this fact to the duty officer and gave him a description orPte Mosquito.

The accused declines to cross examine the witness.

"R.S. Penrose"
B.74169 Sgt Penrose, R.S.

Second Witness Major P.R.R. Williamson, 9 Bn, 2 CBR Gp, having been duly sworn, states:

On 3 Nov 44 at approximately 1530 hrs, while proceeding on Battalion business, to Brussels, I was passing through a small town approximately 10 miles outside of Brussels. My driver drew my attention to a soldier dressed in black coveralls and khaki beret, stating that it was Pte Mosquito who was at that time AWL from our detention barracks. I verified this by a quick look out of the back of the car and ordered the driver to turn around at the most convenient spot. While turning I noticed the accused cross the streeet and disappear from sight. I returned to the point where I had last seen him and looked through the gardens of the houses in the vicinity and then followed a narrow street to its end and inquired of some children if they had seen a Canadian soldier in black coveralls. They informed me that he was in one of the houses which we were standing in front of. I went to thiw house and upon being invited to enter found the accused, whom I now recognize as Pte Mosquito, in a back room with a priest. He gave me no trouble and I took him with me to a section of the Canadian Provost Corps in Brussels where I handed him over to a Sgt Major charging him with breaking out of detention and being AWL.

The accused declines to cross examine the witness.

"P.R.R. Williamson"
(P.R.R. Williamson)Maj

The accused was questioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obli ed to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines t make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that Rules of Procedure 4(C)(D)(E) and (F) have been complied with

"G.E. Collins"

(G.E. Collins) Lieut
Officer detailed to take
theSummary of Evidence.

n the Field

14 Nov 44

ADDITIONAL SUMMARY OF EVIDENCE

in that case of

L.1600 Pte Soloman MOSQUITO, X-4 List CH of O on strength 9 Bn 2 Canadian Base Reinforcement Group a soldier of the Canadian Army Overseas, who is charged with:

(1) When on active service committing a civil offence, that is to say stealing.

(2) When on acti be service, committing a civil offence, that is to say, stealing.

The Commanding Officer directs that the evidence be taken on oath.

First Witness C.30818 CSM Tait, TB, No.1 SIS, First Canadian Army, having been duly sworn, states:

On the 15 Nov 55 in company with Sgt C.A.E. Taylor, No.1 SIS, I interviewed L.1600 Pte MOSQUITO, Soloman at 9 Bn 2 CBRG, whom I now identify as the accused. I informed Pte Mosquito who I was and that I was making inquiries into the matter of a theft of 69.000 Belgium Francs (old) from Mme Huys, of Dienze, Belgium, which occurred in the latter part of October 1944. I cautioned the accused, this caution being reduced to writing after Pte Mosquito had stated that he wished to give a voluntary statement. This he did, the statement being reduced to writing and the caution and statement signed by the accused after he had read over the same. This statement I now tender as evidence (marked Exhibit 'A'). No threats or promises of favour were held out to the accused to induce him to make this statement.

On the 16th Nov 44 I interviewed L.1600, Pte MOSQUITO, S. at 9 Bn 2 CBRG, whom I now identify as the accused. I informed him who I was and that I was making inquiries into the matter of a theft of 1200 French Francs from the home of a Mme Dumas, LION-SUR-MER, FRANCE, which occurred on or about 22 Sep 44. I cautioned the accused after he had elected to make a voluntary statement, the said caution being reduced to writing and signed by the accused after he had read same. The accused then made a voluntary statement which was reduced to wri ing by me, then read over by the accused and signed by him. This statement I now tender as evidence, (marked Exhobit 'B'). No threats or promises were extended to induce the accused to make any statement.

The accused declines to cross examine the witness.

"T.B. Tait"
C.30818 CSM Tait, T.B.

The accused was questioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that Rules of Procedure 4(C)(D)(E) and (F) have been complied with.

"G.E. Collins" Lt

(G.E. Collins)Lieut
Officer detailed to take
the Summary of Evidence

In the Field

23 Nov 44

ADDITIONAL SUMMARY OF EVIDENCE

in the case of

L.1600 Pte Soloman MOSQUITO, X-4 List, C.H. of O, on strength 9 Bn, 2 Canadian Base Reinforcement Group a soldier of the Canadian Army Overseas who is charged with:

(1) When on active service, when in confinement escaping. A.A. Sec 22

(2) When on active service, absenting himself without leave A.A. Sec 15(1)

By the direction of the Commanding Officer, the Summary of Evidence is to be taken on oath.

Sixth Witness E.11109 Pte Boudreau, A, 61 Coy, 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

At approximately 1930 hours on the 24th Nov 1944 I was on duty in the Guard Room 9 Bn 2 CBRG. I was ordered by the Cpl i/c Guard to take two men to the lavatory. I accompanied the two men to the lavatory and stood outside the door while they were inside. The lavatory consisted of two closed-in cubicles. I waited approximately five minutes and one of the men, Spr Blondin, came out. I did not hear any noise in the other cubicle, and immediately opened the door. There was no one inside and the window was open and a pair of black coveralls were lying on the floor. I then realized that the man, whom I now recognize as Pte Mosquito, had escaped. I reported this fact immediately to the Cpl in charge of the Guard Room.

The accused declines to cross examine the witness.

"A Boudreau"

E.11109 Pte Boudreau, A

Seventh witness Lieut G.E. Collins, X-4 List CAC, on strength 9 Bn, 2 Canadian Base Reinforcement Group having been duly sworn states:

I produce a certificate pursuant to A.A. 163(i)(b) purporting to be signed by the Officer i/c Ghent detachment, 2 Canadian L of C Provost Coy, relating to the accused whom I now recognize. (Certificate appended hereto and marked Exhibit 'C')

The accused declines to cross examine the witness.

"G.E. Collins" Lt.
(G.E. Collins)Lieut

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of two pages, was taken down by me in the presence of the accused and that Rules of Procedure 4(C)(D)(E) &F) and (G) have been complied with.

"G.E. Collins"Lt

(G.E. Colling)Lieutenant
Officer detailed to take
the Summary of Evidence

In the Field

30 Nov 44

This is Exhibit 'A' referred to in the Summary of Evidence in the case of L.1600 Pte MOSQUITO, S., taken before me thos 23rd day of November, 1944.

"G.E. Collins" Lt
(G.E. Collins)Lieut

L.1600 Pte Mosquito, Soloman, 9 Bn CBRG (CH of O)

I have been cationed by CSM Tait, TB, No.1 Special Investigation Section that I do not have to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be given in evidence.

"S Mosquito"

I am Soloman Mosquito, age 24 years and I was born in Old Battleford Saskatchewan. I enlisted in the Canadian Army on 10th Oct 1939. I arrived in England on 17 Dec 1939 and came to Franch in Aug 1944. I was with the SL Inf until Aug 1944 when I was transferred to the CH of O. I have been in CBRG since I was transferred.

I went AWOL about the 21st Oct 1944 from 9 Bn 2 CBRG. I went down to Lille in France and I stayed there about a week, then I came back to Deinze, stayed at the same place, this woman's place. Her name is Huys. I stayed there the weekend. I was gone about 14 days altogether and I stayed at their place two weekends. The second weekend I took the money from a drawer in a stand or bureau. It had a small round morror with straight sides, it had two small drawers on the top with large doors in the front. There was 56 one thousand franc bills and a ten thousand franc bill and seven 500 franc bills. The money was in the left hand drawer, and it was wrapped up in a piece of newspaper. It wasn't tied up.

After I took that money I left the house in Deinze, and got a lift in a truck on his way to Alost. When I got into Alost I found out that the money was no good when I went to the bank. I heard in a cafe and went to the toilet and I threw it down the toilet by the seat.

"S. Mosquito"

Sitness. TB Tait, CSM
15 Nov 44

?? Taylor Sgt
15 Nov 44.

This is Exhibit 'B' referred to in the Summary of Evidence in the case of L.1600 Pte Mosquito, S. taken before me this 23rd day of November 1944.

"G.E. Collins" Lt
(G.E. Collins)Lieut

Statement of L.1600 Pte Mosquito Soloman (CH of C) 9 Bn 2 CBRG

I have been cautioned by CSM Tait TB No.1 Special Investigation Section, First Cdn Army, that I do not have to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be given in evidence.

"S Mosquito"

On the 22nd Sept 1944 at about noon time when Mrs Dumas of Lion-Sur-Mer, was away from home, I tried the front door of her house on the street. and found it locked so I went around the back way. I tried the back door. It was also locked too. There was a broken window there. I crawled through it and went in the kitchen, and I went through to the store. I went to the counter and found a key there. I opened the drawer and took the money that was there. I don't know the amount of it, and I left. This was the woman I had stayed with for a night and I used to visit her place when I was at Deliverance.

"S Mosquito"

TB Tait CSM
16 Nov 44

This is Exhibit 'C' referred to in the Summary of Evidence in the case of L.1600 Pte Soloman MOSQUITO taken before me this 2nd day of December 1944.

"G.E. Collins"Lt
(G.E. Collins)Lieut.

CERTIFICATE UNDER ARMY ACT SECTION 163(i)(j)

Certified that No. L.1600 Rank Pte Name Mosquito S

of the 9 Bn 2 CBRG 21 A Gp Regt was apprehended by No. A.3315

Rank Sgt Name Sleeman R. of the 2Cdn L of C Prov Coy

Ghent Detach at Ghent Belgium at 1730 hrs, on the

29 day of Nov 44 as an absentee without leave.

He was wearing Military Uniform at the time of his arrest.

Please Ghent Belgium

Date 29 Nov 44

"B.A. McDonald" Lieut i/c
Ghent Detach
2 Cdn L of C Prov Coy
21 A Gp

Exhibit "B" C-2 CEX

M.F.B. 355
22M—5-41 (573-3)
H.Q. 1779-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L.1600	Pte	Soloman MOSQUITO	X-4 List C.H. of O (9 Bn, 2 CBR Gp)

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AWL	AA 15(1)	times	6	times
For CPGO &MD	AA 40	times	1	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

Date of first entry in Field Conduct Sheet 1 Jul 40

Date of last entry in Field Conduct Sheet 20 Sep 44

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 32 days in military / Air Force custody, making a total of 32 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is / attestation paper is 24 yrs 6 months

6. The date of his commission specified in his record of service is / attestation / attestation paper 10 Oct 39

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. ~~The accused is in possession of or entitled to no air force decoration, or air force reward (or in possession of or entitled to). State any air force decoration or reward.~~ military / military / military

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ Air Force

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ ..... ~~Permanent Force~~ ~~unit~~ ~~dated~~ ....., ~~and in his regiment (or corps), the rank of~~ ..... ~~dated~~ .....

12. The ~~accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

..... ~~Date of promotion~~

~~In the rank of~~ ..... ~~years.~~

~~In the rank of~~ ..... ~~years.~~

~~In the rank of~~ ..... ~~years.~~

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army / Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Regiment / Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGCM	4 Apr 41	1)AA15(1)AWL 2)AA15(1)AWL 3)AA24(2)Losing by neglect	1 yr imprisonment HL. Stoppage-£9.17.4½ Sentente commuted to Detn	Remission of 118 days
FGCM	16 Sep 42	AA 15(1) AWL	12 mos Detn	120 days remission
FGCM	8 Sep 43	AA 15(1) AWL	2 yrs Detn	526 days remission
FGCM	19 May 44	AA 24(2) Losing by neglect	90 days Detn	
FGCM	5 Jul 44	Not known	161 days Detn	Sentence Suspended
FGCM	4 Oct 44	AA 15(1) AWL	1 yr Detn	Sentence Suspended
Civil Offence	22 Dec 40	Larceny	3 months imp.HL	24 days remission

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

"JB Bleakney" Capt
for (CL Nelson) Capt & Adjt
9 Bn 2 CEA Gp

Signed this 5 day of December 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17 Jul 43	Pte		AA 15(1) AWL fr 2300 hrs 17 Jul 43 till 1405 hrs 30 Aug 43 (43 days 4 hrs 5 min)	Documentary	2 yrs Detn (Sentence suspended 30 Mar 44)	8 Sep 43 (526 days)	FGCM	Forf 44 days pay (Released for AWL
Field	28 Apr 44	Pte		AA 24(2) Loss of kit & Regt'l necessaries, in that he lost one .38 cal pistol.	L/C Edguton L/C MacLeod Civil Police	90 days Detn Forf $23.48	19 May 44		
In the Field	5 Jul 44			Was awarded 161 days Detention by FGCM. Sentence suspended wef 5 Jul 44 by confirming authority Authority for this entry 10/MOSQUITO S./1(AG5b) d/11 Aug 44 No further details available	Sgd (G.S. Lynch)Capt OC 42 Coy				
Field	20 Sep 44	Pte		AA15(1) AWL from 1330 hrs 20 Sep 44 to 1915 hrs 27 Sep 44 (absent 7 dys 5 hrs 45 mins)	Documentary Cpl Patterson CQMS Bateman	1 yr Detn	4 Oct 44	FGCM	Forf 8 days pay for absence

COMPILED FROM MFM 4 ORIGINAL INCOMPLETE LAST SHEET DESTROYED 10 Apr 40

3/17 MFM 6 (AFB 122) 40/7/65/134 (5413)

No. L1600 Name MOSQUITO S. Sqn, Battery, or Company | Corps CIC | Date of enlistment 10 Oct 39 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 3 Apr 40 | No. and date of last drunk NA | Period not reckoning towards freedom from extra fine NA | Sheet No 2 | Signature OC Company, etc A Wishalle Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 Aug 42	Pte		AA 15(1) AWL fr 1600 hrs 16 Aug 42 till 2350 hrs 16 Aug 42(7 hrs 50 min)	Documentary	7 days CB	17 Aug 42	DO 45/42	Forf 1 days pay for AWL
Field	26 Aug 42	Pte		AA 15(1) AWL fr 1500 hrs 26 Aug 42 till 2215 hrs 26 Aug 42 (7 hrs 15 min)	Documentary	10 days pay	27 Aug 42	DO 129/42	Forf 1 day pay for AWL
Field	27 Aug 42	Pte		AA 15(1) AWL fr 1900 hrs 27 Aug 42 till 0930 hrs 6 Sep 42 (9 days 14 hrs 30 min)	Documentary	12 mos Detn (Rel 15 Jun 43 with 120 dys remission)	16 Sep 42	FGCM	Forf 10 days Conc with previous Awd

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				AA 24(2) L@sing by neglect his equipment clothing and regt'l necessaries to the amount of £9-17-4½	Documentary				
Field	2 Jul 42	Pte		AA 40 Conduct to the Prejudice to Good order & Mil Disc(failing to kitchen before going off duty	Documentary clean	7 days CB	3 Jul 42	DO 30/42	
Field	11 Jul 42	Pte		AA 15(1) AWL fr 0200 hrs 11 Jul 42 till 0245 hrs 15 Jul 42(4 days 45 mins)	Documentary	10 days pay	15 Jul 42	DO 32/42	Forf 5 days pay for AWL
Field	23 Jul 42	Pte		AA 15(1) AWL fr 2400 hrs 23 Jul 42 till 0350 hrs 28 Jul 42(4 dys 3 hrs 50 min)	Documentary	28 days pay	28 Jul 42	DO 35/42	Forf 5 days pay for AWL

COMPILED FROM MFM 4 | ORIGINAL INCOMPLETE | LAST SHEET DESTROYED 10 APR 40 Entitled "O" 4.1 CCK

3/17 MFM 6 (AFB 122) 40/PAS/136 (5412)

No. L1600 Name Solomon MOSQUITO Rgt. Battery, Coy. Company | Corps Cdn Inf Corps | Date of enlistment 10 Oct 39 | Badges NA | Service or Proficiency Pay NA

Date of last entry in Company Conduct Sheet 3 Apr 40 | No. and date of last drunk NA | Period not reckoning towards freedom from extra fine NA | Sheet No 1 | Signature OC Company, etc A Wisholle Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA 15(1) AWL 2 days 20 hrs		7 days CB	1 Jul 40	DO-1-11/40	Forf 3 day pay for AWL
Field		Pte		AA 15(1) AWL 6 days 9 hrs 30 min		21 days detn	16 Aug 40	DO-8-12/40	Forf 7 days pay for AWL
Field		Pte		Civil Offence (larceny)	Documentary	3 months Impt HL released 27 Feb 41	22 Dec 40	Civil Court	
Field	12 Sep 40	Pte		AA 15(1)AWL fr 0430 hrs 12 Sep 43 till 1730 hrs 30 Oct 40(48 days 13 hrs) AA 15(1) AWL 1645 hrs 6 Dec 40 till 0850 hrs 27 Dec 40(20 dys, 16 hrs 5 mi)	Documentary	One year Impt HL.Stop; £9-17-4½ Sentence commuted to Detn Released from Detn 5 Dec 41 Remission of 118 days		F.G.C.M.	Forf 70 dys pay for AWL & 37 dys pay for time in arrest

(over) (PTO)

Certified true copy taken from Regtl books in my possession. "B Bleakney" Capt officer having custody of original documents

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : L-1600 Pte Solomon MOSQUITO, I-4 List, CH of O, 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15(1) AA	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

One (1) year's detention

(Sgd) ..... Judge-Advocate, if any. 4 Oct 44 Date awarded. (Sgd) "A E NELSON" Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 5 OCT 44 (Sgd) "H W RICE" Lt-Col A/ Commanding 2 CBR Gp. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L-1600 Pte Solomon MOSQUITO, CH of O, 9 CBR Bn	5 OCT 44	"C L NELSON" Capt & Adjt, 9 CBR Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4635

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA32)

Convened by Order of Lt-Col H W RICE A/ Comd 2 CBG dated 3 OCT 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-1600	Pte		Solomon	MOSQUITO	I-4 List, CH of O, 9 CBR Bn

Certified true copy
H H Waugh Major

PROCEEDINGS REVIEWED
Date 27 Dec 44
Cdn Sec GHQ 2 Echelon
21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date(s)) 4 OCT 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

"AKE"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to ..... as interpreter ? Ans .....~~

~~The interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	A E NELSEY		20 Cdn Spec Emp Coy
Member	Capt	J LANE	RCA	12 CBR Bn
Member	Lt	W A REID	RCA	12 CBR Bn
Judge-Advocate				
Prosecutor	Lt	L G W SHLAIRE	RCASC	12 CBR Bn
Defending Offr	Lt	C B STEPHEN	RCASC	12 CBR Bn

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused L-1600 Pte Solomon MOSQUITO before arraignment make(s) (no) (a) plea "AKE" (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused ~~(s)~~ make the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

20 Pd Reg. Vol 2. P. 23

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, sbr, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(~~s~~)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(~~s~~).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is (~~are~~) not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 34(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Oversets RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Field, 4 October 1944.

L-1600 Pte MOSQUITO S.

In view of the fact that specific instructions from D.A.G. Canadian Military Headquarters (Exhibit "G") to the effect that the a/m soldier be despatched forthwith to the front line have been disregarded, we, the members of this Court, recommend that the sentence of one year's detention be suspended on condition that Pte Mosquito be immediately despatched to the front line where he desires to serve.

President: "A E KINSEY", Major

Members: "JEAN LANY", Capt
"W A REID", Lieut

Exhibit "G" "AEX"

10/MOSQUITO, S./1
(A.G. 5b)

11 Aug 44

6 C.I.R.U.

L-1600 - Pte. Mosquito, S.

1. The m/n soldier was tried by F.G.C.M. on 5 Jul 44, and sentenced to 161 days detention. The confirming authority directed that the soldier be NOT committed to undergo his sentence as he was already under a suspended sentence as the result of a previous F.G.C.M.

2. This matter has been considered by superior authority under A.A. 57A and it has been directed that the sentence awarded on 5 Jul 44 be suspended.

3. This letter will be sufficient authority for promulgation and all documentation necessary to show that the sentence awarded by F.G.C.M. on 5 Jul 44 has been suspended w.e.f. 5 Jul 44.

4. It was further directed on review that the m/n soldier be despatched forthwith on draft to France. It is requested that the necessary action be taken to include this soldier in the first available draft, and the soldier should be advised now that his sentence has been suspended for this purpose.

(Sgd) C.S. Booth, Brigadier,
D. A. G.
Canadian Military Headquarters

COPY

"A"

CHARGE SHEET

L-1600, Pte Solomon MOSQUITO, X-4 List, CH of O, on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1330 hours, 20 Sep 44, until apprehended at 1915 hours, 27 Sep 44. Total time absent, 7 days, 5 hours, 45 minutes.

"P R R WILLIAMSON"
(P.R.R. Williamson), Major,
A/Officer Commanding,
9 Bn, 2 CBRGp.

In the Field
1 Oct 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"N W RICK"
(N W RICK) Lt-col
A/Comd
2 Cdn Base Rft Gp

In the Field
3 OCT 44

AEK

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
L-1600	Pte		Solomon	MOSQUITO	X-4 List CH of O, 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been ~~made~~ "HWR" to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 2 OCT 44 endorsed by me, (~~or by an offr of my staff for me~~) "HWR" "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) "HWR"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder. "HWR"

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ "HWR"

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A E KELSEY	20 Cdn Spec Emp Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC 12 CBR Bn	12 CBR Bn
Lieut	To be detailed by OC 12 CBR Bn	12 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	To be detailed by OC 12 CBR Bn	12 CBR Bn

~~JUDGE ADVOCATE~~ "HWR"

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE (Country.)

"H W RICK" (Signed personally. RP 105 fn 2.) Lt-col (Rank.)

Date 3 OCT 44

(H W RICK)

Commanding A/Comd 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA85 (In lieu of AFA3) 40/P & S/1897 (4621)

(See overleaf for oaths and notes for use on trial.)

"A"

MEDICAL OFFICERS CERTIFICATE

(KR(Can)Para 557)
CMHQ GL 173)

I certify that I have this day examined L-1600

Pte MOSQUITO S and in my opinion he is fit to undergo trial by

court-martial.

Station..Field

Date..4 Oct 44

"M S ACKER", Capt RCAMC
Medical Officer, 9 Bn, 2 CBMG

Plea of Mitigation for
L.1600 Pte MOSQUITO E.

I wish to point out to the Court that this soldier joined the Saskatoon Light Infantry on 10 Oct 39. He remained with this unit till approximately one month ago. At this time he was transferred to the Cameron Highlanders of Ottawa. The reason for the transfer is unknown to Pte Mosquito. The accused would like to get back to his old unit, or, as an alternative, to another unit from his own part of Canada.

Pte Mosquito's record in the Canadian Army for the last five years has been far from good. Courts-Martial and convictions do not appear to have improved his conduct.

The accused is twenty-four years of age, has all ones on his Pulhems and is a full blooded Cree Indian.

I recommend that the Court have this man transferred to an Infantry Unit from his own part of Canada, and that he be sent up as a first line reinforcement as soon as possible. This man is anxious to get into battle, and in this way he could prove his worth to the Canadian Army.

"C B STEPHEN"

/gcf

(C.B. Stephen) Lieut.

SUMMARY OF EVIDENCE

in the case of

L-1600, Pte. Solomon MOSQUITO, X-4 List, CH of O, on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, who is charged with:-

(1) When on Active Service, Absenting himself without leave. AA Sec 15(1).

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS C-21231, CQMS Bateman, E.W., X-4 List, CH of O, on strength 9 Bn, 2 CBRGp, having been duly sworn, states:-

"I am Acting Company Sergeant Major of the Cameron Highlanders of Ottawa Company, 9 Bn, 2 CBRGp. On 20 Sep 44, Pte Mosquito, S., was put on excused duty by the Medical Officer. At 1330 hrs, we had company parade and checked on all personnel and found Pte Mosquito missing. The Orderly Sergeant checked all the lines and Medical Officer's office but Pte Mosquito could not be found. He was marked absent without leave from 1330 hrs."

"E W BATEMAN"
C-21231, CQMS Bateman, E.W.

The accused declines to cross-examine the witness.

SECOND WITNESS K-51131, Cpl. Petterson, E.G., CH of O X-4 List, on strength 9 Bn, 2 CBRGp, having been duly sworn, states:-

"On 20 Sep 44, I was Acting Company Orderly Sergeant of the Cameron Highlanders of Ottawa Company, 9 Bn, 2 CBRGp. I was told by CQMS Bateman to check the lines and Medical Officers tent for Pte Mosquito, S. I did so but was unable to find him. I checked the lines at 2200 hrs, but was still unable to find Pte Mosquito. His name was then placed on the absentee report. At no time during my tour of duty as Company Orderly Sergeant, which lasted until 2200 hrs, 23 Sep 44, did I see Pte Mosquito."

"E G PETTERSEN"

K-51131, Cpl. Petterson, E.G.

The accused declines to cross-examine the witness.

THIRD WITNESS The Certificate under Army Act Section 163(i)(j), produced as documentary evidence was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

"J L CAMERON" Lt
(J L Cameron), Lieut,
Officer detailed to take
the Summary of Evidence.

Page Two

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declined to make a statement or give evidence on oath.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused, and that RP 4(c), (d), (e), (f) and (g) have been complied with.

"J L CAMERON" Lt.
(J. L. Cameron), Lieut.,
Officer detailed to take
the Summary of Evidence.

In the Field.
1 Oct 44

"A"

CERTIFICATE UNDER ARMY ACT, SECTION 163 (1) (i)

Certified that No L-1600 Rank..Pte ..Name..MOSQUITO S

of #9 Bn #2 CBRG ...Regt, was apprehended by No.3755911

Rank..RSM..Name..BENNETT, H.G....of the 5th Bn The King's

Regiment..at ..LION-SUR-MER..at..1915..hrs,

on the ..27..day of..Sept 44..as an absentee without leave.

He was wearing Military clothes at the time of his Arrest.

Place..DOUVRES..

Date..28 Sept 44..

"G WOOD" Capt.
(G.WOOD) Captain.
D.A.P.M., HQ. 2 C.B.R.G.

This is exhibit " referred to in the Summary of Evidence in the case of L-1600 Pte Mosquito S, taken before me this 30 Sep 44.

"John L Cameron", Lt.

[redacted] "[redacted]"

ARMY FORM B.996 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
L-1600	Pte	Solomon MOSQUITO	X-4 CE of C, 9 Bn 2 CERC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be answered to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, pronouncers being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recorded special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	AWL	AA 15(1)	6 times.
For	Loss by Neglect	AA 24(2)	1 times.
For	C.P.O.O. & N.D.	AA 40	1 times.
For			times.

Date of first entry in Field Conduct Sheet Approx 1 Jul 40

Date of last entry in Field Conduct Sheet 28 Apr 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

"CLN" *3. ~~The accused at the present time is under sentence for~~

"CLN" ~~beginning on the~~ day of

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 7 "AEK" days in military custody, *i.e.*, Nil days in open arrest, 7 "AEK" days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 yrs, 5 mons.

6. The date of his attestation is 10 Oct 39.
"CLN" ~~calling up for military service~~

7. The service which the accused is allowed to reckon is

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡

"CLN" 9. (*~~If the accused is a warrant officer or N.C.O.~~*), ~~The accused has served continuously~~, without reduction, to the present date—

"CLN" *Date of Promotion.*

"CLN" ~~In the substantive rank of~~

"CLN" ~~In the war substantive rank of~~

"CLN" ~~In the acting rank of~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21115) Wt.8059/669 190,000 4/45 A.& E.W.Ltd. Gp.698
(25459) Wt.29258/1875 60,000 9/47 " " Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
Civil Court	22 Dec 40	Larceny	3 months imprisonment with H.L.	25 days remission
FGCM	4 Apr 41	(1) AA 15(1) (2) AA 15(1) (3) AA 24(2)	1 yr detention	118 days remission
FGCM	16 Sep 42	AA 15(1)	12 months detn	120 days remission
FGCM	8 Sep 43	AA 24(2)	90 days detention Stoppage of $23.48	
FGCM	5 Jul 44	Not Known	161 days detn	See GHQ letter 10/Banquite S/1 (A.G.5b) d/11 Aug 44.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 4 "AEK" day of October, 1944.

"G L HOLMES"
(G L Holmes), Capt & Adjt,
9 Bn, 2 GHMg.

Compiled from [illegible] Original incomplete Last Sheet delivered 10 Apr 40

[illegible] - L-1 "AEF"

MFM 6 (AFB 122) 40/P28/136 (3428)

No L-1600 Name Mosquito, S. Sqn, Battery, or Company Corps C.I.C. Date of enlistment 10 Oct 39 GC Badges N/A Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 3 Apr 40 No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No Signature OC Company, etc A. Wisholle, Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA 15(1) AWL 2 days 20 hrs		7 days C.B.	1 Jul 40	DO 5-11/40	Forf 3 days pay for AWL
Field		Pte		AA 15(1) AWL 6 days, 9 hrs, 30 mins		21 days Detn.	16 Aug 40	DO 8-12/40	Forf 7 days pay for AWL
Field		Pte		Civil Offence (Larceny)	Documentary	3 mons impt HL. Released 27 Feb 41	22 Dec 40	Civil Ct.	
Field	12 Sep 40	Pte		AA 15(1) AWL fr 0430 hrs 12 Sep 40 to 1730 hrs 30 Oct 40 (48 days 13 hrs) AA 15(1) AWL 1645 hrs 6 Dec 40 to 0850 hrs 27 Dec 40 (20 dys 16 hrs 5 mins) AA 24(2) Losing by neglect his equipment clothing and regt necessaries to the amount of $9.17.44.	Documentary	1 yr impt HL Stop $9.17.44 Sent committed to Detn Released from Detn 5 Dec 41 Remission of 118 days.	4 Apr 41	FGCM	Forf 70 days for AWL & 37 days for time in arrest.

EX CEF

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Jul 42	Pte		AA Conduct to Prej of good order and military disc. (failing to clean kitchen before going off duty.	Documentary	7 days CB	3 Jul 42	DO 30/42	
Field	11 Jul 42	Pte		AA 15(1) AWL fr 0200 hrs 11 Jul 42 to 0245 hrs 15 Jul 42 (4 days 45 mins)	Documentary	10 days pay	15 Jul 42	DO 32/42	Forf 5 days pay for AWL
Field	23 Jul 42	Pte		AA 15(1) AWL 2400 hrs 23 Jul 42 to 0350 hrs 28 Jul 42 (4 dys, 3 hrs, 50 mins)	Documentary	28 days pay	28 Jul 42	DO 35/42	Forf 1 days pay for AWL for AWL
Field	16 Aug 42	Pte		AA 15(1) AWL 1600 hrs 16 Aug 42 to 2350 hrs 16 Aug 42 (7 hrs 50 mins)	Documentary	7 days CB	17 Aug 42	DO 45/42	Forf 1 days pay
Field	26 Aug 42	Pte		AA 15(1) AWL 1500 hrs 26 Aug 42 to 2215 hrs 26 Aug 42 (7 hrs 15 mins)	Documentary	10 days Pay	27 Aug 42	DO 129/42	Forf 1 days pay for AWL.
Field	27 Aug 42	Pte		AA 15(1) AWL 1900 hrs 27 Aug 42 to 0930 hrs 6 Sep 42 (9 days 14 hrs 30 mins)	Documentary	12 mons detn (Rel 15 Jun 43 with 120 dys remission)	16 Sep 42	FGCM	Forf 10 days pay some with prev Awd
Field	17 Jul 43	Pte		AA 15(1) AWL 2300 hrs 17 Jul 43 to 1405 hrs 30 Aug 43 (43 dys, 4 hrs, 6 mins) (Sent suspended 526 days.	Documentary	2 yrs detn	8 Sep 43	FGCM Rel 30 Mar 44)	Forf 44 days pay for AWL

No L-1600 Name MOSQUITO S | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 10 Oct 39 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAD/136 (3488)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28 Apr 44	Pte		AA 24(2) Loss of Kit & Regt Necessaries in that he lost on .38 sel pistol.	L/C Edgeton L/C MacLeod Civ Police	90 days detn Forf $23.48	19 May 44		
Field	5 Jul 44	Pte		Was awarded 161 days Detention by FGCM Sentence suspended wef 5 Jul 44 by confirming authority. Authority for this entry 10/Mosquito/1 (AG 5b) d/11 Aug 44. No further details available. (Sgd) G.S. Lynch, Capt, OC 42 Coy.					
				Certified true extract taken from regtl books in my custody "C L NELSON" 2 Oct 44 (C L Nelson), Captain & Adjt. 9 Bn, 2 CBRQr.					

(PTO)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L-1600 Pte Solomon MOSQUITO, X-4 List, GH of O, 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15(1) AA	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) .....(1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

One (1) year's detention

(Sgd) ..... Judge-Advocate, if any. 4 Oct 44 Date awarded. (Sgd) "A E KELSEY" Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) "H W RICK" Lt-Col

Date 5 OCT 44 A/ Commanding 2 CBR Gp, Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L-1600 Pte Solomon MOSQUITO, GH of O, 9 CBR Bn	5 OCT 44	"C L KELSOE" Capt & Adjt, 9 CBR Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

46-39

CPA86 (In lieu of AFA3) 40/P & S 1698 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt-Col H W RICK A/ Comd 2 CBRG dated 3 OCT 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-1600	Pte		Solomon	MOSQUITO	X-4 List, GH of O, 9 CBR Bn

Certified true copy
M H Mann Major
D.J.A.
Cdn Sec. G.H.Q. 2 Echn. 21 Army Gp.

PROCEEDINGS RECEIVED Date 27 Oct 44 D.J.A. Cdn Sec. G.H.Q. 2 Echn. 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date(s)) 4 OCT 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnnn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) "AEK"
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. "AEK" At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~
~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~ "AEK"
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A E KELSEY		20 Cdn Spec Emp Coy
Member	Capt	J LAMY	RCA	12 CBR Bn
Member	Lt	W A REID	RCA	12 CBR Bn
Judge-Advocate	—			
Prosecutor	Lt	L G N SELKIRK	RCASC	12 CBR Bn
Defending Offr	Lt	C B STEPHEN	RCASC	12 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused L-1600 Pte Solomon MOSQUITO before arraignment make(s) (no) (a) plea "AEK" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. "AEK"
(1. RP 31, 112. See para i of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol 2, pp 2, 3

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p* 3

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(~~s~~)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(~~s~~).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~ "AEK" "AEK" "AEK"

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is (~~are~~) not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "AA", initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1) "AEK"

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. ..... Do you intend to call witnesses on your behalf ?

Ans. ..... Are they witnesses as to character only ? Ans. .....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3) "AEK"

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) JID

(*1. When several accused tried separately see RP 70(9). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 63(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Exhibit "C" "A1"

10/[illegible]TC, S./1
(A.G. 5b)

11 Aug 44

C.I.R.U.

L-1600 - Pte. Mosquito, S.

1. The m/n soldier was tried by F.C.C.M. on 5 Jul 44, and sentenced to 161 days detention. The confirming authority directed that the soldier be NOT committed to undergo his sentence as he was already under a suspended sentence as the result of a previous F.C.C.M.

2. This matter has been considered by superior authority under A.A. 57A and it has been directed that the sentence awarded on 5 Jul 44 be suspended.

3. This letter will be sufficient authority for promulgation and all documentation necessary to show that the sentence awarded by F.C.C.M. on 5 Jul 44 has been suspended w.e.f. 5 Jul 44.

4. It was further directed on review that the m/n soldier be despatched forthwith on draft to France. It is requested that the necessary action be taken to include this soldier in the first available draft, and the soldier should be advised now that his sentence has been suspended for this purpose.

(Sgd) C.S. Booth, Brigadier,
D. A. G.
Canadian Military Headquarters

COPY

Field, 4 October 1944.

L-1600 Pte MOSQUITO S.

In view of the fact that specific instructions from D.A.G. Canadian Military Headquarters (Exhibit "G") to the effect that the a/m soldier be despatched forthwith to the front line have been disregarded, we, the members of this Court, recommend that the sentence of one year's detention be suspended on condition that Pte Mosquito be immediately despatched to the front line where he desires to serve.

President: "A E KELSEY", Major

Members: "JEAN LANT", Capt
"W A REID", Lieut.

14

CHARGE SHEET

L-1600, Pte Solomon MOSQUITO, K-4 List, CH of C, on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 1330 hours, 20 Sep 44, until apprehended at 1915 hours, 27 Sep 44. Total time absent, 7 days, 5 hours, 45 minutes.

"P R N WILLIAMSON"
(P.R.N. Williamson), Major,
A/Officer Commanding,
9 Bn, 2 CBRGp.

In the Field
1 Oct 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"H W RICK"
(H W RICK) Lt-col
A/Comd
2 Cdn Base Rft Gp

In the Field
3 OCT 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-1600	Pte		Solomon	MOSQUITO	X-4 List CH of O, 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been ~~made~~ "HWR" to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ "HWR" committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 2 OCT 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "HWR" " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.) "HWR"

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder. "HWR"

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate thereof the Offr mentioned hereunder.~~ "HWR"

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A E KELSEY	20 Cdn Spec Emp Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC 12 CBR Bn	12 CBR Bn
Lieut	To be detailed by OC 12 CBR Bn	12 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	To be detailed by OC 12 CBR Bn	12 CBR Bn

~~JUDGE ADVOCATE.~~ "HWR"

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE (*Country.*)

"H W RICK" (*Signed personally. RP 105 fn 2.*) Lt-col (*Rank.*)

(H W RICK)

Date 3 OCT 44

Commanding A/Comd 2 Cdn Base Rft Gp Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

4/38A CFAAO (In lieu of AFAO) 40/P & S/1697 (4601)

"AEX"

MEDICAL OFFICERS CERTIFICATE

(KR(Can)Para 557)
CMHQ GL 173)

I certify that I ~~have~~ this day examined L-1600

Pte MOSQUITO S and in my opinion he is fit to undergo trial by court-martial.

Station..Field

Date..4 Oct 44

"M S ACKER", Capt RCAMC
Medical Officer, 9 Bn, 2 CBRG

Plea of Mitigation for
L.7700 Pte MOSQUITO S.

I wish to point out to the Court that this soldier joined the Saskatoon Light Infantry on 10 Oct 39. He remained with this unit till approximately one month ago. At this time he was transferred to the Cameron Highlanders of Ottawa. The reason for the transfer is unknown to Pte Mosquito. The accused would like to get back to his old unit, or, as an alternative, to another unit from his own part of Canada.

Pte Mosquito's record in the Canadian Army for the last five years has been far from good. Courts-Martial and convictions do not appear to have improved his conduct.

The accused is twenty-four years of age, has all ones on his Pulhems and is a full blooded Cree Indian.

I recommend that the Court have this man transferred to an Infantry Unit from his own part of Canada, and that he be sent up as a first line reinforcement as soon as possible. This man is anxious to get into battle, and in this way he could prove his worth to the Canadian Army.

"G B STEPHEN"

(G.B. Stephen) Lieut.

/gef

SUMMARY OF EVIDENCE

in the case of

L-1600, Pte. Solomon MOSQUITO, X-4 List, CH of O, on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, who is charged with:-

(1) When on Active Service, Absenting himself without leave. AA Sec 15(1).

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS C-21231, CQMS Bateman, E.W., X-4 List, CH of O, on strength 9 Bn, 2 CBRGp, having been duly sworn, states:-

"I am Acting Company Sergeant Major of the Cameron Highlanders of Ottawa Company, 9 Bn, 2 CBRGp. On 20 Sep 44, Pte Mosquito, S., was put on excused duty by the Medical Officer. At 1330 hrs, we had company parade and checked on all personnel and found Pte Mosquito missing. The Orderly Sergeant checked all the lines and Medical Officer's office but Pte Mosquito could not be found. He was marked absent without leave from 1330 hrs."

"E W BATEMAN"
C-21231, CQMS Bateman, E.W.

The accused declines to cross-examine the witness.

SECOND WITNESS K-51131, Cpl. Pettersen, E.G., CH of O X-4 List, on strength 9 Bn, 2 CBRGp, having been duly sworn, states:-

"On 20 Sep 44, I was Acting Company Orderly Sergeant of the Cameron Highlanders of Ottawa Company, 9 Bn, 2 CBRGp. I was told by CQMS Bateman to check the lines and Medical Officers tent for Pte Mosquito, S. I did so but was unable to find him. I checked the lines at 2200 hrs, but was still unable to find Pte Mosquito. His name was then placed on the absentee report. At no time during my tour of duty as Company Orderly Sergeant, which lasted until 2200 hrs, 23 Sep 44, did I see Pte Mosquito."

"E G PETTERSEN"

K-51131, Cpl. Petterson, E.G.

The accused declines to cross-examine the witness.

THIRD WITNESS The Certificate under Army Act Section 163(1)(j), produced as documentary evidence was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

"J L CAMERON" Lt
(J L Cameron), Lieut,
Officer detailed to take
the Summary of Evidence.

Page Two

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declined to make a statement or give evidence on oath.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused, and that RP 4(c), (d), (e), (f) and (g) have been complied with.

"J L CAMERON" Lt.
(J. L. Cameron), Lieut.,
Officer detailed to take
the Summary of Evidence.

In the Field.
1 Oct 44

"AEK"

6

CERTIFICATE UNDER ARMY ACT, SECTION 163 (1) (1)

Certified that No L-1600 Rank..Pte..Name..MOSQUITO S

of #9 Bn #2 CBRG ...Regt, was apprehended by No.3755911

Rank..RSM..Name..BENNETT, E.G....of the 5th Bn The King's

Regiment..at ..LION-SUR-MER..at..1915..hrs,

on the ..27..day of..Sept 44..as an absentee without leave.

He was wearing Military clothes at the time of his Arrest.

Place..DOUVRES..

Date..28 Sept 44..

"C WOOD" Capt.
(C.WOOD) Captain.
D.A.P.M., HQ. 2 C.S.R.G.

This is exhibit " referred to in the Summary of Evidence in the case of L-1600 Pte Mosquito S. taken before me this 30 Sep 44.

"John L Cameron", Lt.

Exhibit "B" - E.2 "AEK"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

7

Number.	Rank.	Name.	Regiment (or as the case may be).
L-1600	Pte	Solomon MOSQUITO	X-4 CH of O, 9 Bn 2 CBNG

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, precedence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AWL	AA 15(1)	6	times.
For Loss by Neglect	AA 24(2)	1	times.
For C.F.G.O. & M.D.	AA 40	1	times.
For			times.

Date of first entry in Field Conduct Sheet Approx 1 Jul 40

Date of last entry in Field Conduct Sheet 28 Spr 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

"CLN" *3. ~~The accused at the present time is under sentence for~~

"CLN" ~~beginning on the~~ ~~day of~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 7 "AEK" days in military custody, *i.e.*, Nil days in open arrest, 7 "AEK" days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 yrs, 5 mons.

6. The date of his attestation is 10 Oct 39.
"CLN" ~~calling up for military service~~

7. The service which the accused is allowed to reckon is

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡

"CLN" 9. ~~(*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—~~

"CLN" *Date of Promotion.*

"CLN" ~~In the substantive rank of~~

"CLN" ~~In the war substantive rank of~~

"CLN" ~~In the acting rank of~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) Wt.25773/668 100,000 4/41 A.& E.W.Ltd. Gp.698
(22459) Wt.22258/1872 90,000 9/42 " " Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
Civil Court	22 Dec 40	Larceny	3 months imprisonment with H.L.	25 days remission
FGCM	4 Apr 41	(1) AA 15(1) (2) AA 15(1) (3) AA 24(2)	1 yr detention	118 days remission
FGCM	16 Sep 42	AA 15(1)	12 months detn	120 days remission
FGCM	8 Sep 43	AA 24(2)	90 days detention Stoppage of $23.48	
FGCM	5 Jul 44	Not Known	161 days detn	See CMHQ letter 10/Mosquito S/1 (A.G.5b) d/11 Aug 44.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 4 "AUK" day of October, 1944.

"C L NELSON"
(C L Nelson), Capt & Adjt,
9 Bn, 2 GSHp.

Exhibit "G" - E.2 "ASK"

MFM 6
(AFB 122)
40/P&S/136 (3428)

Compiled from MFM4 Original incomplete Last Sheet destroyed 10 Apr 40

No L-1600 Name Mosquito, S. Sqn, Battery, or Company Corps C.I.C. Date of enlistment 10 Oct 39 Badges GC Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 3 Apr 40 No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No Signature OC Company, etc A. Wisholle, Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA 15(1) AWL 2 days 20 hrs		7 days C.B.	1 Jul 40	DO 5-11/40	Forf 3 days pay for AWL
Field		Pte		AA 15(1) AWL 6 days, 9 hrs, 30 mins		21 days Detn.	16 Aug 40	DO 8-12/40	Forf 7 days pay for AWL
Field		Pte		Civil Offence (Larceny)	Documentary	3 mons impt HL. Released 27 Feb 41	22 Dec 40	Civil Ct.	
Field	12 Sep 40	Pte		AA 15(1) AWL fr 0430 hrs 12 Sep 40 to 1720 hrs 30 Oct 40 (48 days 13 hrs) AA 15(1) AWL 1642 hrs 6 Dec 40 to 0850 hrs 27 Dec 40 (20 dys 16 hrs 5 mins) AA 24(2) Losing by neglect his equipment clothing and regt necessaries to the amount of £9.17.4d.	Documentary	1 yr impt HL Stop £9.17.4d Sent committed to Detn Released from Detn 5 Dec 41 Remission of 118 days.	4 Apr 41	FGCM	Forf 70 days for AWL & 37 days for time in arrest.

(PTO)

Exc-E2 Cert

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Jul 42	Pte		AA Conduct to Prej of good order and military disc. (failing to clean kitchen before going off duty.	Documentary	7 days CB	3 Jul 42	DO 30/42	
Field	11 Jul 42	Pte		AA 15(1) AWL fr 0200 hrs 11 Jul 42 to 0245 hrs 15 Jul 42 (4 days 45 mins)	Documentary	10 days pay	15 Jul 42	DO 32/42	Forf 5 days pay for AWL
Field	23 Jul 42	Pte		AA 15(1) AWL 2400 hrs 23 Jul 42 to 0350 hrs 28 Jul 42 (4 dys, 3 hrs, 50 mins)	Documentary	28 days pay	28 Jul 42	DO 35/42	Forf 1 days pay for AWL
Field	16 Aug 42	Pte		AA 15(1) AWL 1600 hrs 16 Aug 42 to 2350 hrs 16 Aug 42 (7 hrs 50 mins)	Documentary	7 days CB	17 Aug 42	DO 45/42	for AWL Forf 1 days pay
Field	26 Aug 42	Pte		AA 15(1) AWL 1500 hrs 26 Aug 42 to 2215 hrs 26 Aug 42 (7 hrs 15 mins)	Documentary	10 days pay	27 Aug 42	DO 129/42	Forf 1 days pay for AWL.
Field	27 Aug 42	Pte		AA 15(1) AWL 1900 hrs 27 Aug 42 to 0930 hrs 6 Sep 42 (9 days 14 hrs 30 mins)	Documentary	12 mons detn (Rel 15 Jun 43 with 120 dys remission)	16 Sep 42	FGCM	Forf 10 days pay cons with prev Awd
Field	17 Jul 43	Pte		AA 15(1) AWL 2300 hrs 17 Jul 43 to 1405 hrs 30 Aug 43 (43 dys, 4 hrs, 6 mins)	Documentary	2 yrs detn (Sent suspended 526 days.	8 Sep 43	FGCM	Rel 30 Mar 44) Forf 44 days pay for AWL

MFM 6
(AFB 122)
50(F.&S.)125 (9428)

No L-1600 Name MOSQUITO S

Date of last entry in Company Conduct Sheet

Squ, Battery, or Company

No and date of last drunk

Corps C.I.D.

Period not reckoning towards freedom from extra fine

Date of enlistment 10 Oct 39 GC

Badges

Signature OC Company, etc

Sheet No 2

Service or Proficiency Pay

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28 Apr 44	Pte		AA 24(2) Loss of Kit & Regt Necessaries in that he lost on .38 cal pistol.	L/C Edgeton L/C MacLeod Civ Police	90 days detn Forf $23.48	19 May 44		
Field	5 Jul 44	Pte		Was awarded 161 days Detention by FGCM Sentence suspended wef 5 Jul 44 by confirming authority. Authority for this entry 10/Mosquito/1 (AG 2b) d/11 Aug 44. No further details available.					
				Certified true extract taken from regtl books in my custody sg L NELSON 2 Oct 44 (G L Nelson), Captain & Adjt. 9 Bn, 2 CHGP.					

(PTO)

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L-1600 Pte Solomon MOSQUITO, X-4 Lieut, OC of Q, 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15 (1) AA	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 463 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 submitted in evidence under E2.)

Sentence Awarded by the Court:

One (1) year's detention.

(Sgd) ..... Judge-Advocate, if any. 4 Oct 44 Date awarded. (Sgd) A E Kelsey Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 5 Oct 44 (Sgd) H W Rick Maj A/Commanding 2 C. G. R. Gp. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L1600 Pte SOLOMON MOSQUITO CMHQ, 9 CBRBn	5 Oct 44	[illegible] Capt Adjt 9 CBRBn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 48-39

RECEIVED 8 DEC 1944 JAG BRANCH C.M.H.Q.

CPA96 (In lieu of AFA3) 40/P & S/1608 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt-Col H W RICK A/ Comd 2 CBRG dated 2 OCT 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
L-1600			Solomon	MOSQUITO	CMHQ, 9 CBR Bn

PROCEEDINGS REVIEWED 9 Dec 44 JCC R. Beaudrille Capt. REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 29 Dec 44 2 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date(s)) 4 OCT 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 11/105

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3) AEK

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ AEK

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans ..... The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans ..... The shorthand writer is sworn.(2)~~ AEK

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A E KELSEY	20 Cdn Sigs Emp Coy
Member	Capt	J Lamy (RCA)	12 CBR Bn
Member	Lt.	Wm. Reid (RCA)	12 CBR Bn
Judge-Advocate			
Prosecutor	Lt.	L.B.N. Selkirk (RCASC)	12 CBR Bn
Defending Offr	Lt.	C.B. Stephen (RCASC)	12 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused L-1600 Pte Solomon MOSQUITO, X, before arraignment make(s) (no) ~~(a)~~ plea (1) NA

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. AEK

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol. 2 p 25

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 69(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(~~s~~)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(~~s~~).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ....No.... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement~~.(1) ~~The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is (~~are~~) not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(E). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 90(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans ....No....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true ~~copy~~ (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans ....Yes.... (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 74(b). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Field, 4 October 1944.

L-1600 Pte MOSQUITO S.

In view of the fact that specific instructions from D.A.G Canadian Military Headquarters (Exhibit "G") to the effect that the a/m soldier be despatched forthwith to the front line have been disregarded, we, the members of this Court, recommend that the sentence of one year's detention be suspended on conditions that Pte Mosquito be immediately despatched to the front line where he desires to serve.

President: A.E. Kelsey Major

Members { J. Gwen Lemay Capt.
W. A. Reid Lieut.

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CHARGE SHEET

L-1600, Pte. Solomon MOSQUITO, X-4 List, C.H. of C., on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
SEC 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1330 hours, 20 Sep 44, until apprehended at 1915 hours, 27 Sep 44. Total time absent, 7 days, 5 hours, 45 minutes.

(P.R.R. Williamson), Major,
~~(H.W. Rick), Lt. Col.~~
A/Officer Commanding,
9 Bn, 2 C.B.R.Gp.

In the Field

1 Oct 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(H W RICK) Lt-col
A/Comd
2 Cdn Base Rft Gp

In the Field
3 OCT 44

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FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
L-1600	Pte		Solomon	MOSQUITO	X-/ List CH of O, 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~date~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 OCT 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached (Delete.)~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Unit.)
Major	A E KELSEY (Must be named. RP 106.)	20 Cdn Spec Emp Coy

MEMBERS.

(Rank.)		(Unit.)
Capt	To be detailed by OC 12 CBR Bn	12 CBR Bn
Lieut	To be detailed by OC 12 CBR Bn (Named or detailed. RP 106.)	12 CBR Bn

WAITING MEMBER.

(Rank.)		(Unit.)
Capt	To be detailed by OC 12 CBR Bn (Named or detailed, if any. RP 106.)	12 CBR Bn

~~JUDGE-ADVOCATE~~

(Rank.)		(Unit.)
	(Must be named, if any. RP 106.)	

On Active Service in the Fd

in FRANCE (Country.)

Date 3 OCT 44

(Signed personally. RP 105 fn 2.)

(H W RICK)

Commanding Lt-col (Rank.) A/Comd 2 Cdn Base Rft Gp Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFABS (To DWG of AFAS) 40/P & S/1097 (4603)

MEDICAL OFFICERS CERTIFICATE

12

(KR(Can)Para 557)
CMHQ CL 173)

I certify that I have this day examined L-1600
(Number)

PTE. MOSQUITO S.
(Rank) (Name) and in my opinion he is

fit to undergo trial by Court - Martial.

Station Field

Date 4-OCT-44

W Sacks, Capt RCAMC
Medical Officer (Sgd)

(Unit) 9th Lt AA R Coy

~~Exhibit "H"~~

E. 3.

4 OCT 44

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Plea of Mitigation for
L.1600 PTE. MOSQUITO S.

I wish to point out to the Court that this soldier joined the Saskatoon Light Infantry on 10 Oct 39. He remained with this unit till approximately one month ago. At this time he was transferred to the Cameron Highlanders of Ottawa. The reason for the transfer is unknown to Pte. Mosquito. The accused would like to get back to his old unit, or, as an alternative, to another unit from his own part of Canada.

Pte. Mosquito's record in the Canadian Army for the last five years has been far from good. Courts-Martial and convictions do not appear to have improved his conduct.

The accused is twenty-four years of age, has all ones on his Pulheems and is a full blooded Cree Indian.

I recommend that the Court have this man transferred to an Infantry Unit from his own part of Canada, and that he be sent up as a first line reinforcement as soon as possible. This man is anxious to get into battle, and in this way he could prove his worth to the Canadian Army.

C.B. Stephen Lt.
(C.B. Stephen) Lieut.

/gef

Ex "A"
B-5
16

SUMMARY OF EVIDENCE

in the case of

L-1600, Pte. Solomon MOSQUITO, X-4 List, C.H. of O., on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, who is charged with:-

(1) When on Active Service, Absenting Himself Without Leave. A.A. Sec. 15(1).

The Commanding Officer directs that evidence be taken on oath.

FIRST WITNESS C-21231, C.Q.M.S. Bateman, E.W., X-4 List, C.H. of O., on strength 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"I am Acting Company Sergeant Major of the Cameron Highlanders of Ottawa Company, 9 Bn, 2 C.B.R.Gp. On 20 Sep 44, Pte. Mosquito, S., was put on excused duty by the Medical Officer. At 1330 hrs, we had company parade and checked on all personnel and found Pte. Mosquito missing. The Orderly Sergeant checked all the lines and Medical Officer's office but Pte. Mosquito could not be found. He was marked absent without leave from 1330 hrs."

E W Bateman

C-21231, C.Q.M.S Bateman, E.W.

The accused declines to cross-examine the witness.

SECOND WITNESS K-51131, Cpl. Pettersen, E.G., C.H. of O X-4 List, on strength 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"On 20 Sep 44, I was Acting Company Orderly Sergeant of the Cameron Highlanders of Ottawa Company, 9 Bn, 2 C.B.R.Gp. I was told by C.Q.M.S Bateman to check the lines and Medical Officers tent for Pte. Mosquito, S. I did so but was unable to find him. I checked the lines at 2300 hrs, but was still unable to find Pte. Mosquito. His name was then placed on the absentee report. At no time during my tour of duty as Company Orderly Sergeant, which lasted until 2200 hrs, 23 Sep 44, did I see Pte. Mosquito."

E G Pettersen

K-51131, Cpl. Pettersen, E.G.

The accused declines to cross-examine the witness.

THIRD WITNESS The Certificate under Army Act Section 163(1)(j), produced as documentary evidence was read over to the accused, marked Exhibit "A", signed by me, and attached hereto.

J. L. Cameron Lt

(J.L. Cameron), Lieut.
Officer detailed to take
the Summary of Evidence.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declined to make a statement or give evidence on oath.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused, and that R.P. 4(C), (D), (E), (F) and (G) have been complied with.

J. L. Cameron Lt.

(J. L. Cameron), Lieut.,
Officer detailed to take
the Summary of Evidence.

In the Field.

1 Oct 44

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~~Exhibit D~~ 7214

CERTIFICATE UNDER ARMY ACT, SECTION 163 (i) (1)

Certified that No. L.16400...Rank. Pte...Name. MOSQUITA. S.....
of ~~the~~. H.Q. Bn...H.Q. C.B.R.G.....Regt., ~~surrendered to~~ No. 37.559M...
was apprehended by
Rank. R.S.M...Name..BENNETT. E. G.....of the. 5th Bn. The Kings..
..Regiment.....at. ~~Lion-sur-Mer~~.....at.....1915.....Hrs,
on the...27...day of..Sept. 44.....as an absentee without
leave.

He was wearing Military ~~Civilian~~ clothes at the time of his ~~Surrender~~. Arrest.

Place. DOUV. RES.....

Date .28. Sept. 44.....

C. Wood.

.....Capt.
(C. WOOD) Captain.
D.A.P.M., HQ. 2.C.B.R.G.

This is exhibit A referred to in the summary of evidence in the case of L16400 Pte Mosquita S.
taken before me This 30 Sep 44

John R. Cameron
Lt.

Exhibit "S"

10/MOSQUITO, S./1
(A.G. 5b)

11 Aug 44

6 C.I.R.U.

L-1600 - Pte. Mosquito, S.

1. The m/n soldier was tried by F.G.C.M. on 5 Jul 44, and sentenced to 161 days detention. The confirming authority directed that the soldier be NOT committed to undergo his sentence as he was already under a suspended sentence as the result of a previous F.G.C.M.

2. This matter has been considered by superior authority under A.A. 57A and it has been directed that the sentence awarded on 5 Jul 44 be suspended.

3. This letter will be sufficient authority for promulgation and all documentation necessary to show that the sentence awarded by F.G.C.M. on 5 Jul 44 has been suspended w.e.f. 5 Jul 44.

4. It was further directed on review that the m/n soldier be despatched forthwith on draft to France. It is requested that the necessary action be taken to include this soldier in the first available draft, and the soldier should be advised now that his sentence has been suspended for this purpose.

(Sgd) C.S. Booth, Brigadier,
D. A. G.
Canadian Military Headquarters

C O P Y

Exhibit "B" E2

Army Form B 206 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
L-1600	Pte.	Solomon MOSQUITO	X4 CH or O, 9 Bn 2 C.B.R.G.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.W.L. A.A. 15(1) 6 times.

For Loss by Neglect A.A. 24(2) 1 times.

For C.P.C.O. & M.D. A.A. 40 1 times.

For _____ _____ times.

Date of first entry in Field Conduct Sheet Approx 1 Jul 40

Date of last entry in Field Conduct Sheet 28 Apr 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~3. The accused at the present time is under sentence for _____ beginning on the _____ day of _____.~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 7 days in military custody, *i.e.*, Nil days in open arrest. 7 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 yrs, 5 mons.

6. The date of his attestation is 10 Oct 39

~~calling up for military service~~

7. The service which the accused is allowed to reckon is _____

8. The accused is in possession of‡

‡State the military decorations (if any) held by accused.

~~9. (If the accused is a warrant officer or N.C.O.) The [illegible] continuously without reduction, to the present date:—~~

~~[illegible] Decorations~~

~~In the substantive rank of _____~~

~~In the war substantive rank of _____~~

~~In the acting rank of _____~~

INSTRUCTION.—*If any statement in any of the above paragraphs [illegible] from the regimental books the paragraph must be struck [illegible].*

(21114) Wt.8870/688 100,000 4/42 A.& E.W.Ltd. Gp.698
(22459) Wt.22258/1873 60,000 2/42 " " Forms A [illegible]

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
Civil Court	22 Dec 40	Larceny	3 months imprisonment with H.L.	25 days remission
F.G.C.M.	4 Apr 41	(1) A.A. 15(1) (2) A.A. 15(1) (3) A.A. 24(2)	1 yr detention	118 days remission
F.G.C.M.	16 Sep 42	A.A. 15(1)	12 months detn	120 days remission
F.G.C.M.	8 Sep 43	A.A. 15(1)	2 yrs detention	526 days suspended
F.G.C.M.	19 May 44	A.A. 24(2)	90 days Detn Stoppage of $23.48	
F.G.C.M.	5 Jul 44	Not Known	161 days Detn	See CMHQ letter 10/Mosquito S/1 (A.G.5b) d/11 Aug 44.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 4 day of October, 1944

(C.L. Nelson), Capt & Adjt.
9 Bn, 2 C.B.R.Gp.

Compiled from MFM 4 Original incomplete Last Sheet Destroyed 10 Apr 40

3/17 MFM 6 (AFB 122) 40/P&S/136 (5418)

No. L-1400 Name Mosquito, S. Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 10 Oct 3 | GC Badges | Service or Proficiency Pay n/a

Date of last entry in Company Conduct Sheet 8 Apr 4 | No. and date of last drunk n/a | Period not reckoning towards freedom from extra fine n/a | Sheet No 1 | Signature OC Company, etc A. Wisholle, Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		A.A. 15(1) AWL 2 days 20 hrs		7 days C.B.	1 Jul 40	DO 5-11/40	Forf 3 dys pay for AWL
Field		Pte		A.A.15(1) AWL 6 days,9 hrs,30 mins		21 dys Detn.	16Aug40	DO 8-12/40	Forf 7 dys pay for AWL
Field		Pte		Civil Offence (larceny)	Documentary	3 mons impt HL. Released 27 Feb 41	22Dec40	Civil Ct.	
Field	12 Sep 40	Pte		AA 15(1) AWL fr 0430 hrs 12 Sep 40 to 1730 hrs 30 Oct 40 (48 dys 13 hrs) AA 15(1) AWL 1645 hrs 6 Dec 40 to 0850 hrs 27 Dec 40 (20 dys 16 hrs 5 mins.) AA 24(2) Losing by neglect his equipment clothing and regt necessaries to the amount of £9.17.4½.	Documentary	1 yr impt HL Stop £9.17.4½ Sent committed to Detn Released from Detn 5 Dec 41 Remission of 118 days.	4 Apr 41	FGCM	Forf 70 dys for AWL & 37 dys for time in arrest.

Ex C.E.F. ADM

(PTO)

6

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if order dispensing with trial	By whom awarded	Remarks
Field	2Jul42	Pte		AA 40 Conduct to prej of good order and military disc.(failing to clean kitchen before going off duty.	Documentary	7 days C.B.	3Jul 42	DO 30/42	
Field	11Jul42	Pte		AA 15(1) AWL fr 0200 hrs 11 Jul 42 to 0245 hrs 15 Jul 42 (4 days 45 mins)	Documentary	10 days pay	15Jul42	DO 32/42	Forf 5 days pay for A.W.L.
Field	23Jul42	Pte		AA 15(1) AWL 2400 hrs 23 Jul 42 to 0350 hrs 28 Jul 42(4 dys, 3 hrs, 50 mins)	Documentary	28 days pay	28Jul42	DO 35/42	Forf 1 days pay for AW.
Field	16Aug42	Pte		AA 15(1) AWL 1600 hrs 16 Aug 42 to 2350 hrs 16 Aug 42(7 hrs 50 mins)	Documentary	7 days C.B.	17Aug42	DO 45/42	Forf 1 days pay for A.W.L.
Field	21 Aug42	Pte		AA 15(1) AWL 1500 hrs 26 Aug 42 to 2215 hrs 26 Aug 42 (7 hrs 15 mins)	Documentary	10 days pay	27Aug42	DO 129/42	Forf 1 days for A.W.L.
Field	27Aug42	Pte		AA 15(1) AWL 1900 hrs 27 Aug 42 to 0930 hrs 6 Sep 42(9 dys 14 hrs 30 mins)	Documentary	12 mons detn (Rel 15 Jun 43 with remission)	16Sep42	F.G.C.M. 120 dys	Forf 10 dys pay conc with prev Awd

3/17 MFM 6
(AFB 122)
40/F&S/136 (5418)

No. L-1600 Name MOSQUITO S | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 10 Oct 39 | CBC Badges | Service or Proficiency Pay | Character

Sheet No 2 | Signature OC Company, etc | Period not reckoning towards freedom from extra fine | No. and date of last drunk | Date of last entry in Company Conduct Sheet

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17Jul43	Pte		AA 15(1) AWL 2300 hrs 17 Jul 43 to 1405 hrs 30 Aug 43 (43 dys, 4 hrs, 6 mins) (Sent suspended 526 days. Rel 30 Mar 44)	Documentary	2 yrsdetn	8 Sep 43	FGCM	Forf 44 dys pay for A.W.L.
Field	28Apr44	Pte		AA 24(2) Loss of kit & Restl necessaries in that he lost on .38 cal pistol.	L/C Baguton L/C MacLeod Civ Police	90 dys detn Forf $23.48	19 May 44		
Field	5 Jul44	Pte		Was awarded 161 days Detention by F.G.C.M. Sentence suspended wef 5 Jul 44 by confirming authority. Authority for this entry 10/Mosquito/1 (AG 5b)-d/11 Aug 44. No further details available.	(Sgd) G.S. Lynch, Capt. O.C. 42 Coy.				

Certified true extract taken from restl books in my custody
20 Oct 44
(C.L. Nelson), Captain & Adjt.
9 Bn, 2 C.R.R.Gp.

(PTO)

RECEIVED 27 JUL 1944 [redacted] BRANCH

RECORDED AT CMHQ IN AB 160 555-36

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA51) 40/P & S/1698 (40/6).
4/36B

Convened by Order of Brig GSN Gostling, ED Comd "A" GP CRU dated 3 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183. Res. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L1600	Pte	Solomon	MOSQUITO	6 CIRU CIC

PROCEEDINGS REVIEWED 31 July 44
L J Brody Capt
JAG
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 5 July 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1615 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Lt R Savary as interpreter? Ans No.
The Interpreter is sworn.(1) ~~Do you object to [illegible] as shorthand writer? Ans [illegible]~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	L V PERRY	
Member	Capt	J.H. Ackerman	6 CIRU
Member	Lt	F Rosenberg	6 CIRU
Waiting Member	Capt	J.H. ACKERMAN	6 CIRU
Prosecutor	Capt	W.B. Sandon	6 CIRU
Defending Offr	Lt	L Herring	6 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused L1600 Pte MOSQUITO, S before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accusod does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) charge(s) him (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. Yes I would like to make a statement.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copies of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L1600 Pte MOSQUITO, Solomon - 6 CIRU - CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for 90 Days Detention beginning on (date) 19 May 44. (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which Nil days were spent in hospital. (2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: to undergo detention for 161 days.

(Sgd) ..... Judge-Advocate, if any. 5 July 44 Date awarded. (Sgd) Richard Lang Maj President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders. (1)
(1. AA 57A. Delete if not used.)

(Sgd) [signature]
(G S N Gostling) Brig
Commanding "A" Gp Cdn Rft Units C A (O)
Confirming Officer.

Date 14 Jul 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L-1600 Pte Mosquito Solomon 6 C.I.R.U - C.I.C	15 Jul 44	[signature] CAPT. ADJT., 6 CDN. INF. RFT. UNIT

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused, No L-1600, Private Solomon MOSQUITO, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15 (1)
ARMY ACT

WHILST ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, when in confinement, did absent himself without leave from 0600 hrs, 12 Jun 44, until he surrendered himself to the civil police at 1230 hrs, 18 Jun 44.

(Total absence: 6 days, 6 hours, 30 minutes).

(W. E. MORGAN), Col.
Commander
6 Cdn Inf Rft Unit

In the Field
30th Jun 44.

To be tried by Field General Court Martial.

(G S N Gostling) Brig
Comd
"A" Gp Cdn Rft Units
C A (O)

Field
3 Jul 44

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA8)
40/PAS/1697 (2663)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L1600	Pte		Solomon	MOSQUITO	6 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 2 Jul 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I accordingly appoint the above Offr to preside the Court (by rank the senior Field Offr present) and the undersigned member thereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint Judge Advocate thereto the Offr hereinafter named.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	L V PERRY	6 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 6 CIRU	
Lt	to be detailed by OC 6 CIRU	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 6 CIRU	

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 3 Jul 44

Commanding (G S N Gostling) "A" Gp Cdn Rft Units C A (O)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R. (Can) para 557 L1600

I certify that I have this morning examined No: Pte Mosquito S.
(Rank) (Name)
of 6 C.I.R.U. and in my opinion he is fit to undergo
~~unfit~~
trial by Court Martial.

Station

Date June - 5 - 1944

Sgd [illegible]
(Medical Officer)

5 July 44

Proceedings in the Case of L 1600 Pte J Mosquito C.I.C.

The accused having been duly sworn states:
I have been in the Army since the outbreak of war and I have never been able to get into the Field. I have been on draft several times but have always been replaced for reasons which I do not understand. I was given the opportunity of going home as an inefficient soldier but I refused as I want to get into action. I am a well trained soldier and I want to go Overseas but I don't seem to be wanted.
As to breaking out of the Guard Room: I had been there doing nothing for a long time and I couldn't stand it so I went away.

R P 83 (b) has been complied with. hl.

Plea in Mitigation.
The accused enlisted on 10 Oct 39 and came Overseas in Dec of 1939. He has spent a great deal of time under arrest and doing punishment but I feel that a great deal of his trouble is due to a lack of understanding of his nature. He is a well trained Machine Gunner and spent a year with his Unit. His one ambition is to get overseas with his Unit and it is hoped that the Court will show clemency and allow this.

Ex A
Ind

SUMMARY OF EVIDENCE

In the case of No L-1600 Private Solomon MOSQUITO, Of The Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of The Canadian Army Overseas

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

First Witness for the Prosecution

D-125052 L/Cpl Gaumond, T.R., of the Cdn Inf Corps, on the strength of No 6 C.I.R.U., having been duly sworn, states as follows :

"On 12 Jun 44 I was in charge of No 2 Guard Room, No 2 Camp, 6 C.I.R.U. At that time the accused, whom I now recognize, was being detained in said guard room. At 0001 hrs when I took over my duties I made a check up of the prisoners detained in the guard room. They were all in bed. During the night at certain intervals I checked to see if everything was in order, and nothing was wrong. At 0600 hrs I again made a check and found that the accused was not in his bed. A dummy had been placed in his bed, evidently for the purpose of making it looked like a person sleeping. I searched all over the cell, but found that he was not there. I reported the matter to the guard sergeant".

The accused declines to cross-examine this witness.

T R Gaumond L/Cpl
(T.R. Gaumond)

Second Witness for the Prosecution

Lieut M.P. Menard, of The Cdn Inf Corps, on the strength of No 6 C.I.R.U., having been duly sworn, states as follows :

"I hereby produce the following documents concerning the accused, whom I now recognize":

(a) Army Form O.1617, Certificate of Surrender to the Civil Police of a Deserter or Absentee Without Leave, purporting to be signed by George T. Smith, Inspector of Police, Harrogate Police Station. This form is attached to this Summary Of Evidence, and is marked as Exhibit "A".

The accused declines to cross-examine this witness.

M P Menard Lieut
(M.P. Menard)

The accused is then cautioned as follows: "Do you wish to make a statement or to give evidence on oath?" "You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C),(D),(E),(F),and(G) have been duly complied with.

W B Saunders Capt
Officer detailed to take the Summary of Evidence.

In the Field
29 Jun 44

I CERTIFY that the man whose personal description is given below surrendered himself to* D.O. 1492 Ronald H. Woodhead.

at Harrogate at (hour) 12.30pm. on the 18th. day of June, 1944 as being No. L.160

(Rank and Name) Private Soloman Mosquito.

a deserter (or absentee without leave) from 12.6.44

and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word " to " to be inserted the name and rank of the police officer concerned.

Age 24 Height six Feet two Inches

Complexion Bronzed Hair Black Eyes Black

Marks

In uniform or plain clothes In uniform

Probable Date and Place of Attestation	
Probable Date of Desertion or beginning of absence, and from what place	12th. June, 1944, from Saskatchewan Light Infantry Unit, at Otley, Yks.

HARROGATE DIV. W. R. 18 JUN 1944 CONSTABULARY

Signature of Officer of Police in charge of George V. Smith Insp.

Harrogate Station.

18th. June, 1944. Date of Signature.

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
L- 1600	PTE	MOSQUITO, S.	No 6 Cdn Inf Reinf Unit

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, punishment being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 15(1)	Nil times	6 times.
For A.A. Sec 40	Nil times	1 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

~~There are no entries in the conduct sheets of the accused.~~

~~The accused has not been previously convicted.~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

~~The accused is not under sentence at the present time.~~ or The accused at the present time is under sentence for 90 days detention beginning on the 19th day of May 44

4. The accused has been in confinement, awaiting trial on the present charges, for No days in civil custody, and 17 days in military custody, making a total of 17 ~~XX~~ days, of which No days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24 yrs

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 10 Oct 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 168 days

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr 168 days service.

9. The accused is entitled to reckon 1 yr 168 yrs service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~a military decoration or military award (or is in possession of, or entitled to (state any military decoration or award)).~~ Cdn Vol Service Medal & Clasp

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

12. (*In the case of an officer.*) ~~The accused~~ holds in the army the rank of _____, dated _____ ~~in the regiment (or corps or department) the rank of _____ dated _____~~

(26548) Wt.30246/802 75,000 12/40 A.R.E.W.Ltd. Gp.499
(17625) Wt.48491/1987 25,000 4/41

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. L 1600 Rank Pte Name MOSQUITO, S. of 6 C.I.R.U. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	Field 4 Apr 41	A.A. Sec 15(1). AWL	1 yrs imprisonment with hard labour. Sentence committed to detention.	118 days.
		A.A. Sec 15(1) AWL		
		A.A. Sec 24(2)	12 mos detention	120 days
F.G.C.M.	Field 16 Sep 42	A.A. Sec 15(1) AWL	2 yrs detention Sentence suspended (526 days)	
F.G.C.M.	Field 8 Sep 43	A.A. Sec 15(1) AWL		
F.G.C.M.	Field 28 Apr 44	A.A. Sec 24(2)	90 days detention	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5th day of July 44

(Officer having custody of original documents)

In the rank of

In the rank of

Date of Promotion

years

years

years

INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and be inserted accordingly.

Compiled from MFM 4

Original incomplete

Last sheet destroyed 10 Apr 40

3/17 MFM 6 (AFB 122) 40/FAS/136 (5413)

No. L-1600 Name Solomon MOSQUITO Sqn, Battery, or Company | Corps Cdn Inf Corps | Date of enlistment 10 Oct 39 | GC Badges N/A | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 3 Apr 40 | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc A. Wisholle Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA Sec 15(1) AWL 2 days 20 hrs		7 days C.B.	1 Jul 40	DO-5-11/40	Forf 3 days pay for AWL
"		Pte		AA Sec 15 (1) AWL 6 days 9 hrs 30 min		21 days detn	16 Aug 40	DO-5-12/40	Forf 7 days pay for AWL
"		Pte		Civil Offence(larceny)	Documentary	3 mos Impt HL released 27 Feb 41	22 Dec 40	Civil Court	
"	12 Sep 40	Pte		AA Sec 15(1) AWL fr 0430 hrs 12 Sep 40 till 1730 hrs 30 Oct 40(48 days 13 hrs) AA Sec 15(1)AWL 1645 hrs 6 Dec 40 till 0850 hrs 27 Dec 40(20 days 16 hrs 5 min) AA Sec 24(2)Losing by neglect his equipment, clothing and necessaries to amount of £9.17.4½	Documentary	One year Impt HL Stop £9.17.4½ Sentence committed to detn released from detn 5 Dec 41 remission of 118 days	4 Apr 41	FCCM	Forf 70 days pay for AWL & 37 pay for time in arrest

..... Officer having custody of original documents (PTO)

certified true copy dated 8 July 44

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Jul 42	Pte		AA 40 Conduct to the prejudice of good order & Mil disc(failing to clean kit-chen before going off duty)	Documentary	7 days C.B.	3 Jul 42	DO 30/42	Forf 5 days pay for AWL
Field	11 Jul 42	Pte		AA 15(1)AWL fr 0200 hrs 11 Jul 42 till 0245 hrs 15 Jul 42(4 days 45 mins)	Documentary	10 days pay	15 Jul 42	DO 32/42	Forf 5 days pay for AWL
Field	23 Jul 42	Pte		AA 15(1) AWL fr 2400 hrs 23 Jul 42 till 0350 hrs 28 Jul 42(4 days 3 hrs 50 min)	Documentary	28 days pay	28 Jul 42	DO 35/42	forf 1 days pay for AWL
Field	26 Aug 42	Pte		AA 15(1)AWL fr 1500 hrs 26 Aug 42 till 2215 hrs 26 Aug 42(7 hrs 15 min)	Documentary	10 days pay	27 Aug 42	DO 129/42	forf 1 days pay for AWL
Field	16 Aug 42	Pte		AA 15(1)AWL fr 1600 hrs 16 Aug 42 till 2350 hrs 16 Aug 42(7 hrs 50 mins)	Documentary	7 days CB	17 Aug 42	DO 45/42	forf 10 days pay Conc with prev Awd
Field	27 Aug 42	Pte		AA 15(1)AWL fr 1900 hrs 27 Aug 42 till 0930 hrs 6 Sep 42(9 days 14 hrs 30 mins)	Documentary	12 mos detn with 120 days remission)	16 Sep 42	FOCM	forf 44 days pay for AWL
Field	17 Jul 43	Pte		AA 15(1)AWL fr 2300 hrs 17 Jul 43 till 1405 hrs 30 Aug 43(43 days 4 hrs 6 mins)	Documentary (Sentence suspended(526 days))	2 yrs detn (Rel 15 Jun43	8 Sep 43 (Rel 30 Mar 44)	FOCM	

Certified true copy consisting of two pages, dated 5 July 44

..... Officer having custody of original documents

Compiled from MFM 4 — Original incomplete — Last sheet destroyed 10 Apr 40

3/17 MFM 6 (AFB 122) 40/FAS/156 (5413)

Ex C

No. L-1600 Name Solomon MOSQUITO — Sqn, Battery, or Company — Corps Cdn Inf Corps — Date of enlistment 10 Oct 40 — GC Badges N/A — Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 3 Apr 40 — No. and date of last drunk N/X — Period not reckoning towards freedom from extra fine N/A — Sheet No 2 — Signature OC Company, etc A. Wisholle Capt — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28 Apr 44	Pte		AA Sec 24(2) Loss of kit and Regt'l necessaries in that he lost one .38 Cal cistol	Documentary	90 days detn	19 May 44	FGCM	

Certified true copy consisting of two pages, dated 5 July 44 44

.....
(Officer having custody of original documents.)

(PTO)

Ex A.

LIST OF EXHIBITS

In the case of No L-1600 Private Solomon MOSQUITO, of The Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of The Canadian Army Overseas.

Exhibit "A" - Army Form O.1617, certificate of surrender to the Civil Police of a deserter or absentee without leave.

In the Field
30 Jun 44

Enc A
Ind.

LIST OF WITNESSES

In the case of No L-1600 Private Solomon MOSQUITO, of The Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of The Canadian Army Overseas.

Prosecution

D-125052 L/Cpl Gaumond, T.R. Cdn Inf Corps, on strength of No 6 C.I.R.U.

Lieut M.P. Menard, Cdn Inf Corps, on strength of NO 6 C.I.R.U.

Defence

Nil

In the Field
30 Jun 44

Ex A
Ind.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by CM.

2. I desire the services of an officer to represent me at my trial by CM. I request the services of:

.....

if he is available.

In the Field
30 day of Jan 1944

.....Bogwitz.....

145 Inf Bn

RECORDED AT CMHQ ... PPR 97

RECD 4/10 ... 1944 JAG BRANCH

CPA86 (In lieu of AFA81) 40/P & S/1608 (40/10) 4/38B

FIELD GENERAL COURT-MARTIAL

Held by Order of Brig G S N Gostling Comd "A" Gp CRU dated 17 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L1600	Pte		Solomon	MOSQUITO	6 CIRU CIC

PROCEEDINGS REVIEWED 3 July 44 W. C. Dodds Lieut

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 19 MAY 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 10.16 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	P H LAMBERT	6 CIRU
Member	Capt	J. DUCHAINE	6 CIRU
Member	Lt	J. P. TRINQUE	6 CIRU
Waiting Member ~~Judge Advocate~~	Capt	H. W. WATSON	6 CIRU
Prosecutor	LIEUT	A. I. CAMERON	6 CIRU
Defending Offr	LIEUT		

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros or lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused L1600 Pte MOSQUITO, S. before arraignment make(s) (no) (~~a~~) plea (1)

NO

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 7

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (the[illegible]) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MC 19 May 44

CHARGE SHEET

The accused, No L-1600, Private Solomon MOSQUITO, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15 (1)
ARMY ACT

WHILST ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, did absent himself without leave, from 2240 hours on the 28th day of April, 1944, until he reported back at 1315 hours on the 29th day of April, 1944.

(Total absence: 14 hours, 35 minutes).

SECOND CHARGE
SECTION 24 (2)
ARMY ACT

WHILST ON ACTIVE SERVICE, LOSING BY NEGLECT HIS ARM,

in that he,

in the Field, did lose by neglect his arm, a Smith and Wesson, .380 calibre pistol, valued at $23.48, delivered to him by No B-88055, L/Cpl EDGERTON W.R., of the Canadian Infantry Corps, on the strength of No 6 Cdn Inf Rft Unit, on the 28th day of April, 1944, for patrol duties.

THIRD CHARGE
SECTION 40
ARMY ACT
ALTERNATIVE

WHILST ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

In the Field, on the 29th day of April, 1944, ~~improperly~~ failed to return a Smith and Wesson, .380 calibre pistol, valued at $23.48, delivered to him by No B-88055, L/Cpl EDGERTON W.R., of the Canadian Infantry Corps, on the strength of No 6 Cdn Inf Rft Unit, on the 28th day of April, 1944, for patrol duties.

.....
(W.E. MORGAN), Col
Commander
6 Cdn Inf Rft Unit.

In the Field
12 May 44.

To be tried by Field General Court Martial.

(G S N Gostling) Brig
Comd
"A" Gp Cdn Rft Units
CA(O)

Field
17 May 44

MK
17 May 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L1600	Pte		Solomon	MOSQUITO	6 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 17 May 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~I am unable to appoint another Offr to act as President, for the reasons I have stated herein~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~I do appoint as Judge Advocate the person named hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

MAJOR (Rank.)	P H LAMBERT (Must be named. RP 106.)	6 CIRU (Unit.)

MEMBERS.

Capt	to be detailed by CO 6 CIRU	
Lt (Rank.)	to be detailed by CO 6 CIRU (Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt (Rank.)	to be detailed by CO 6 CIRU (Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 17 May 44

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(G S K Gostling)

Commanding "A" Gp Cdn Rft Units CA(O)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA85 (In lieu of AFA3) 40.F & S/1697 (4691)

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No: L/1600 Pte Mosquito S
(Rank) (Name)
of 6 CIRU. MAS and in my opinion he is fit ~~unfit~~ to undergo
trial by Court Martial.

Station

Date May-19-1944

Sgd R C Anderson
(Medical Officer)

19 MAY 44

May 19. 44

Pte Mosquito

M
19 MAY 44

Prosecutor - opening address

There are quite a number of witnesses to this case, but I shall try to cut it down as much as possible

The accused has 3 charges

1 - AWOL
2 - Leaving by night
3 - Prejudice of good order + Military Discipline.

The main witness, L/Cpl Edgerton is in Hospital therefore, unable to be present. I would like to know if the accused or member of the Court object of me reading statement of Court of Enquiry for Cpl Edgerton

?

First witness - ref. Summary of Evidence (~~refused who was in summary of evidence~~)

Second witness: L. 1508 Sgt Crabbe sworn, states

I am on Provost Staff, and approx. 24/4/44 received from Sgt Fournier, five Pistols and lanyards, of which I placed three in the Guard Room, signed for by N.C.O ?, coming on duty signed for 3 Pistols.
On night of April 28 I detailed Cpl that he would have two of his men on patrol at about 2245.
At 2240, I found outside the Guard Room the Cpl checking his Patrol. He told me there was one missing, Pte Mosquito.

Pistol was issued a Pistol at approx 2215.
at 2245, accused not present to go on Patrol

Q - Was the accused on duty before 2245 hrs?
A - Yes, from 1600 hrs
Q - Did any Provost or R.P. see the accused until following afternoon?

A - not to my knowledge.
Q - Has the accused been on night patrol before
A - no sir.
Q - In guard room, was his conduct satisfactory?
A - very good and commencous
Q - Does the man going on duty sign for his pistol?
A - No sir.

3rd Witness Constable Kilner sworn states
ref: Exhibit "C" summary of evidence

Q - When you left 86 Mosquito did he appear tired
A. Yes he said he had been on duty all night and that he had gone to Beeley (2 miles away)

4th Witness L/Cpl McLeod. (Provost) sworn, states

Q - you are attached to 7 Det Prov. 6 C.I.R.V.
A attached to #6 C.I.R.V. with detatchment.
Q - In your own words, state how you stand in the picture.

states:
At about 1000 hrs. 24/4/44 I was detailed by Sgt. Kerstchit to accompany Sgt Forten to Ottey, to look for 86 Mosquito, reported absent earlier in the morning.
We walked around town until 1115 hrs & went to Coles Stn. from there we proceeded to camp at 1625 hrs. I was called at Coles Stn. where I was shown a ~~belt~~ belt, holster and lanyard. Holster in the name of Taggart, written on it and # B-16126. I obtained same by giving receipt for it. Coles informed me that it had been given by the "Three Horseshoe" Hotel. I accompanied Constable to Hotel where we searched Lavatory. Found it in the Cistern on said belt which was handed to me.

I delivered the forementioned articles to the Legal Officer # 3 Camp & obtained a receipt.

MR 14 May 44

Q What time was it when you came across accused?

A 1305 hrs

Q - Did he make a statement?

A - Stated to Capt Edgerton that he had lost holster and belt.

Q

5th Witness Mr Alfred Wilford sworn states:

Q - Sir: would you tell the court your connection with this case?

A - Saturday I heard a splash of water at about 2.30

Defence questions

Q. Have you ever seen this man before?

A. no.

Q. Could overflow have been very long before you noticed it?

A - No - not more than ten minutes

Question by the court

Q. Was holster on a flat surface?

A - It was placed over top of the wall, in Bottle department

Prosecution

~~Defence~~

We know that no member of the R. Police saw the accused since 22 30 hrs. and did not see him until 1305 following day. accused admitted to Lieut McLeod at 1305 hrs. that he had lost his webbing and pistol, also Lieut McLeod & Mr. Wilford told us the holster, the lanyard and the belt were found in Lavatories of the "The Horseshoe" Hotel. This equipment marked Taggart B. I would call Lieut Taggart as my next witness

Q - You belong to the Guard Room of #2 Camp?

A. Yes sir

Q - Were you on duty on night of 22 April 44.

A No sir.

Q - Explain to the Court why you left webbing in the Guard Rm.

A - Every night after we leave the Guard Room, we leave the holster for next shift coming on.

Q - Do you recognize these webbing articles?

A. The holdster belongs to me, but I presume the belt belongs to the accused.

A member of personnel as witnesses in relation with this case summed the whole thing up, tactically it has been established that at 2245 hrs, the accused should have been on parade – he was absent. 2 witnesses said that he was not seen until 1305. We know that he was working until 0630 – But where was he between 0630 hrs and the time he was apprehended and told N.C.O. that he had lost the weapon? It is obvious that the witness was absent from parade and with his admission, was missing wet. and pistol. Neglect to prejudice of good order. It is fair to say that a soldier receiving an arm it is his duty to look after it. If he does not, he is automatically guilty of a form of duty which is neglect to prejudice of good order.

~~Prosecution~~ Defence witnesses. 1st – Pte Marquette sworn & later

Q – Will you tell the Court your name & number?
A Pte Marquette S.L-1600
Q. Tell exactly to Court what happened.
A – the Cpl told me that I was to go on patrol at 2245 hrs. and while he was talking, I obtained a pistol from Cpl. Taggart, then I went down the hill on patrol.

Q – Were you told to fall on parade?
A – no sir, only stated that I would be on patrol by the river
Q – Tell the Court exactly what happened
A – I was going down by the river, I stopped soldiers who were a bit drunk and told them to go to Camp right away. By the river I cautioned several soldiers, approx. 2340 hrs I cautioned two soldiers, I told that they were to go back to camp right away. They told me that there was a noise by the river, drunkards. On arriving there I broke the fighters. Another soldier by the bridge told me that there were two soldiers very drunk in town. I went down town to, by the Royal Bank I met a Civilian Policeman who mentioned that two prisoners had escaped from the Guard House. I went towards the Picture House Cinema, and heard foot steps, going fast, running (about 0200 hrs).
I had a very poor flashlight, I yelled at them to stop & went after them.

I yelled to stop but they kept on running. I went about 3/4 of a mile when they disperse.
I gave up the chase and, coming back I met two other soldiers coming from Ottey. I asked them to produce their passes. One of the guys looked in his pocket, while the other guy gave me a "shove" and threw me on the ground. They got away. I came back to Ottey and reported the fact to Civil Police. I went with him down the river and found about 8 soldiers sneaking out by the river and about 0620 hrs I came back with Policeman to Ottey Station & immediately came back again.
Walking up the hill, outside #1 Camp I felt sick (stomach) I lies down on the grass, undid my belt & fell asleep. I woke up at about 1200 hrs, and found that the pistol, holster and lanyard were missing. I looked in the surroundings, I looked everywhere and could not trace it. About 1300 - 1315 hrs I reported back to Guard Room #2 Camp.

Q - Had you ever had dizzy spells before?
A. Yes sir.

Question by the Court
Q. Do this Your belt?
A - Yes sir.

Witness, D-75768, Cpl Noah M.

Questions by defence

Q - Are you Cpl Noah M, D-75768?
A - Yes sir.
Q - Do you know Pte Mosquito?
A - yes sir
Q - Is he here in Court?
A - Yes sir. there (showing Pte Mosquito)
Q - Did you see Pte Mosquito on night of Apr 26?
A - Yes sir, I did
Q - Your what time?
A - between 2330 - 2400 hrs.
Q - where?
A - In the pack. I was coming home & he told me that the pack was out of bounds.

Q - What was he doing?
A - On duty I suppose, sober & properly dressed.

Pte Harris: sworn states

Questions by Defense:

Q - Will you tell the Court your name & number?
A - 6-16206 Pte Harris F.
Q - Do you know Pte Mosquito?
A - Yes sir -
Q - Is he in court room?
A - Yes sir, there - (pointing at Pte Mosquito).
Q - Did you see Pte Mosquito on night of Apr 25/44?
A - Yes sir
Q - About what time?
A - About 2 30 or less when in the Park by Tennis Court.
Q - What was he doing?
A - He was walking towards me.
Q - Did you say you were with Cpl Kosch?
A - Yes sir.
Q - Do you confirm his statement of being sober and properly dressed?
A - Yes sir

Summing up = w/ short of summing up

(1) Summing up. Sgt Hubbe has given evidence to show that Pte Mosquito was contented in his ~~unit~~ in the guardroom and that he was doing a very good job

1st charge Absenting himself without leave from 22.40 28th April - 1315 29 April

~~The accused has stated under oath that~~

Note 1 of Section 15 (1) states "The absence must be from the place where it is his duty to be."

The accused has stated under oath that he did not hear any order to report at 22.40 hrs and consequently in all good faith he believed his place of duty to be ~~the~~ the beat he was to patrol.

The defence has brought 3 witnesses all of whom saw Pte Mosquito at various times during the night. ~~He was being~~ proving therefore that to the best of his belief he was not absent from "the place where it was his duty to be."

The defence has brought evidence to show that Pte Mosquito was happy & doing an excellent job as an RP and we claim that the fact that he did not return until 1315 hrs 29 apr 44 is due not to any guilty intent but rather to a misunderstanding of orders & over zealousness.

2nd charge Remind the court of neglect under section 24 & 40

The defence claims that the pistol was stolen from the accused while he slept.

Evidence has been produced to show that it could not possibly have been Pte Mosquito who placed the web equipment in the cistern in the 3 Horse shoes & it seems reasonable to assume that the person who put it there stole the equipment & pistol from Pte Mosquito while he slept.

The defence has shown that he was on duty all night long

doing a good job & was very nearly exhausted and we claim that the prosecution has failed to prove any culpable neglect.

Exhibit "A"

TO BE PLACED IN A READILY ACCESSIBLE POSITION

N.D.F.C. 7
40/P & S/1413 (3108)

DEPARTMENT OF NATIONAL DEFENCE

PACKING NOTE

Description

No.

No.

Indent or Issue Order No.

Consigned to Sgt Crabe SLI Rgt

102 detnetion

Address Via

Date 21 Apr 44

Issue Voucher No.

Date

Weight of Package: Filled lbs. / Empty lbs.

Reference or Part Number	DESCRIPTION OF ARTICLE	Denom.	Quantity
Pistol	S.W. Short barrel No 940102		
	80994		
	84810		
	921435		
	832230		
	Signed: B. Crabe Sgt		
	Certified true copy		
	P. Foster Capt Adj Sec'y		
	Person having custody of original documents		

Checked by

Station

Unpacked by

Packed by

Date

Checked by

Date

Date

NOTE—If any differences be found between number charged and number received, or in description or condition of articles, the receiving officer should report WITHOUT DELAY to this station returning this packing note with report.

(FORM No. 12c).

Ref. No. .....
Sheet No. 1.

Otley. Division. Otley Town. Station.

Name Edward Kilner PC.527.

Address Police Station, Otley.

Occupation Police Constable. Apparent Age 31 years.

Says:— " I am a member of the West Riding Constabulary stationed at Otley.

About 4am. Saturday the 29th April 1944, I was on duty at the police station, Otley, when a member of the Regimental Police who gave his name as Pte. Mosquito S.J. No.1600 called and enquired about two soldiers who had escaped from custody at the Farnley Camp. I had seen a message earlier in the evening about these two men and as far as I knew they were still at large. I informed him that they had not been arrested yet by the civil police. He said he was on duty in the Park and stated that a number of women were sleeping out in the Mile Fields with soldiers and asked me if I cared to accompany him as the two wanted men may be among these. I went with PC.Sutcliffe and in the Mile Fields we found eight soldiers sleeping out with six women. Pte. Mosquito took the names of the soldiers and I took particulars of the women. About 5-40am. the same morning when on the point of returning to the police station, I told Pte. Mosquito that he need not return to the police station, but he stated that he would come along.

About 6-30am. Pte. Mosquito left the police station and I last saw him walking towards Otley Bridge in the direction of the Camp. He then had the revolver and holster in its correct position slung round his neck.

At 3pm. Monday the 1st May 1944, whilst in company with L/cpl Macleod of the Provost Corps, I recognised a soldier in an Army vehicle as Pte. Mosquito, the soldier who went with me to the Mile Fields between 4am. and 6-30am. Saturday the 29th April 1944.

Signed. Edward Kilner PC.527.

(Please see over.)

(FORM No. 12c).

Ref. No. .....
Sheet No. 1.

NO II Otley Division. Otley Station.

Name Charles Freeman Hinsley.

Address Police Station, Otley.

Occupation ..... Apparent Age .....

OTLEY DIVI
RECEIVED
10 MAY 1944
CONSTABLE

Says:— I am a member of the West Riding Constabulary, station at Otley.

At 4-50p.m. on Saturday, 29th April, 1944 I was on duty at the Section Station, when Alfred Wilford, of the Three Horse Shoes, Otley, reported that he had found in the water cistern of the gents lavatory, a web holster, and lanyard, which on examination I found were army property and marked, " Tagger. No. B. 76126.".

I took possession of the property and la at 5 p.m. handed same to L/C . Mac Iead, of the Canadian Provest Corps.

At 5 p.m. the same day in company with L/C. Mac Lead, I visited the Three Horse Shoes, Otley, and after obtaining permission from the landlord searched the water cistern in the uninal and found a web belt of army patern. This was also handed over to L/C Mac Lead.

His signature was obtained on receipt.

Signed. C. F. Hinsley

[Please see over.]

(FORM No. 12c).

Ref. No. .....
Sheet No. 1.

Division. ND II Otley Exhibit F

Station. Otley.

Name Alfred Wilford.

Address Three Horse Shoes, Otley.

Occupation Licensee

Apparent Age 53 years.

Says:— The statement I am about to make is of my own free will and is the truth.

At about 8-30p.m. on Saturday 29th April, 1944, my attention was drawn to the overflow of water from the lavatory cistern, which on examination I found that the ball tap was being held down by a holster web and a lanyard .

I took them out and found they were Army Property and took them to the Police Station, were on examination the following marks were found ." Tagger. No B. 76126. The property was retained by the Police.

At about 5p.m. the same day, a Police Constable and a L/C of the Canadian Provest Corps, called at my premises and on further examination of the lavatory water cistern they found a web belt of Army type.

A G Wilford

OTLEY DIVISION
RECEIVED
10 MAY 1944
CONST

(Please see over.)

1. I ac[illegible]ge that I have been served with a copy of the Summary of Evide[illegible] taken prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by CM.

2. I desire the services of an officer to represent me at my trial by CM. I request the services of:

.....Lt. Green.....

if he is available.

In the Field
12 day of May 194[illegible]

...S. Mequit...

MM
14 May 44

LIST OF WITNESSES

In the case of No L.1600 Private Solomon MOSQUITO, of the Canadian Infantry Corps, on the strength of No. 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Prosecution

P.48774 S/Sgt FORTIN, P., Cdn Inf Corps of No. 6 CIRU

L.1508 Sgt CRABB, H. B., Cdn Inf Corps of No. 6 CIRU

B.88055 L/Cpl EDGERTON, F. R., Cdn Inf Corps of No. 6 CIRU

B 76126 L/Cpl TAGGART, G., Cdn Inf Corps of No. 6 CIRU

Mr. Edward KILNER, Police Constable, Otley

Mr. Charles Freeman HINSLEY, Police Constable, Otley

Mr. Alfred WILFORD, Licensee, Otley

F.55286 L/Cpl MacLEOD, M. J., 7 Pro Coy Detach att to No. 6 CIRU

C.20539 CQMS TOUCHARD, T., Cdn Inf Corps of No. 6 CIRU

Defence

NIL

In the Field
11 May 44

19 May 44

officers under instr.

Lieut. Boniface Hardy. ESC 6 CIRU
Lt. R. Lacombe ESC 6 CIRU

P.S. Lambert Major

LIST OF EXHIBITS

In the case of No L.1600 Private Solomon MOSQUITO, of the Canadian Infantry Corps, on the strength of No. 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Exhibit "A": Certified true Copy of Receipt (Packing Note)

Exhibit "B": Pistol holster

Exhibit "C": Statement of Evidence (PC Edward KILNER)

Exhibit "D": Statement of Evidence (PC Charles Freeman HINSLEY)

Exhibit "E": Statement of Evidence (Alfred WILFORD)

In the Field
11 May 44

SUMMARY OF EVIDENCE

In the case of No L.1600, Private Solomon MOSQUITO, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness For the Prosecution

P.48774 S/Sgt FORTIN, P., of the Cdn Inf Corps, on the strength of No. 6 CIRU, having been duly sworn, states as follows:-

I am the Provost Sgt. of No. 6 CIRU. On 21 Apr 44, I went to the Quartermaster Stores of No. 6 CIRU and signed for five revolvers, Smith & Wesson calibre . 38. These revolvers were handed over to the Sgt in charge of the Guard Room of No. 2 Camp. One of these pistols was numbered 940102. I hereby produce a certified true copy of the receipt signed by Sgt. Crabe for the previously mentioned pistols, and is marked as Exhibit "A".

The accused declines to cross-examine this witness.

P. Fortin .....S/SGT

Second Witness For the Prosecution

L.1508 Sgt CRABB, B.B., of the Cdn Inf Corps, on the strength of No. 6 CIRU, having been duly sworn, states as follows:

On approximately 21 Apr 44, I was on the staff of the Provost Section of No. 6 CIRU. I received from S/Sgt Fortin, five revolvers and out of one of those was one numbered, 940102. After receiving the revolvers from S/Sgt Fortin I placed three revolvers in the Guard Room under the charge of the NCO i/c of the Guard Room, he having signed for them. One of these revolvers was one numbered 940102. Each on-coming NCO on his tour of duty signed for the revolvers. On 28 Apr 44, I detailed L/Cpl. Edgerton that he would have two men on patrol for 2245 hrs. At approximately 2240 hrs I followed him [redacted] outside of the Guard Room. I checked to see if the patrol was O.K. but at that time the accused was not there. He proceeded on patrol from there and the next time I saw Pte. Mosquito was at approximately 1315 hrs of 29 Apr 44. He then stated to me that he had lost a pistol, holster and lanyard. The lanyard and revolver are the only articles that I signed for. I do not know who owned the holster and belt.

The accused declines to cross-examine this witness.

B. Crabb .....SGT

Third Witness For the Prosecution

B.88055 L/Cpl. EDGERTON, F. R., Cdn Inf Corps, on the strength of No. 6 CIRU, having been duly sworn, states as follows:

I am on the strength of the Provost Section of No. 6 CIRU. On 28 Apr 44, I was the NCO i/c of the Guard Room and I was ordered by Provost Sgt, Crabb, that I was to detail two men to go on patrol for the night. I detailed the accused, whom I now recognize, together with another Pte. They were to report at 2240 hrs on the same night. I issued a Smith & Wesson Pistol of .38 calibre to Pte Mosquito at approximately 2215 hrs. Between 2230 hrs and 2245 hrs I formed the parade and found the accused was absent. I looked for him personally but could not find him anywhere so I went on patrol without him and came back to the Guard Room at about 0030 hrs and stayed there until about 0200 hrs. Pte Mosquito had not yet returned when I left the Guard Room at 0200 hrs. I hereby identify the pistol holster, marked exhibit "B" as the one belonging to one Pte Taggart, a member of the Guard room in No. 2 Camp.

The accused declines to cross-examine this witness.

F.R. Edgerton .....L/CPL

SUMMARY OF EVIDENCE

In the case of No L.1600, Private Solomon MOSQUITO, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

Fourth Witness For the Prosectuion

B 76126 L/Cpl. TAGGART, G., Cdn Inf Corps, on the strength of No. 6 CIRU, having been duly sworn, states as follows:

I am on the strength of the Provost Section of No. 6 CIRU. On 28 Apr 44 I went off duty at 1600 hrs and left my pistol holster and pistol and six rounds of S.A.A. in the Guard Room of No. 2 Camp. There are only three pistol holsters in the Guard Room and whenever somebody goes on special duty, and has to carry a revolver, he uses one of the holsters left in the Guard Room. I hereby recognise the holster marked as Exhibit "B" as mine and the same one as I left in the Guard Room on 28 Apr 44. This holster is my property as I have signed for it.

The accused declines to cross-examine this witness.

George Taggart ....L/CPL

Fifth Witness For the Prosecution

Mr. Edward KILNER, Police Constable, Police Station, Otley. A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Exhibit "C". Having regard to the exigencies of the service and the expenses involved, attendance of this witness cannot in my opinion be readily procured.

W. P. Menard ....LIEUT
Officer detailed to take the Summary of Evidence

The accused does not demand the attendance of this witness for cross-examination.

Sixth Witness For the Prosecution

Mr. Charles Freeman HINSLEY, Police Constable, Police Station, Otley. A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Exhibit "D". Having regard to the exigencies of the service and the expenses involved, attendance of this witness cannot in my opinion be readily procured.

W. P. Menard ....LIEUT
Officer detailed to take the Summary of Evidence

The accused does not demand the attendance of this witness for cross-examination.

Seventh Witness For the Prosecution

Mr. Alfred WILFORD, Licensee, Three Horse Shoes, Otley. A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Exhibit "E". Having regard to the exigencies of the service and the expenses involved, attendance of this witness cannot in my opinion be readily procured.

W. P. Menard ....LIEUT
Officer detailed to take the Summary of Evidence.

The accused does not demand the attendance of this witness for cross-examination.

Eighth Witness For the Prosecution

F.55286 L/Cpl. MacLEOD, M. J., No. 7 Provost Coy Detachment, attached to No. 6 CIRU, hacing been duly sworn, states as follows:

At about 1000 hrs, 29 Apr 44, I was detailed by Sgt. Mason to accompany S/Sgt Fortin to Otley to look for Pte. Mosquito who was reported absent and in possession of a pistol. We walked about the town for about one hour and a quarter and then went into the Police Station.

M. J. MacLeod

SUMMARY OF EVIDENCE

In the case of No L.1600, Private, Solomon MOSQUITO, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

Eighth Witness For the Prosecution (Continued)

At about 1305 hrs I saw Pte Mosquito, whom I now recognise, in front of the Guard Room of No. 2 Camp. He stated to L/Cpl. Edgerton and I, that he had lost his pistol, holster, lanyard and belt. At about 1620 hrs I called at the Civil Police Station in Otley where I was shown a holster and lanyard. I obtained same by giving a receipt for them. I then proceeded in company with Constable Hinsley to the "Three Horse Shoes" where we found one Web Belt in the cistern of the lavatory. I hereby produce the pistol holster, as Exhibit "B" and also the lanyard and belt found at the "Three Horse Shoes". The pistol holster and lanyard had been turned over to me by the Civil Police. The belt had been found by Police Constable Hinsley. At about 1430 hrs on 1 May 44, I accompanied S/Sgt Fortin and Pte Mosquito to the residence of Constable Kilnar where he identified the accused as the one who had ~~who had~~ been in the Police Station the morning of 29 Apr 44.

The accused declines to cross-examine this witness

W. J. MacLeod L/CPL

Nineth Witness For the Prosecution

C.20539 CQMS FOUCHARD, T., Cdn Inf Corps, on the strength of No. 6 CIRU, having been duly sworn, states as follows:-

I am a Company Quartermaster Sergeant of M & S Wing, 6 CIRU. I hereby state the price for the under-mentioned articles is as follows: 1 - Lanyard, pistol - .20; 1 - Smith & Wesson Pistol, .38 calibre, short barrel - $23.48.

The accused declines to cross-examine this witness

T. Fouchard CQMS

The accused is then cautioned as follows: "Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c), (d), (e), (f), and (g) have been duly complied with.

W. J. Menard LIEUT
Officer detailed to take the Summary of Evidence

In the Field
11 May 44

COMPILED FROM MFM 4

ORIGINAL DOCUMENTS INCOMPLETE

LAST SHEET DESTROYED 10 Apr 40

MFM 4 (AFB 122) 40/P&R/136

No L-1600 Name Solomon MOSQUITO | Sqn, Battery, or Company | Corps Cdn Inf Corps | Date of enlistment 10 Oct 39 | GC Badges n/a | Service or Proficiency Pay n/a | Character E

Date of last entry in Company Conduct Sheet 3 apr 40 | No and date of last drunk n/a | Period not reckoning towards freedom from extra fine n/a | Sheet No 1 | Signature OC Company, etc A.Wisholle Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA.15(1)AWL 2 days 20 hrs		7 days C.B.	1 jul 40	DO-5-11/40	Forf 3 days pay for AWL
Field		Pte		AA.15(1)AWL 6 days,9 hrs,30 mi		21 days Detn	16 aug 40	DO-8-12/40	Forf 7 days pay for AWL
Field		Pte		Civil offence (Larceny)	Documentary	3 months Impt HL 22 dec 40 Released 27 feb 41		Civil Court	
Field	12 sep 40	Pte		AA.15(1)AWL fr 0430 hrs 12 sep 40 till 1730 hrs 30 oct 40(48 days,13 hrs) AA.15(1)AWL fr 1645 hrs 6 dec 40 till 0650 hrs 27 dec 40(20 dys,16 hrs,5 mi) AA.24(2) Losing by neglect his clothing equipment and rest necessaries to the amount of £9.17.4d	Documentary	1 year Impt HL 4 apr 41 Sentence committed to Detn Released from Detn 5 dec 41 Granted Remission of 118 dys		F.S.C.M.	Forf 20 dys pay for AWL & 37 dys pay for time in arrest

certified true copy dated | officer having custody of original documents.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order depending with trial	By whom awarded	Remarks
Field	2 Jul 42	Pte		AA.40 Conduct to the Prejudice of Good order & Mil Disc(failing to clean kitchen before going off duty)	Documentary	7 days C.B.	3 Jul 42	D.O.30/42	
Field	11 Jul 42	Pte		AA.15(1)AWL Fr 0200 hrs 11 Jul 42 till 0245 hrs 15 Jul 42(4 days, 45 min)	Documentary	10 days pay	15 Jul 42	D.O. 32/42	Forf 5 days pay for AWL
Field	23 Jul 42	Pte		AA.15(1)AWL Fr 2400 hrs 23 Jul 42 till 0350 hrs 28 Jul 42(4 dys,3 hrs,50 min)	Documentary	28 days pay	28 Jul 42	D.O. 35/42	Forf 5 days pay for AWL
Field	16 Aug 42	Pte		AA.15(1)AWL Fr 1600 hrs 16 Aug 42 till 2350 hrs 16 Aug 42 (7 hrs, 50 min)	Documentary	7 days C.B.	17 Aug 42	D.O. 45/42	Forf 1 days pay for AWL
Field	26 Aug 42	Pte		AA.15(1)AWL Fr 1500 hrs 26 Aug 42 till 2215 hrs 26 Aug 42 (7 hrs, 15 min)	Documentary	10 days pay	27 Aug 42	D.O.129/42	Forf 1 days pay for AWL
Field	27 Aug 42	Pte		AA.15(1)AWL Fr1900 hrs 27 Aug 42 till 0930 hrs 6 Sep 42 (9 days,14 hrs,30min)	Documentary	12 mos detn	16 Sep 42	FGCM	Forf 10 days pay Conc with Previous
Field	17 Jul 43	Pte		AA.15(1)AWL Fr 2300 hrs 17 Jul 43 till 1405 hrs 30 Aug 43(43 dys,4hrs 6 min)	Documentary	2 yrs detn (Sentence suspended (526 days))	8 Sep 43 (Rel 30 Mar 44)	FGCM	Forf 44 days pay for AWL

certified true copy consisting of one page

officer having custody of original documents.

Ex. B

Army Form B.206

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
1el600	Private	Solomon MOSQUITO	Canadian Infantry Corps.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction [illegible] charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. 15 (1) AWL	Nil times	6 times.
For A.A. 40	Nil times	1 times.
For	times	times.
For	times	times.
For	times	[illegible]mes.

Number of instances of gallantry or distinguished conduct, Nil

or

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted, or~~ Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 19 days in military custody, making a total of 19 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 10 Oct 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 728 days

8. The accused is entitled to deferred pay or gratuity in respect of 728 days service.

9. The accused is entitled to reckon 728 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~no military decoration or military award (or is in possession of or entitled to (state any military decoration or reward)~~). Cdn Vol Med & Clasp

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental~~ rank of , dated

12. (*In the case of an officer.*) ~~The accused holds in the army the rank of , dated and in his regiment (or corps or department) the rank of , dated~~

(*16546) Wt.26345/662 75,000 12/40 A.A.K.W.Ltd. Gp.498

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. L-1500 Rank Private Name Solomon MOSOUTTO of Cdn Inf Corps. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status or offices disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
Civil Court	Field 22 dec 40	Civil offence (Larceny)	3 months Impt H.L.	
F.G.C.M.	Field 4 Apr 41	A.A. 15(1)AWL	1 year Impt H.L.	118 days
			Stopp: £9.17.4½	
		A.A. 15(1)AWL	Sentence committed to Detn	
		A.A. 24(2)		
F.G.C.M.	Field 16 Sep 42	A.A. 15(1)AWL	1 year Detention	120 days
F.G.C.M.	Field 8 Sep 43	A.A. 15(1)AWL	2 years Detention	526 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19 day of May 44

G H Barrett Capt

officer having custody of original documents.

13. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date.~~

In the rank of , years,

In the rank of , years

In the rank of , years,

Date of Promotion.

(INSTRUCTION—*If any matter on any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO.(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the SECOND charge(~~s~~).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the SECOND charge(~~s~~), ~~and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty~~ on the latter charge(~~s~~).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Evidence under oath. Do you intend to call witnesses on your behalf? Ans. YES. Are they witnesses as to character only? Ans. NO.

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(~~s~~) of the Court on the SECOND charge(~~s~~), being subject to confirmation, will be promulgated later.(1)

Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. NO.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(~~s~~)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. A and Ex. B respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. NO.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L1600 Pte Solomon MOSQUITO - 6 CIRU - CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Not guilty	Not guilty	
2nd AA Sec 24(2)	Not guilty	Guilty	
3rd AA Sec 40	Not guilty	Not guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~[illegible]~~ beginning on ~~(date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 19 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo 90 days detention and to be placed under Stoppages of pay to the amount of $23.48 for loss of field Dressing [illegible]

(Sgd) ..... Judge-Advocate, if any. 19 May 44 Date awarded. (Sgd) P. G. Lendrum Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1)

(1. AA 57A. Delete if not used.)

Date 22 May 44 (Sgd) (G S N Gostling) Brigadier

Commanding "A" Gp Cdn Rft Units CA(O)

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L1600 Pte Solomon Mosquito 6 CIRU - CIC	23 May 44	[illegible] CAPT., ADJT., 6 CDN. INF. RFT. UNIT
L1600 Pte Solomon Mosquito 6 CIRU - CIC	JUN 20 1944	[illegible] CAPT., ADJT., 6 CDN. INF. RFT. UNIT

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED BY

The Deputy Judge Advocate General, Canadian Military Headquarters, having advised that the sentence in these proceedings is invalid, I hereby direct that the sentence be and the same is hereby removed and the accused relieved of all consequences of such sentence and I do hereby sentence L-1600 Pte Solomon Mosquito to undergo detention for a period of 90 days, such sentence to be effective as if passed on the 19 May 44.

P J Montague

(P J Montague)
Major-General
In Charge of Administration
CANADIAN MILITARY HEADQUARTERS

London
13 Jun 44

L1600 Pte. Soloman MOSQUITO
Sask. L.I. (2 CIRU)

PP-54

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this seventh day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "A" GROUP CANADIAN REINFORCEMENT UNITS CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

[redacted]

* Omit if not applicable.

[redacted]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

Waiting Member

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	H.M. Swaffield (Regina Rif.)	2 CIRU

Members.

Rank.	Name.	Regiment.
Capt.	H.F. Bailey (S.S.R.)	2 CIRU
Lt.	E.R. Sharpe (Camerons of C.)	2 CIRU
Lt.	A. Bell (L. Sup. R.)	2 CIRU

*Signed (J.A. Calder) A/Col.,
Commanding "A" Gp, Cdn Rft Units, C.A.(O).
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L1600 Pte.				Confirmed
Soloman MOSQUITO	First Charge		Guilty.	
Sask. L.I.	A.A. Sec. 15(1)	Guilty	~~To undergo detention for a period of twenty four months~~	
2 CIRU				
	See Charge Sheet			
	Attached		To undergo detention for two (2) years.	
			M. M. Bradfield. 8 Sept. 43	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) (J.A. Calder) A/Col., *Commanding* 4th Div. C.R.U. C.A.(O). *Confirming Officer* (*d*)

(Signed) M. M. Bradfield Major 1st Regiment R.C.A.M.C. 2 C.I.R.U. *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 8th day of September, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 8th day of September 1943.

M. M. Bradfield - Major.
President of the Court Martial.

C. Certificate in case of death sentences.

* ~~See footnote (b) on page 702 M.M.L. 1929.~~ ~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ } Cancelled

Signed this 8 day of Sept 1943.

J. A. Calder A/Col.
Confirming Officer.

Promulgated and extracts taken in the case of L1600 Pte Mosquito, Soloman. SLI

(*a*) (Dated) 9 Sept 43 (Signed) E. Alfring Capt Wpg. Gren

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

PART II ORDER No. 170

CHARGE SHEET

The accused, No. L-1600 Private SOLOMAN MOSQUITO, (Saskatoon Light Infantry) on strength of 2 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas is charged with

FIRST CHARGE WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

Sec 15(1) Army Act

in that he

at Laurentide Camp, Witley, Surrey, absented himself without leave from 2359 hours 17th July, 1943, until apprehended by the Canadian Provost Corps in London at 1405 hours 30th August, 1943.

(Total absence - 43 days, 14 hours, 6 minutes)

W. J. Bingham

(W. J. Bingham) Lt.-Col.
Officer Commanding,
Holding Wing, 2 C.I.R.U.

Witley, Surrey.
5th September, 1943.

To be tried by Field General Court Martial

J.A. Calder

(J.A. Calder) A/Col.,
Comd.
"A" Gp, Cdn Rft Units, C.A.(O).

7 Sep 43.

W. M. Swoffield Major

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. L1600 Pte. Mosquito, S. of S.L.I.
and in my opinion he is ~~unfit~~ fit to undergo trial by Court Martial.

Laurentide Camp.

Date 8 Sept 43

J. Neustatt Capt
(Medical Officer) 2 C.I.R.U.

M. M. Cuoffill Major

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT 2 CIRU Lamadd and Kemy, England
ON THE 8th DAY OF September 1943

The accused L1600 Pte. Solomon MOSQUITO Unit 2 CIRU (Sask.L.I.)

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P.22 and 23.

The accused is brough before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.

The following constitute the Court:-

President Major R.M. Swaffield Unit Regina Rifles 2CIRU
Members Capt. H.F. Bailey Unit S.S.R. 2CIRU
Lieut E.R. Sharpe Unit Cameron of C. 2CIRU

The officers under instruction are duly sworn:-

Lieut W.H. O'Dell Unit S.S.R. (2CIRU
Lieut S.M. Carter Unit S.S.R. 2CIRU
Prosecutor Lieut J.J. Moffat Unit RWR 2CIRU
Defending Officer Lieut C.Z. Bolton Unit RWR 2CIRU

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge ~~[illegible]~~ and R.P.35(B) is complied with.
The accused does not desire to make a statement in reference to the charge ~~[illegible]~~ R.P.37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, ~~AFB 296~~ and MFM 6.
The Court complies with R.P.40(B).

Pursuant to R.P.37 THE ACCUSED:-
(a) ~~Makes a statement in mitigation of punishment.~~
(b) ~~Calls witnesses to character.~~
(c) ~~Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his ~~Defending~~ Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and~~ ADDRESS OF ~~ACCUSED~~ OR HIS DEFENDING OFFICER attached

R.M. Swaffield

Mr President

L 1600 pk Mosquito 5 16 MD

The accused has pleaded guilty. He knows that he has done wrong, but his plea is that he has an urge to be doing something more than just waiting. When he came out of detention last time he fully expected to be put on draft for the field, and as at that time everything pointed to an opening of hostilities he was quite willing to settle down to work. He was put on draft, then he was taken off draft. Now you know as well as I do the disappointment that can come from an act of that sort. Here is a lad who has had an upbringing ~~of~~ ~~[illegible]~~ ~~as~~ that was biased almost entirely on fighting principles. His ancestors were full blooded indians on one side, you know what they were like. And on the other side they were pioneers from this country, England. Here whole life has been a struggle.

So what happens. The war comes. It presents an escape from the humdrum life that he has to live, back on his reserve in Canada. It also provides an outlet for his warlike instincts that have been bred in him from birth. That is fine until he gets over here, & sits down & does nothing. The discipline that he is under over here is no better than the

bullying & badgering that he gets from ~~an~~ overjealous officials back in Canada.
There is no war to fight.

Again I might refer you back to his upbringing. He had been used all his life to being independant up to a point. His conception of discipline learnt in his early life was generally something to be laughed at, or at the worst sullenly obeyed. When he first entered the army he was pampered & cadled, a hero. That soon wore off and his contempt for authority began to get the better of him. He came over here to fight. Not to be bullied & badgered around around by someone he neither knew nor liked.

The accused is not lazy nor is he a coward he came over here to fight. The time has almost come when we shall all get our chance, we shall need every fighting man, every man who can fight. The accused asks for that chance, the chance to do what he came over for. Fight.

Thank you Sir

Chas. F. Boulton
Defence officer

W. M. Sheffield
Capt.
Bde

EXHIBIT 'A'

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No. L-1600 . . Rank . Pte. . . Name MOSQUITO, S. . . . . .

Unit . No. 2, C.I.R.U., S.L.I. Coy. was arrested at London . . . . .(place)

at . 1405 . . (hour) on 30 Aug. 43. .(date) and that at the time of his arrest he was wearing (Military Uniform) ~~or civilian clothes~~

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
30 Aug. 43.

. . . . . Capt.
(W. Forn) D. A. P. M.,
London Area

EXHIBIT "B"

Certified true copy
[illegible]

2 CANADIAN INFANTRY REINFORCEMENT UNIT

Last Order No: 163 d/11 Aug 43.

PART II DAILY ORDERS BY:
COLONEL H K GREENE, COMMANDER

This Order No: 164 d/12 Aug 43.

SECTION "A" OFFICERS

1. COURSES

(a) MAJOR G J GRAHAM (InsW) Proceeded on Senior Off'rs Course #5 Battle Wing CTS w.e.f. 12 Aug 43. (CRU 402/CTS/1/3(G)d/9 Aug 43.)

2. CHANGE OF ADDRESS N/K

(a) LIEUT F A MacKAY (UnpR) Mr Alver MacKAY (Father) Britannia Mines, British Columbia, Canada.

(b) LIEUT E R SMITH (UnpR) Mrs Aldina SMITH (Mother) Elstow, Saskatchewan, Canada.

(c) LIEUT L G PUTNAM (RRR) Mrs Earla Margaret PUTNAM (Wife) Unity, Saskatchewan, Canada.

(d) LIEUT W F VAN ALSTINE (RWR) Mrs Dorothy GALE (Sister) c/o Mrs A SABISTON, Ste 14 Gaspe Apts., Winnipeg, Manitoba, Canada.

SECTION "B" OTHER RANKS

1. STRENGTH INCREASE

(a) L-12554 PTE MARJERISON A M (SSR)(CatB"2") T.O.S. from P.M.C.T. Det. R.C.A.F.C. w.e.f. 12 Aug 43. (AUTH: EA2/7642 d/9 Aug 43.)

(b) G-18139 SGT FULTON C J (UnpR) T.O.S. from C.F.C. pending transfer to Corps of Infantry w.e.f. 11 Aug 43. (AUTH:REC/G.18139 d/2 Aug 43.)

STRENGTH INCREASE AMENDMENTS

L-22196 PTE REGNER A (SSR.) D.O. 145 para 1 (c) d/21 Jul 43. Insofar as it relates to the a/m is amended to read:- TOS from 1 CIRU whilst in 10 CGH w.e.f. 22 Jun 43.

H-19486 PTE SARRAILLON G H (QOCH) D.O. 147 para 1 (b) d/23 Jul 43. Insofar as it relates to the a/m is amended to read:- TOS from 1 CIRU whilst in 10 CGH w.e.f. 17 Jun 43.

2. STRENGTH DECREASE

(a) H-19415 PTE REES T J (QOCH) S.O.S. to N.E.T.D. whilst in hosp w.e.f. 5 Aug 43. (Medical List)

(b) L-1600 PTE MOSQUITO S (SLI) S.O.S. as deserter: having been declared by Court of Inquiry to have been illegally absent from 2359 hrs 17 Jul 43 and to have deficiencies in kit to value of £3-5s-10d w.e.f. 9 Aug 43.

3. ATTACHMENTS

(a) D-137843 PTE GINGRAS E G (CPostC) Attached for Rations, Quarters and Pay from CRU P.U. w.e.f. 11 Aug 43.

(b) B-79579 PTE STEWART H G (SLI) Attached f.a.p. from 1 CBRD on being ap rehended by C.M.P. in Manchester at 0315 hrs 7 Aug 43. (Ref. AGP 6-0-CBRD d/29 Jun 43.)

(OVER)

Manuscript

2 CANADIAN INFANTRY REINFORCEMENT UNIT

Last Order No: 163 d/11 Aug 43. | PART II DAILY ORDERS BY: COLONEL M K GREENE, COMMANDER | This Order No: 164 d/12 Aug 43.

SHEET TWO

3. ATTACHMENTS CONT'D

(c) The u/m are attached f.a.p. to 170 OCTU Infy Bks (R.A.) w.e.f. 12 Aug 43. (AUTH: 2/16/OCTU/1(Trg 1b) d/29 Jul 43.)

H-46368	CDT	BERG J L	(LSR)	K-22437	CDT	BRAITHWAITE J T	(LSR)
K-46150	CDT	BROWN J K	(LSR)	H-46465	CDT	GOODCHILD V H	(LSR)
H-45822	CDT	HOLGERSON R A	(LSR)	H-45600	CDT	SHERLOCK H I	(LSR)
H-46204	CDT	WILKINS H H	(LSR)	H-46072	CDT	WRIGHT B W	(LSR)

(d) L-7303 PTE GILLIS G S (SLI) Ceases to be attached f.a.p. to CMHQ (Records) w.e.f. 10 Aug 43.

(e) H-20152 PTE BRIGHAM E R (QOCH) Ceases to be attached to 6 C.I.R.U. (work party) w.e.f. 11 Aug 43.

(f) C-34937 SPR REYNOLDS J S (RCE) Cease to be attached from 1 C.E.R.U. w.e.f. 20 Feb 43.
H-82262 SPR CULBERT L S (RCE)
K-75001 SPR WEBSTER J F (RCE)

4. TRANSFERS

(a) H-77761 PTE GALE E A (UnpR) Transferred from Armd C Regt to Corps of Infantry w.e.f. 6 Aug 43. (AUTH: 99/20/18 ACR/1 d/18 Jun 43.)

5. HOSPITALS

(a) H-19927 L/CPL McLAREN D C (QOCH) Alton Conval to #2 Conval 9 Aug 43.

TRANSFERS

DISCHARGES

(b) L-104587 PTE LAYBOURNE V O (UnpR) #2 CMC w.e.f. 11 Aug 43.
L-12431 PTE LATOUR J J J (SSR) #1 CGH " 11 Aug 43.
H-31239 PTE SMITH C E (RWR) 15 CGH " 8 Aug 43.
H-195452 PTE ZUCCATO E (QOCH) #8 CGH " 11 Aug 43.

6. ESTABLISHMENT

(a) B-37424 PTE BUNCE A H (RHLI) Ceases to hold appointment in the P.E. AdmW as Dvr i/c on being SOS w.e.f. 10 Aug 43.

7. APPOINTMENTS AND PROMOTIONS

(a) L-101359 PTE GRASLEY W E (UnpR) To be A/L/CPLS with pay w.e.f. 9 Aug 43.
L-1546 PTE McNEIL P (SLI)
H-17035 PTE NELSON J R (RWR)

8. LEAVES

(a) The u/m granted Privilege Leav with money allowance in lieu of rations under Art 789 (3)&(4) FR&I (Overseas) (total days shown):-

H-26246 PTE WILLIAMSON G H (SSR) Rev 17 Jul 43 to Rev 26 Jul 43. (9)

9. CHANGE OF AGE

(a) A-21535 PTE FOX E S (AdmW) True date of birth having been verified is now changed from 10 Feb 1897 to 10 Feb 1893. All documents to be amended accordingly. (Birth Cert. D/3 029083)

(OVER)

2 CANADIAN INFANTRY REINFORCEMENT UNIT

Last Order No: 163 d/11 Aug 43.

PART II DAILY ORDERS BY: COLONEL M K GREENE, COMMANDER

This Order No: 164 d/12 Aug 43.

SHEET THREE

10. CHANGE OF ADDRESS N/K

(a) L-105155 PTE TABBERNOR S E (UnpR) Mrs Yvonne Rose Marie TABBERNOR (Wife) 63-12th Street, East, Prince Albert, Saskatchewan, Canada.

(b) L-12569 PTE JAMES C (UHQ) Mrs Ruby Florence JAMES (Wife) Oak Cottage, Wormley, (Near Godalming) Surrey, England.

(c) H-45822 SGT HOLGERSON R A (LSR) Mrs Agnes HOLGERSON (Mother) Pidgeon River, Ontario, Canada.

(d) L-74428 PTE McDONALD D H (RRR) Mrs Louise McDONALD (Mother) 728 14th St. West, Prince Albert, Saskatchewan, Canada.

11. ABSENTEES AMENDMENT

(a) L-1780 PTE ABEL R A (SLI) D.O. 162 para 13 (a) d/10 Aug 43. Insofar as it relates to the a/m is amended to read:- Surrendered himself to Prisoner of War Camp #2 at 1000 hrs w.e.f. 1 Aug 43.

12. REMISSIONS

(a) L-12239 PTE LINCOLN W (SSR) Granted 60 days remission of sentence under rules for Mil Prisons and Mil Det Bks was released from detention w.e.f. 11 Aug 43.

(b) H-19328 PTE REYNOLDS J S (QOCH) Granted 59 days remission of sentence under rules for Mil Detn Bks was released from detention w.e.f. 12 Aug 43

(c) H-20776 PTE WHEELER G J (QOCH) Granted 50 days remission of sentence under rules for Mil Prisons and Mil Detn Bks was released from detention w.e.f. 12 Aug 43.

13. PUNISHMENTS

(a) L-1780 PTE ABEL R A (SLI) On 10 Aug 43 tried by F.G.C.M.

CHARGE: A.A.Sec.15 (1) A.W.L. from 1200 hrs 24 Jul 43 until surrendering himself to Prisoner of War Camp #2 at 1000 hrs 1 Aug 43. (absent 7 days 22 hrs)

FINDINGS: GUILTY

SENTENCE: To undergo detention for period of 90 days and placed under stoppage of pay to amount of £3-1s-8d (cost of apprehension)

CLOSE CUSTODY: From 1000 hrs 1 Aug 43 to 9 Aug 43, (9 days 22 hrs)

FORFEITS: 8 days pay FR&I 149 (1) (a)
90 days pay FR&I 149 (1) (b)
10 days pay FR&I 149 (1) (c)

TOTAL FORFEITURE: 108 days pay and £3-1s-8d cost of apprehension.

FINDINGS and SENTENCE by: COLONEL J A CALDER COMMANDER HQ "A" GROUP CRU on 10 Aug 43. Date of award 10 Aug 43.

(OVER)

2 CANADIAN INFANTRY REINFORCEMENT UNIT

Last Order No: 163 d/11 Aug 43.

PART II DAILY ORDERS BY: COLONEL H K GREENE, COMMANDER

This Order No: 164 d/12 Aug 43.

SHEET FOUR

13. PUNISHMENTS CONT'D

(b) L-1012 L/SGT McLURE K (SLI) CHARGE: A.A.Sec.40 Conduct to the prejudice etc., in that he did cause a disturbance and use obscene language in Godalming on 1 Aug 43.

AWARDED: Sever Reprimand. 7 Aug 43.

(c) L-1523 PTE ROACH H (SLI) CHARGE: A.A.Sec.15 (1) A.W.L. from 0600 hrs 3 Aug 43 until 0845 hrs 6 Aug 43. (absent 3 days 2 hrs 45 mins)

AWARDED: 5 days C.B.

FORFEITS: 4 days pay FR&I 149 (1) (a) 9 Aug 43.

W H Kebbeland Capt for Adjt
2 Cdn Inf Reinf Unit

WFK/js

EXHIBIT 'C'

Certified True Copy
W H Kirkpatrick Capt

2 CANADIAN INFANTRY REINFORCEMENT UNIT

Last Order No: 181 d/1 Sept 43.

PART II DAILY ORDERS BY: COLONEL M K GREENE, COMMANDER

This Order No: 182 d/2 Sept 43.

SECTION "A" OFFICERS

1. STRENGTH INCREASE

(a) CAPT A C COOMBES (RCAMC) T.O.S. from 1 C.G.R.U. and attached as in W.E. w.e.f. 2 Sept 43. (AUTH: CRU A 3760 d/31 Aug 43.)

(b) LIEUT C S B MORISON (QOCH) T.O.S. from QOCH Field Unit (Rotation) w.e.f. 1 Sept 43. (AUTH: EA2/8247 d/30 Aug 43.)

2. STRENGTH DECREASE

(a) LIEUT(A/CAPT) H R McGILL (QOCH) S.O.S. to QOCH Field Unit w.e.f. 2 Sept 43. (Rotation)(AUTH: EA2/8247 d/30 Aug43)

(b) CAPT(A/MAJOR)L R McILVEEN (SSR) Ceases to be attached and is S.O.S. to HQ 1st Cdn Army Trng Camp w.e.f. 6 Aug 43. (AUTH:109/APR/Army/1(MS)d/12 Aug 43)

3. ATTACHMENTS

(a) LIEUT G L R KING (RRR) Cease to be attached to 6 CIRU (Off'rs
LIEUT B A REDMAN (UnpR) Refresher Crse) w.e.f. 27 Aug 43.

4. ESTABLISHMENT

(a) LIEUT J L GATES (SSR) Cease to hold appointment in the P.E.
LIEUT(A/CAPT)S KEDDY (SSR) of Trng Coy (SSR) as Instructors w.e.f. 30 Aug 43.

(b) CAPT(A/MAJOR)R S WELLS (SSR) Ceases to hold appointment in the P.E. of Trng Coy (SSR) as Officer Commanding on being SOS w.e.f. 30 Aug 43.

4. LEAVES

(a) The u/m granted Privilege Leave with money allowance in lieu of rations under Art 789 (3) &(4) PR&I (Overseas) (total days shown):-

LIEUT R E HARRISON (RWR) Rev 1 Sept 43 to Rev 10 Sept 43. (9)
LIEUT F B TASSMAN (SLI) Rev 31 Aug 43 to Rev 14 Sept 43. (14)

SECTION "B" OTHER RANKS

1. STRENGTH INCREASE

(a) L-1600 PTE MOSQUITO S (SLI) T.O.S. from desertion on being apprehended by C.P.C. in London at 1405 hrs w.e.f. 30 Aug 43.

(b) H-21035 PTE BOYD G (QOCH) T.O.S. from N.E.T.D. w.e.f. 1 Sept 43. (AUTH: Category C"1")

(c) L-12109 PTE STURGESS F C (SSR) T.O.S. from MATing CTS w.e.f. 2 Sept 43. (AUTH: CTS/6-0-RTU/4 d/24 Aug 43.)

STRENGTH INCREASE AMENDMENT

M-40620 PTE THORNE L (RWR) D.O. 137 para 1 (b) d/12 Jul 43. Insofar as it relates to the a/m by deleting:COMMITTED to Cdn Detn Bks and substituting COMMITTED to 2 CIRU detention Barracks.

(OVER)

Nunsquit

2 CANADIAN INFANTRY REINFORCEMENT UNIT

Last Order No: 181 d/1 Sept 43.

PART II DAILY ORDERS BY: COLONEL M K GREENE, COMMANDER

This Order No: 182 d/2 Sept 43.

SHEET TWO

2. HOSPITALS —

ADMISSIONS

(a)	H-101980	PTE	McINTYRE A G	(LSR)	#2 CMC	w.e.f. 31 Aug 43.
	L-12913	PTE	TEMPLE B E F	(SSR)	#2 CMC	" 31 Aug 43.

DISCHARGES

(b)	L-3012	PTE	PANTER J B	(SSR)	13 CGH	w.e.f. 1 Sept 43.
	H-70213	PTE	WINTERS J P	(SGR)	18 CGH	" 1 Sept 43.

3. COURSES

(a)	A-22737	CPL	MILLER C J H	(InsW)	Proceeded on CMHQ Course #1047 Ser. 20
	H-41354	PTE	JONES T	(InsW)	(Dvr Mechs) w.e.f. 2 Sept 43.

4. QUALIFICATIONS

(a) H-64801 A/L/CPL DUMAINE R A (InsW) Having attended CMHQ Course #725B Ser. 59 (P.T.) obtained Passed "C"

(b) L-2845 A/CPL GORDON G J C (SLI) Having attended CMHQ Course #725B Ser. 59 (P.T.) obtained Passed "B"

5. LEAVES

(a) The u/m granted Privilege Leave with money allowance in lieu of rations under Art 789 (3)&(4) FR&I (Overseas) (total days shown):-

D-82976	A/CPL	BRADBURN W	(InsW)	Rev 1 Sept 43 to Rev 10 Sept 43.	(9)
D-81948	CPL	FLEMING W	(AdmW)	Rev 2 Sept 43 to Rev 11 Sept 43.	(9)
D-91061	A/CPL	KELLY B C T	(UHQ)	Rev 31 Aug 43 to Rev 9 Sept 43.	(9)
L-1159	A/CSM	McCULLIE J	(SLI)	Rev 2 Sept 43 to Rev 11 Sept 43.	(9)
H-19584	CSM	THOMSON A C	(InsW)	Rev 1 Sept 43 to Rev 10 Sept 43.	(9)

6. PERMISSION TO MARRY

(a) H-7153 CPL HILL B E N (UnpR) Granted permission to marry Miss Doris Rosalie May BRATTON, Bromley, Kent, England on or after 15 Oct 43. (AUTH: AGP 6-0-Marr d/1 Sept 43.)

7. CHANGE OF ADDRESS N/K

(a) H-40599 PTE HAYWARD J E (RWR) Mrs Grace HAYWARD (Mother) 190 Good St., Winnipeg, Manitoba, Canada.

8. CATEGORIES

(a) H-102830 PTE JARVIE C J (UnpR) Having been medically reboarded at Witley, Surrey on 7 Jul 43 is now placed in Category A."1" (AUTH: MFB 227)

(b) H-41039 L/CPL BIRD M (RWR) Having been medically reboarded at Horsham, Sussex on 30 Jul 43 is now placed in Category C"2" (MFB 227)

(c) H-20536 A/L/CPL MORRIS B W (QOCH) Having been medically reboarded at Horsham, Sussex on 10 Aug 43 is now placed in Category C"1" (MFB 227)

(d) L-28019 PTE PARISIAN F (RRR) Having been medically reboarded at Horsham, Sussex on 6 Aug 43 is now placed in Category C"2" (MFB 227)

(OVER)

2 CANADIAN INFANTRY REINFORCEMENT UNIT

Last Order No: 181 d/1 Sept 43. | PART II DAILY ORDERS BY: COLONEL M K GREENE, COMMANDER | This Order No: 182 d/2 Sept 43.

SHEET THREE

8. CATEGORIES CONT'D

(e) L-13816 PTE WALL M H (SSR) Having been medically reboarded at #7 Cdn Gen Hosp on 3 Aug 43 is now placed in category C"2" (MFB 227)

(f) H-40620 PTE THORNE L (RWR) Having been medically reboarded "In the Field" on 19 Jul 43 is now placed in category C"2" (MFB 227)

9. SUSPENSION OF SENTENCE

(a) Pursuant to the provisions of A.A.Sec.57.A. the Senior Officer CMHQ directs the sentences of detention set out in column (b) of the list hereunder. Awarded by F.G.C.M. (D.O. 167 d/16 Aug 43 2 CIRU) to the soldiers whose names appear in column (a) on dates respectively shown in column (c) are suspended w.e.f. 1 Sept 43. (AUTH: Senior Officer CMHQ d/31 Aug 43.)

(A.)				(B.)	(C.)
B-52186	PTE	HOPE M H	(SLI)	six (6) months	13 Aug 43.
H-40612	PTE	PROSICK C J	(RWR)	sixty (60) days	13 Aug 43.
H-41221	PTE	POLNIK C L	(RWR)	sixty (60) days	13 Aug 43.

10. PUNISHMENTS

(a) B-16766 PTE CHRISTIAN F A (UnpR) CHARGE: A.A.Sec.15 (1) A.W.L. from 2300 hrs hrs 30 Aug 43 until 0600 hrs 31 Aug 43. (absent 7 hours)

AWARDED: 2 days F.P.

FORFEITS: 1 days pay FR&I 149 (1) (a)
2 days pay FR&I 149 (1) (b)

TOTAL FORFEITURE: 3 days pay 1 Sept 43.

SECTION "C" SPECIAL INCREMENT

1. STRENGTH DECREASE

(a) LIEUT A H FREDERICKSON (SSR) S.O.S. to SSR Spec/Inc w.e.f. 2 Sept 43.
LIEUT E R SMITH (SSR) (AUTH: 99/29/SSR/1 d/30 Aug 43.)

WFK/js

Wm. Rogers Capt .....for Adjt

2 Cdn Inf Reinf Unit

EXHIBIT "D"

RECORD of the Declaration of a Court of Inquiry assembled at Laurentide, Camp on the 9th day of August 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L 1600 Pte. Mosquito, S. Sask. L.I. (MG)

DECLARATION

The Court declare that No. L 1600 Pte. Mosquito, S. Sask. L.I. (MG)

illegally absented himself without leave

at Laurentide, Camp, 2359hrs the 17th day of July 1943, that he is still so absent, and that on the 18th July 1943 he was deficient, and that he is still deficient of the following articles:—

	ARTICLES	Voc. VALUE £	s	d	ARTICLES	Voc. Less 25% £	VALUE s	d
1	Blouses, Battle Dress	1	7	8		1	0	9
1	Boots, Ankle prs.	1	1	6		0	16	4½
1	Cap, Filed Service	0	3	8		0	2	9
1	Drawers, cellular shorts.	0	2	0½		0	1	6
1	Trousers, Battle Dress pr.	1	7	11		1	0	11
1	Brasses Cleaning.	0	0	2		0	0	1½
1	Brush, clothes.	0	1	1		0	0	9½
2	Socks. prs	0	3	4		0	2	6
2	Eyeshields A/Gas.	0	1	7		0	1	2½
	TOTALS	4	7	11		3	6	11

Signed at "D" Coy No. 2 C.I.R.U.

this 9 day of Aug 1943

President

Member

Member

Signature of Commanding Officer

Certified true copy

Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 115
HM—2-43 (9769-70)
H.Q. 1172-26-237

Mr Mosquito
Mrs

SUMMARY OF EVIDENCE

in the case of

L-1600 Private Soloman MOSQUITO (Saskatoon Light Infantry), on strength of 2 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Charge:-

Absence Without Leave.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

First Witness for the Prosecution

Lieutenant J. Gartside, Assistant Records Officer, 2 Canadian Infantry Reinforcement Unit, having been duly sworn states:-

"I am Lieutenant J. Gartside, Assistant Records Officer, 2 Canadian Infantry Reinforcement Unit, and I produce the following documents:-

(a) A certificate in accordance with PC2797 purporting to be signed by the D.A.P.M. London Area, relating to the accused. (Certificate marked as Exhibit "A").

(b) 2 Canadian Infantry Reinforcement Unit Daily Order Number 164 dated 12th August, 1943 showing the accused as having been declared a deserter from 2359 hours 17th July, 1943. (Marked Exhibit "B").

(c) 2 Canadian Infantry Reinforcement Unit Daily Order Number 182 dated 2nd September 1943 showing the accused as having been apprehended by Canadian Provost Corps in London at 1405 hours 30th August, 1943. (Marked Exhibit "C").

(d) A certified True Copy of the record of the Declaration of a Court of Inquiry concerning the absence of the accused.

J. Gartside Lieut
.....
(J. Gartside) Lieutenant
2 C.I.R.U.

Accused declined to cross-examine witness.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d) (e) (f) have been complied with.

J. J. Moffat Lieut
.....
(J. J. Moffat) Lieutenant
Officer detailed to take
the Summary of Evidence.

Witley, Surrey,
5th September, 1943.

unsuspected

LIST OF WITNESSES

In the case of L-1600 Pte. Solomon Mosquito

1. Lieutenant J. Cartside - Assistant Records Officer
2 C.I.R.U.

LIST OF EXHIBITS

In the case of L-1600 Private Soloman MOSQUITO

(a) A Certificate in accordance with PC2797 purporting to be signed by the D.A.P.M. London Area, relating to the accused.

(b) 2 Canadian Infantry Reinforcement Unit Daily Order Number 164 dated 12th August, 1943 showing the accused as having been declared a deserter from 2359 hours 17th July, 1943.

(c) 2 Canadian Infantry Reinforcement Unit Daily Order Number 182 dated 2nd September, 1943 showing the accused as having been apprehended by Canadian Provost Corps in London at 1405 hours 30th August, 1943.

(d) A certified True Copy of the record of the declaration of a Court of Inquiry concerning the absence of the accused.

Mms.

I hereby acknowledge that I have received a copy of the Summary of Evidence and Charge Sheet in connection with the charges pending against me

Pte Mosquito. S.

I desire the services of an Officer to represent me at my trial

Pte Mosquito. S.

Laurentide Camp
5 September 1943

mms.

(ORIGINAL MISLAID: EXTRACTS TAKEN FROM M.F.M. 4.)

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. L 1600 Name MOSQUITO, S. | Sqn., Battery, or Company: Corps S.L.I. (MC) | Date of enlistment: 10-10-39 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1-7-40	Pte.		AA Sec. 15(1) AWL 68 hours.		7 days C.B.	1-7-40		Forf 3 days pay
Field	7-8-40	"		AA Sec. 15(1) AWL 153 hours 30 mins		21 days detn	16-8-40		Forf 7 days pay
Field	20-9-40	"		AA Sec. 15(1) AWL 40 days;		12 months detention	4-4-41	F.G.C.M.	Forf 472 days pay
				AA Sec. 15(1) AWL 16 days;		3 mos with H.L.	22-12-40	Civil Power	
Northampton	22-12-40	"		Larceny.		7 days C.B.	3-7-42		
Field	2-7-42	"		AA Sec. 40 Neglect to the prej:		10 days forf:	15-7-42		Forf:5 days pay
Field	15-7-42	"		AA Sec. 15(1) AWL 4 days 45 mins		28 days forf:	28-7-42		Forf:5 days pay
Field	23-7-42	"		AA Sec. 15(1) AWL 4 days 4 hrs.		7 days C.B.	17-8-42		Forf:1 days pay
Field	17-8-42	"		AA Sec. 15(1) AWL 7 hrs 50 mins		10 days forf:	27-8-42		Forf:1 days pay
Field	26-8-42	"		AA Sec. 15(1) AWL 7 hrs 15 mins		21 days forf:	1-10-42		Forf:15 dayspay
Field	15-9-42	"		AA Sec. 15(1) AWL 15 days		28 days F.P.	7-10-42		Forf: 29 dayspay
Field	4-10-42	"		AA Sec. 15(1) AWL 7 hrs 50 mins		12 mos detention	16-10-42	F.G.C.M.	Total forf: 384 days pay
Field	27-8-42	"		AA Sec. 15(1) AWL 9 days, 14 hrs. 30 mins: AA Sec 15(1): AA Sec.10(4).					

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified True Copy:-			Released from detention barrack held on Jun 15 1943 having expired. Permission granted under Rules for Detention Barracks and Military Prisons 120 days		Sentence
				(D.J. Fusedale) Capt & Adjt., #1 Canadian (MG) Rein: Unit, C.A.O.					
				A Certified True Copy of M.F.M. 6 held in my Custody					
				Officer having Custody of Documents					Commandant's initials
				B C H'lin 8 Sep 1943					

Supplementary Copy

No. 1-1600 Name Mosquito, S | Sqn., Battery, or Company | Corps S.L.I. | Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. A. Wisholls Capt. | Character GENERAL Coy.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	15-9-42	Pte.		A.A.Sec 15(1) A.W.L. from 0815 hrs. 15-9-42 to 0700 hrs 30-9-42 Absent 14 days 22 hrs. 45 mins. A.A. Sec 40. Failing to obey an order given by Military Police	C.S.M. Hughes Documentary	21 days additional forfeiture of pay. Placed under stoppages in amount of 5/8 being Cost of Apprehension	3-10-42	I.R. Barber Major	15 days automatic forfeiture of pay

A Certified True Copy of M.F.M. 6 held in my Custody

Officer having custody of Documents

8 Sep 43

(P.T.O.)

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L-1680	Pte.	Solomon Mosquito	S.L.I.

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets or Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For AWL A.A. 15 (1)	6	times AWL A.A. 15 (1)	12	times
For		times A.A. 40	1	times
For		times		times
For		times		times

or,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [illegible]

or,

Previous convictions of the accused by a court-martial or a civil court, or summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

[illegible]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 8 days in military custody, making a total of 8 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 23 yrs. 6 mos. 4 days.

6. The date of his attestation specified in his attestation paper is 10-10-39

7. [illegible]

[illegible]

9. The accused is in possession of or entitled to no military air force decoration, or military air force reward. State any military air force decoration or reward.

10. [illegible]

the regimental rank of [illegible]

W. M. Dwyer Capt
Major

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force dated ....., and in his regiment (or corps), the rank of ..... unit dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

	Date of promotion.
In the rank of	years.
In the rank of	years.
In the rank of	years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number L-1600 Rank Pte.

Name Solomon Mosquito of 2 C.I.R.U. Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Field 4/4/41	A.W.L.	12 Mos Detention	118 days.
Civil Power	Northampton England 22-12-40	Larceny	3 Mos Hard Labor	
F.G.C.M.	Field 16/10/42	A.W.L.	12 Mos Detention	120 days.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8 day of Sep 1943 J. Gartside, Lt. Asst Rec. Officer.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

L-1600 Pte. Mosquito, Solomon
Saskatoon Light Infantry (MG)
#1 Cdn. M.G. Reinf. Unit.

143 P

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this fifteenth day of October, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units, Canadian Army, (Overseas), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~[I am unable to appoint:~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—]~~

* Omit if not applicable.

PROCEEDINGS REVIEWED

Gen Graham
Commanding Military District No. 3 Ontario
26 Oct 42

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	T.A.K. Langstaff	S.D. & G. Highrs. #3 C.D.I.R.U.

Members.

Rank.	Name.	Regiment.
A Captain	from	#1 C.M.G.R.U.
A Lieutenant	from	#1 C.M.G.R.U.
A Lieutenant	WAITING MEMBER from	#3 C.D.I.R.U.

*Signed [signature] Colonel.
Commanding "D" Group, Cdn. Reinf. Units.
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L-1600 Private. MOSQUITO Solomon Sask. L.I. (MG) #1 C.M.C.R.U.	First Charge A.A. Sec. 15 (1)	Not guilty	Guilty To undergo detention for a period of 12 months. 16-10-42	Confirmed J. Stewart Lt Col Commander a/Commander "D" Group Can. Reinforcement Unit, C.A. 19 OCT 1942
	Second Charge A.A. Sec. 15 (1)	Not guilty	Not guilty	
	Third Charge A.A. Sec 10 (4)	Not guilty	Not guilty	
	See Charge Sheet attached			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" No, Sir.

Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) J. Stewart Lt Colonel.
a/Commanding "D" Group, C.R.U.
Convening Officer (*e*)

(*Signed*) Thomas H. Langstaff Major
Prosecutor

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

CHARGE SHEET

The accused, No. L 1600, Pte. SOLOMON MOSQUITO, of the Saskatoon Light Infantry (MG), on the strength of the No. 1 Canadian Machine Gun Reinforcement Unit, an active unit of the Canadian Army Overseas, is charged with:-

FIRST CHARGE—

A.A. SEC. 15 (1)

WHILE ON ACTIVE SERVICE, Absenting himself without leave,
in that he
at No. 8 Canadian General Hospital, absented himself without leave from 1900 hours, 27 August, 1942, until apprehended by the Canadian Provost Corps in Waterhurst at 0930 hrs, 6 September, 1942.
(Time Absent:- 9 days, 14 hours, 30 minutes).

SECOND CHARGE.

A.A. SEC. 15 (1)

WHILE ON ACTIVE SERVICE, Absenting himself without leave,
in that he
at Leipzic Barracks, Ewshot, Hants., absented himself without leave from 1300 hours, 7 October, 1942, until apprehended by the Canadian Provost Corps in Reading at 1630 hours, 7 October, 1942; (Time Absent:- 3 hours, 30 minutes); thereby incurring expenses of escort and accused, from Reading to Leipzic Barracks, Ewshot, Hants., of Eight Shillings and Fivepence (8/5d).

THIRD CHARGE.

A.A. SEC. 10 (4)

WHILE ON ACTIVE SERVICE, Breaking out of Barracks,
in that he
at Leipzic Barracks, Ewshot, Hants., on 7 October, 1942, broke out of Barracks while undergoing Field Punishment.

EWSHOT, HANTS.
12 OCTOBER 42.

(J.H. Christie) Lieut.-Col.
Officer Commanding,
#1 Canadian (MG) Rein: Unit
C.A.O.

To be tried by Field General Court Martial.

Ewshott. Hants.
15 October 1942.

(J. R. Stewart Lough) Colonel.
A/Commander,
"D" Group, Cdn. Reinf. Units.

Thomas Lancaster
President, Court Martial

EXHIBIT "A"

Medical Officer's Certificate.
K.R. (Can), para 557.

I certify that I have this morning examined No.L.1600.....
...Pte..Mosquito..S..... of#4.Coy..(MG).Reinforcement Unit..
and in my opinion, he is ~~Unfit~~ fit to undergo trial by Court Martial.
Station:- .Ewshot, Hants.....
Date:- 16.Oct.42.....

(Sgd) A. M. Wallace Capt
(Medical Officer).

(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42)

Page 1

Proceedings of a Field General Court Martial held at H.Q. 1 CMHSRU Eastbot, Herts on the 16th day of October 1942

Trial of. No L-1600 Pte Mosquito, Solomon
Saskatoon Light Infantry (MG)
#1 Cdn M.G. Reinf. Unit.

The order convening the court, charge sheet, summary of evidence and medical certificate were laid before the court and the court satisfied themselves in accordance with R.P. 22 & 23

Prosecutor: Lieut T.M. Dodson RMR (MG) #1 CMHSRU.
Defending Officer: Capt. J.H.H Dafoe Tor Sect R (MG) #1 CMHSRU

The Trial commenced at 1200 hrs

The order convening the court was read, signed by the President and attached to the proceedings

The names of the President and members of the court were read over in the hearing of the accused and they severally answered to their names

The following question was asked
Do you object to be tried by me as President or by any of the officers whose names you have heard read over?
Answer - No Sir.

The President and members were duly sworn in.

The following constituted the court.
President: Major Thomas A.K. Langstaff 3 CDIRU
Members: Capt H.W. Long - Sask. L.I. (MG) #1 CMHSRU
Lieut E.W. Smith - R.M.R (MG) #1 CMHSRU
Lieut C.H Barrett - H.L.I. of C. an officer under instruction was duly sworn.

The
2-1600 Pte Mosquito. Solomon.

Cont'd

The accused was arraigned upon the first charged on the Charge sheet and asked if he pleaded guilty or not guilty.

The accused answered – Not Guilty.

The accused was then arraigned and asked the following question

Question: Are you guilty or not guilty of the second charge against you which you have heard read?

The accused answered – Not Guilty

The accused was then arraigned and asked the following question.

Question: Are you guilty or not guilty of the third charge against you which you have heard read?

The accused answered – Not Guilty.

The following question was then asked of the accused.

Question. "Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer No. Sir.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
1 CGRU	15-9-42	Pte		A.A. Sec 15(1) AWL from 0815 hrs 15-9-42 to 0700 hrs 30-9-42 14 days 22 hours 45 mins.		Forf. 21 days pa pay.PRI 149(2) Stoppages of pay.£-s.5/8	3-10-42		Forf 15 days pay by PRI 149(1)(a)
Field	4-10-42	Pte		A.A. Sec 15 AWL from 0600 hrs 4-10-42 to 1350 hrs 4-10-42 7 hours 50 mins.	Cpl. Dribnenki. Documentary.	28 Days F.P. 28 days pay	7-10-42	Lt-Col.J.H. Christie	Forf 1 days pay PRI 149(1)(a)

No. 1.1600 Name Mosquito, S. Sqn., Battery, or Company #1 CMGR Corps Period not reckoning towards freedom from extra fine

Date of last entry in Company Conduct Sheet 16 July 42. No. and date of last drunk

Date of enlistment 10-10-39 O.C. Badges Signature O.C. Company, etc.

Service or Proficiency Pay

Character

Sheet No. 2

M.F.M. 6 (A.F.B. 122) 50694—5,39 (1793) H.Q. 1772-41-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ROCKLIFFE PARK OASIS VILLAGE	23 JULY 42.	PTE.		(A.A. SEC. 15(2)) "WOAS" I ABSENTING HIMSELF WITHOUT LEAVE, IN THAT HE, IN THE FIELD, ABSENTED HIMSELF WITHOUT LEAVE FROM 2400 HRS 23 JULY 42 UNTIL HE VOLUNTARILY SURRENDERED HIMSELF TO CIVILIAN POLICE AT WOODGRAM AT 0230 HRS 28 JULY 42. (ABSENT 4 DAYS, 3 HRS & 30 MINS)	B5234 SGT. HARPER, R.A. B93815 SGT. BOWERS, D.H. P30363 S/M. BORROWS, T.H. D92506 SGT. LAMBERT, A.E. B89276 W/CPT. BARRY, R. DUSEK, P.R. DOWNALL, A.J. C29052 CPT. ANDERSON, P.W.	1. FORFEITS 28 DAYS PAY FR.R.(CAN) PARA 19(1)(a) 2. AWARDED 12 MONTHS PAY TO THE AMOUNT OF R.P.-2-1. FR.R.(CAN) PARA 78(2)	30 JULY 42			FORFEITS 5 DAYS PAY FR.R.(CAN) PARA 19(1)(a)
	6-10-42	PTE.		(A.A. SEC. 15(2)) "WOAS" I AWOL FROM DUTY IN THAT HE "LINEUP MUSTER" 16 AUG 42 FAILED TO REPORT FOR DUTY IN UNIT KITCHEN AT 0600 HRS 16-8-42 AND REMAINED IN AT 2359 HRS 16 AUG 42. (ABSENT 17 HRS 59 MINS)		1. AWARDED 7 DAYS C.B.	17 AUG 42		FORFEITS 10 DAYS PAY FR.R.(CAN) PARA 19(1)(a)

REGISTRAR #1 NEURO. HOSP.

(P.T.O.)

"EXHIBIT "E"

S.L.I.

Name Mosquito, [illegible]

Sqn., Battery, or Company

Corps S.L.I. (MG)

Date of enlistment 19-10-39

G.C. Badges

Service or Proficiency Pay

M.F.M. 4 (A.F.B. 122) 30M—4.39 (1700) H.Q. 1772-45-14

Date of last entry in Company Conduct Sheet 3-4-40

Period not reckoning towards freedom from extra fine

No. and date of last drunk nil

Sheet No. 2

Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Corps of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous sheet with no regt. entry destroyed 20-1-41									
Wheatly	28-6-40	Pte.		W.O.A.S.,A.W.L. from 2200 hrs 28-6-40 to 1800 hrs 1-7-40.	Sgt.Grainger	7 days C.B.	3-7-40	Major Embury	Forfeits 3 days pay F.R.&.I.
Ockley	31-7-40	Pte.		W.O.A.S.,A.W.L. from 2200 hrs 31-7-40 to 0730 hrs 7-8-40.	CSM. Hanley	21 days detn.	7-8-40	Col. Mc Perron	Forfeits 7 days pay. F R.&.I.
Boston	4-9-40	Pte.		Absent 6 days, 9½ hrs Found Guilty of A.W.L. A.A. Sec. 12 (1) (a) A.A. Sec. 12 (1) (a) A.A. Sec. 24 (2) ONLY	Documentary	one year hard labour and stoppages of pay of £9-17-4½	4-4-41	F.G.C.M.	Total forf of pay 472 days pay

Sentence commuted to one year's detention by Brigadier L.F. Page, D.S.O. commanding C.B.U. on 9-4-41

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispos[illegible]	By whom awarded	
Northampton	22-12-40	Pte		Larceny.	3 months imprisonment with hard labor.	Sentenced to 7 DAYS C.B.	30-12-40	Civil Power at Northampton Borough Petty Sessions.	Forf 90 days [illegible] FR&L [illegible] (1) Forf [illegible] days pay [illegible] 140 (1) (c) £ [illegible] pay [illegible] FIN L (C)
MACARIOS PARK. B'SHOP	2 TOUR	PTE		A.A. SEC 40 "W.O.A.S." I. NEGL. DUT. IN THAT HE NEGLECTED TO CLEAN CORRECTO THE HOSPITAL KITCHEN BEFORE GOING OFF DUTY AA SEC 15(1) AWL FROM 2200 HRS 11 TOUR UNTIL 0545 HRS 15 TOUR HE WAS APPREHENDED BY CIVILIAN POLICE. (ABSENT 8 DAYS OF 7 DAYS)	DICKINSON, G.M. MISS A.E. THORNTON, E.A. 832 COL SGT LAMBERT, A.E. 832 30 SGT MURRAY, R. F 30262 S/M BURROWS, T.	F.P. REMISSION DAYS PAY E.R.L. PARA 199 (1)(a)			

RELEASED from the DETENTION BARRACK Wed on DEC 5 1949 SENTENCE HAVING EXPIRED. Remission earned under "Rules for Detention Barracks and Military Prisons" 118 days

COMMANDANTS initials

REGISTRAR

REGISTRAR

REGISTRAR

The 1st Witness for the Prosecution

L 21051 R.S.M. Greenley E.W. #8 Can Gen Hosp RCAMC having been duly sworn was examined by the Prosecutor

Question 1 - What is your number, rank, name and unit.

Answer 1 - L 21051 R.S.M. Greenley E.W. #8 Can Gen Hosp RCAMC

Question 2 Tell the court what were your duties on 27 day of August 1942

Answer 2 I was in charge of discipline at Carmichael Hospital.

Question 3 Do you recognize the accused

Answer 3 Yes, the accused is Pte Mosquito

Question 4 Tell the court what happened in relation to the accused on 27 aug.

Answer 4 at 1900 hrs 27 day of August I proceeded to ward 10 and the accused was not at his bed side - his blues were missing - I went to the N.A.A.F.I. and surrounding area - I could not find the accused. I checked again at 2000 hrs the same night. At repeated periods from then on I went to the ward and the accused was not present. I personally notified the D.A.P.M. of his absence by telephone. The accused was returned to the hospital on the 11th day of September - he was dressed in blue dress - as a patient in the hospital he is subject to regulations - he was warned personally by Col Young O.C #8 Hospital on the morning of aug 27 regarding

P.T.O

his leaving the ward or hospital without leave — the accused was not in possession of a pass.

Cross examined by the defending officer as follows.

Question 5 What were the circumstances of the accused's return?

Answer 5 He was brought back by Provost

Question 6 You did not see the accused between dates 27 aug and 11 Sept?

Answer 6 No Sir

2nd Witness for the Prosecution

Lieut T. M Gordon RMR (MS.) #1 CMSRU having been duly sworn produced documentary evidence ~~CMHQ 1000.55~~

Exhibit B - Certificate of arrest
Exhibit C - Certificate of arrest
Exhibit D - CMHQ: 1000/:55

These exhibits refer to the accused.

Questioned by the Court

Question 7 Do you recognize and identify the accused as the person before the court.

Answer 7 I do.

Question 8 Have you any further evidence in connection with the second charge.

Answer I would like to call Cpl Levery W.J.

3rd Witness for the Prosecution

B 76742 Cpl Levery W.J. Tn Sect R(MS) #1 CMSRU having been duly sworn

Questioned by the Court

Question 9 Do you recognize the accused

Answer 9. Yes, The accused is the man into

Questioned by the Prosecutor

Question 10. Tell the court the circumstances of what happened in relation to the accused.

Answer 10. On 7 oct I was on duty in the guard room. Pte Mosquito had 28 days field punishment. At 1730 hrs Pte Mosquito was to parade with the rest of the field punishment men, which he failed to do. At 2200 hrs 7 oct Pte Mosquito was still absent — I charged him with being absent from field punishment parade.

Questioned by Defending Officer

Question 11 Where was Pte Mosquito during 1730 & 2200 period.

Answer 11 I couldn't say.

The prosecution is closed.

By the President to the accused

Question 12. "Do you wish to give evidence on oath or do you wish to make a statement not on oath? You do not have to do either. If you elect to give evidence on oath, you are liable to cross examination as any other witness. If you make a statement you will not be sworn and you will not be cross examined, nor will you be obliged to answer any question. Evidence on oath carries more weight than a statement. If you make a statement it will be taken down in writing and will be given due consideration"

The accused declined to make a statement under oath and there were no further witnesses.

The Defending Officer then addressed the Court as follows.

"On the first charge R.S.M. Greenly gave evidence that accused absented himself from hospital at 1900 hrs 27 Sep – he gave certain evidence in support of this such as searching the hospital and not finding him there – his subsequent arrest at 0930 hrs 6 Sep is proved by a certificate of arrest – Exhibit B – There is also an exhibit of arrest of the accused showing that he was arrested at 1630 hrs 7 Oct – There is an expense voucher for ~~Eighty~~ 8 shillings and five pence. No evidence has been produced by the prosecution as to the accused's having absented himself on that date. There are many reasons why a man might be arrested in Reading on the 7th of October which are quite consistent with him not being illegally in Reading – several soldiers could be found in Reading any day with good reason. I submit to the court that the second charge has not been proved. On the third charge the only evidence before the court is that the accused was absent from two parades at 1730 hrs and 2200 hrs respectively on the 7th of October. The accused is not charged with absenting himself from any parade and while absence from a parade may help to prove that a soldier continues to be out of barracks. In this case there is no evidence that the accused ever did break out of barracks or that any search was ever made for him in the barracks – Summing up I submit that the facts of the 1st charge have been substantially proved – that proof of the principle facts necessary to support an A.W.L. charge is absent as far as 2nd charge is concerned – That no facts have been brought forward in proof

The Court

of the third charge at all — Therefore I ask the Court to acquit the accused on the 2nd & 3rd Charges.

The Prosecuting Officer stated.

It is in the evidence that the accused was undergoing field punishment at the time and it is therefore difficult to see how he could be in Reading without being AWL and without having broken out of barracks.

The Court was closed for consideration of the findings.

The Court was reopened, and the accused again brought in.

The accused was informed that he was found 'Not Guilty' on the 2nd and 3rd Charges.

Lieut T.H Gordon R.M.R. (M.D) #1 CMBRU was sworn and produced AFB 296 and MFM6 and stated that accused was the person named in the documents which were compared by him with Regt'l records and are true ~~copies~~ extracts of the same. The above documents were read, signed by the President and attached to the proceedings.

The Defending Officer then addressed the Court as follows.

"I have very little to say — the accused has a long record but he would ask the Court to take into consideration that the accused is an Indian and not perhaps as amenable to discipline as others — there may be a lack of understanding of the nature of military

P.T.O.

3h discipline — it is difficult to find a solution.
The accused believes that when he returns to his company the other soldiers treat him as an outcaste — when he came back or was brought back to barracks here no one spoke to him — he therefore under the circumstances left again. He now asks the court to consider all these factors.

The Court is closed for consideration of sentence.

The above summary of proceedings was taken down by me

Thomas Langstaff Major
President.

SUMMARY OF EVIDENCE

Summary of evidence in the case of No.L 1600 Private Mosquito, S. of the Saskatoon Light Infantry (MG) Regt. on strength of 1 Can.(MG)Reinforcement Unit, a soldier of the Canadian Army Overseas.

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

FIRST WITNESS

For the prosecution

No. L 21051 R.S.M. Greenley E.W. of No. 8 Canadian General Hospital, Royal Canadian Army Medical Corps Canadian Army Overseas, having been duly sworn states as follows:-

At Farnborough Hants on 27 August 1942 I was in charge of discipline of all patients in Connaught Hospital. At 1900 hours 27 August 1942 it was reported to me that L 1600 Pte. Mosquito, S. was absent from his ward. I had a search made of the Hospital Area, going to the ward myself and the accused could not be found. He was posted as absent and reported to the Provost Corps as such. At 1900 hours 4 September 1942 the accused returned to the Hospital in Battle Dress, he having left in blue's I placed the accused under open arrest. On the morning of 27 August 1942 the accused was warned by the C.O. of the 8, Canadian General Hospital that he was not to leave the hospital without permission. The accused was not on pass. In support of my evidence I produce a PART II ORDER No.56 dated 9 September 1942(Exhibit "C") which shows the accused absent at 1900 hours 4 September 1942. Pte. Mosquito was continuously absent till returned by the Provost on 11 September 1942.

The witness was cross examined by the presiding officer.

Question 1. Your story does not seem to tie in with the other evidence. How can you reconcile his return to hospital on 4 September 1942 and his apprehension in Waterhurst on 6 September 1942.

Answer 1. My only reason for saying he returned on 4 September 1942 was the PART II ORDER entry which say's he continued to be absent. Actually he was absent from the hospital until 11 September 1942, when he was returned by the Provost. In corroboration I submit a letter to C.O. 1 C.M.G.R.U. re-the accused absence(Exhibit "D")

The accused declines to cross examine this witness.

E.W. Greenley
R.S.M. W.O.1.
(E.W.Greenley) L. 21051.

SECOND WITNESS

for the prosecution

Lieut. C. Staines, officer in charge Detention Room No. 6 Canadian Provost Company, Canadian Army Overseas.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in the, summary of evidence marked as Exhibit "E". Having regard to the loss of time involved, attendance of the witness cannot in my opinion be readily procured.

Signed Ronald Waterhouse Major
Judge Adv.

The accused does not demand the attendance of this witness for cross examination.

SUMMARY OF EVIDENCE CONTINUED

THIRD WITNESS
for the prosecution

No. M-36594 A/Cpl. Dribnenki, P. of the Saskatoon Light Infantry(MG) on strength of the No. 1 Canadian Machine Gun Reinforcement Unit, A soldier of the Canadian Army Overseas, having been duly sworn states as follows:-

At Ewshot Hants. on 7 October 1942 I was Company Orderly Sergeant. No. L-1600 Pte. Mosquito, Solomon was awarded 28 days Field Punishment; at 1130 hours 7 October 1942 by the Commanding Officer, Lt. Col. J.H. Christie, M.C. E.D. At roll call, 1300 hours 7 October 1942 No. 1600 Pte. Mosquito, S. was reported to me A.W.L.

P.M. 1300

P. Dribnenki

The accused declines to cross examine this witness.

FOURTH WITNESS
for the p prosecution

No. B-76742 Cpl. Lavery, W.J. of the Toronto Scottish Regiment (MG) on strength of the No. 1 Canadian Machine Gun Reinforcement Unit, a soldier of the Canadian Army Overseas having been duly sworn states as follows:-

At Ewshot, Hants. on 7 October 1942 I was Provost Corporal on duty from 1700 hours, 7 October 1942 to 0030 hours 8 October 1942. Field Punishment Parade was held at 1730 hours. No. L-1600 Pte. Mosquito, S. failed to appear on this parade. At 2200 hours 7 October 1942 I laid a charge against L-1600 Pte. Mosquito, S. for being A.W.L. from this parade.

Cpl Lavery W. J.

The accused declines to cross examine this witness.

FIFTH WITNESS
for the prosecution

No. D-77036 Cpl. Yates, S.C. of the Royal Montreal Regiment (MG) On strength of the No. 1 Canadian Machine Gun Reinforcement Unit, a soldier of the Canadian Army Overseas having been duly sworn states as follows:-

At Ewshot , Hants. on 7 October 1942 I was Provost Corporal from 0800 hours to 1700 hours to 1700 hours. At 1130 hours 7th Oct, 1942 L 1600 Pte. Mosquito, S. was awarded 28 days field punishment by Lieut. Col. J.H.Christie,M.C.ED Pte. Mosquito had his dinner in the guard room and was released at about 1210 hours.

S.G. Yates Cpl

The accused declines to cross examine the witness

SIXTH WITNESS
FOR THE
prosecution

Lieut. H.W.Cowling, officer in charge, Detention Room, No. 6 Canadian Provost Company, Canadian Army Overseas. A written statement of this Witnesses evidence, purporting to be signed by him, has been read to the accused and is included in this summary of evidence and is marked Exhibits "A" and "B".

Having regard to the loss of time involved attendance of this witness cannot in my opinion be readily procured.

Maurice C. Mitchell Major

The accused does not demand the attendance of this witness for cross examination.

SUMMARY OF EVIDENCE CONTINUED

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused No. L 1600 Pte. Mosquito, S. of the Saskatoon Light Infantry, (MG), on strength of the No.1 Canadian Machine Gun Reinforcement Unit, a soldier of the Canadian Army Overseas, States as follows:

I was apprehended by an officer of "D" Company, Saskatoon Light Infantry, (MG) near Wadhurst and turned over to the Saskatoon Light Infantry, (MG) R.P. I wish to have this officer present at my trial by Courtmartial as witness. I do not know the name of this officer.

S. Mosquito

I certify that the foregoing summary of evidence consisting of three pages was taken down by me in the presence and hearing of the accused, and that the Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

[illegible] Capt
Adj L.I.

Ewshot, Hants,
12th October, 1942.

Officer i/c Detention Room,
No. 6 Cdn. Provost Coy.

Major [illegible]

EXHIBIT "B"

~~Exhibit "E"~~

~~[illegible]~~

CERTIFICATE IN ACCORDANCE WITH P.C. 2707 of 10 APR 42

I CERTIFY that No I-1800... Rank Pte.. Name ..MOSQUITO, S.....

Unit . S.L.I. attached to No. 8 Gen. Hosp. arrested at Waterburst..(Place)

at 0930....(Hour) on . 8-9-42.....(Date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian Clothes~~)
Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.
(Strike out part inapplicable)'

LONDON
10-9-42

.....Lieut.
Officer i/c Detention Room,
No. 6 Cdn. Provost Coy.

Thomas Langstaff
Provost Major

EXHIBIT "C"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I CERTIFY that No L-16000... Rank Pte.. Name Mosquito,S.....

Unit ..#1.N.C.B.U..... was arrested at Roadside....(Place)

at 1630...(Hour) on 7-OCT-42.....(Date) and that at the time of his arrest he was wearing (Military Uniform) or (XXXXXXXXXXXXXXXXXX
Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.
(Strike out part inapplicable)'

N.W. Cowling ....Lieut.
Officer i/c Detention Room,
No. 6 Cdn. Provost Coy.

~~Exhibit A~~
~~Provost Marshal~~

Thomas K Campbell EXHIBIT "D"

Expense Voucher No.: Ref: K.R. & O. (Can) 539

Reg. No. L1600 Rank Pte. Name Moquito, S Unit 1M4AU

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Reading

Date	Particulars	Amount		
9 Oct. 42	Escorts return fare from LONDON To Reading		5	7
	Prisoners single fare to LONDON From Reading		2	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		8	5

~~Exhibit B.~~

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

H. W. Cowling Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

O.M.H.Q. 1000:55
40/P & S/4R3

Thomsett (engineer) EXHIBIT "E"
President

M.F.B. 555
40/P & S/678

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L-1600	Pte	Mosquito, S.	NolCMGRU (SLI)

1. The following is a fair and true summary of the entries in the ~~Service and Conduct~~ Regimental ~~and Squadron/Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For A.A. Sec 40	One	times	A.A. Sec 40	One (1) times
For A.A. Sec 15(1)	Five(5)	times	A.A. Sec 15(1)	Seven (7) times
For		times		times
For		times		times

~~XXXX

11. ~~As the case of an officer.~~ The record books in the Royal Canadian Air Force the rank of Pensioner/Force

.....dated....., ~~and in his regiment (or corps)~~, the rank of

.....dated.....

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

.....Date of promotion.

~~In the rank of~~ ..... ~~years.~~

~~In the rank of~~ ..... ~~years.~~

~~In the rank of~~ ..... ~~years.~~

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number L-160[illegible] Rank Pte.

Name Mosquito, S. of No.1 C.M.G.A.U. (SLI) Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Bordon 4-9-40	A.A. Sec 12(1)(a) A.A.Sec 12(1)(a) A.A.Sec 24(2)	Found guilty of AWL only 1 Yr's Detention.	:118 Days : : :
Civil power at Northampton Borough Petty Sessions.	Northampton 22-12-40	Larceny	Guilty. 3 months imprisonment with Hard Labour.	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of October, 1942.

Captain Adjutant
Cdn. N.G. Rein. Unit C.A.(O)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

#1 CANADIAN (MG) REINFORCEMENT UNIT, C.A.O.

13 October 1942

I, No. L 1600 Pte. MOSQUITO, S., wish to
(No.) (Rank) (Name)

have an Officer defend me at my forthcoming trial by Court-Martial.

I desire the services of Major Pettipiece

if he is available.

(Sgd) L 1600 Pte Mosquito S.

L 1600 Pte. Mosquito, S.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16 day of October, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 16 day of October 19 1942

Thomas K. Langstaff Major

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (5) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 19th day of October 1942,

J. R. Stewart Lough Col

Confirming Officer.

Commander "O" Group (Cdn. Reinforcement Units) C.A.

Promulgated and extracts taken in the case of L 16 on Pte. Morrison. S.

(a) (Dated) 20 Oct 42 (Signed) T. H. Christie

T. H. CHRISTIE, Lt.-Col.
O.C. I Cdn. M.G. Rein. Unit, C.A.(O)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

O.L. 47/60/1007 25 M. 5/41 K.JL/5065(2) Gp. 696/3

L-1600 Pte. Mosquito, S.
No.1 Cdn M.G. R.U.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 31st day of January, 19 42

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~[I am unable to appoint:—~~

*~~(1. Three Officers to form the Court);~~

*~~(2. A Field Officer as President;~~

*~~(3. Three Officers having more than one year's service.)~~

~~for the following reasons, namely:—]~~

Judge Advocate:- LIEUT. G.M. FORBES, HQ, C.R.U.

PROCEEDINGS REVIEWED

G.M. Graham Capt
Training officer (Jud.) C.R.U.
12 Mar 42.

President.

Rank.	Name.	Regiment.
Major	J.H. MacDonald	1 Cdn Div Inf Reinf Unit

Members.

Rank.	Name.	Regiment.
Captain	H.F. Amoe	No.1 Cdn Arty Reinf Unit
Lieutenant	A.E. Shorny	No.1 Cdn Arty Reinf Unit
Lieutenant	J.D.C. Holland	1 Cdn Div Inf Reinf Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]
Commanding Cdn Reinforcement Units.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L-1600 PTE. MOSQUITO, S. No.1 Cdn M.G. Reinf Unit.	First Charge A.A. sec 18(4) See charge sheet attached.	Not Guilty	Not Guilty	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*):—

(Signed) A. Mclaren Brigadier (Signed) J. Macdonald Maj.

Commanding Cdn Reinforcement Units. *President.*

Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4th day of February 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) Shorland writer
*(4. The officers under instruction)

were duly sworn.* Judge Advocate

* Omit if not applicable.

Signed this 6th day of February 1942.

J. Macdonald Maj.

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this day of 19

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(22758) Wt. 40213—893 [illegible] 1/40 P. St. G. Ltd.

L 1600 Pte. Mosquito, S. (SLI)

This is to certify that the m/n soldier has this day been examined, and is fit to undergo trial by Field General Court Martial.

4 Feb 42

H R L Davis

(H. R. L. DAVIS) Capt., R.C.A.M.C.
M.O., 1 Cdn. (M.G.) Unit, C.A. (O.)

LIST OF EXHIBITS

"A"	Eight (8) packages, 200 cigarettes in all, of Winchester cigarettes.

LIST OF WITNESSES

For the Prosecution

	Major	J.E. Farncomb	No. 1 Canadian (MG) Reinforcement Unit
B76618	Pte	Martin, I.G.	No. 1 Canadian (MG) Reinforcement Unit
M53308	Cpl	Tucker, R.G.	No. 1 Canadian (MG) Reinforcement Unit
L2669	Pte	Harnestrone, J.	No. 1 Canadian (MG) Reinforcement Unit
L2839	Pte	Pfliger, C.F.	No. 1 Canadian (MG) Reinforcement Unit

For the Defence

L1561	Pte	Lund, R.H.	No. 1 Canadian (MG) Reinforcement Unit

CHARGE SHEET

The accused, No. L 1600, Pte. MOSQUITO, S., of the Saskatoon Light Infantry (MG), on the strength of the No. 1 Canadian Machine Gun Reinforcement Unit, an active unit of the Canadian Army Overseas, as a reinforcement for his regiment, as a soldier of the Canadian Army Overseas, is charged with:-

A.A Sec 18(4)

WHEN ON ACTIVE SERVICE, Stealing property belonging to a person subject to military law,

in that he at Ewshot, Hants., on 16 January, 1942, stole a carton containing 300 "Winchester" cigarettes, Serial No. 8000, the property of B 76618, Pte. MARTIN, I.G., of the "T&R" Company, #1 Canadian Machine Gun Reinforcement Unit, a person subject to military law.

EWSHOT, HANTS.
28 JANUARY 42.

(J.H. Christie) Lt.-Col.
Officer Commanding,
#1 Canadian (MG) Rein: Unit,
C.A.O.

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Cdn Reinforcement Units.

Farnborough, Hants
This 31 day of Jan 42.

No. L-1600, PTE. MOSQUITO, S., No. 1 C.M.G.R.U., tried by Field General Court Martial at FARNBOROUGH, Hants. on the 4th day of February, 1942.

The order convening the Court, the charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:	Lieut. J.H. Chicoine,	No 1 CDIRU.
Defending Officer:	Lieut. J.McL. Prescott,	No 1 CDIRU.

At 0930 hrs the trial commences.

The order convening the Court is read, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1. No, sir.

The President and members are duly sworn.

The officers under instruction are duly sworn.

Q2. Do you object to No. B-66944, Sgt. T. Pyburn, HQ, C.R.U., acting as shorthand writer?
A2. No, sir.

The shorthand writer is duly sworn.

The charge sheet is signed by the President, and annexed to the proceedings.

The accused is arraigned upon the charge in theabove mentioned charge sheet.

Q3. Are you guilty or not guilty of the charge against you, which you have heard read?
A3. Not Guilty, sir.

Q4. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
A4. No, sir.

PROSECUTOR: I have an application for the consideration of the Court. I am informed this morning that the second witness for the prosecution, Major Farncomb, is absent. I would apply to have the evidence given under oath at the summary of evidence considered by the court and accepted. I don't think the accused will be prejudiced thereby.

DEFENDING OFFICER: I would object to that procedure. If that is done, I have no opportunity to cross-examine Major Farncomb whatever, and I submit the accused would certainly be prejudiced in having evidence before the court on which there is no opportunity for cross-examination.

THE COURT: Sworn evidence taken at some other time cannot be introduced.

PROSECUTOR: Then in that case, sir, I have to apply for an adjournment.

THE COURT: Do you know why Major Farncomb is not here?

PROSECUTOR: I have not the faintest idea, sir. I was only put on this case yesterday. I am quite prepared to carry out my job to the best of my ability but I am afraid I cannot bring out a certain material part of the evidence without the attendance of Major Farncomb. I consider him a necessary witness for the prosecution.

DEFENCE: Sir, Major Farncomb I believe is on leave. He was sent a priority wire the day before yesterday at the address given, informing him that this case was going on today, and that is all I know about it.

THE COURT: Due to the absence of a necessary witness the Court will adjourn until further notice.

THE COURT IS ADJOURNED SINE DIE.

Summary of Evidence
in the case of
21600 Pte Mosquito, S. (S.L.I.-(MG)) No. 1 Coy M.G. Rein. Unit.

On instructions from the Commanding Officer the evidence is taken on oath.

First Witness for the Prosecution

B76618 Pte Martin, J.G. T.S.R. #1 C.M.G.R.U., having been duly sworn states:-

I am B76618 Pte Martin J.G. "T.S.R" Coy. I am the foreman and postman for T.S.R. Coy. Between 1000 and 1030 hours 16 Jan 42 the coal fatigue brought coal to the T.S.R. mail room. They asked "Where shall we put the coal" I told them "Around the back in the corner". There were two men on the coal fatigue, one of whom is the accused whom I recognize. I saw them go to the corner where the coal bin is and heard the coal being dumped. They were in my view all the time. The accused went out the back door the other went out the front door carrying the empty bucket. About 6 feet from coal bin there is a compartment of 6 shelves. There were some odds & ends on the shelves and 3 cartons of 300 cigarettes in the middle compartment, one of which belonged to myself. Approximately 1040 after checking the parcels I found one carton of Winchester cigarettes were missing. This carton was the property of myself. The serial No was 8000, sent to me by Mrs. G. Robertson, 107 Hershmer St., Hamilton, Ont. The coal fatigue party were the only persons in the room up to the time I discovered the cigarettes were missing. I reported the matter to my Major, Major C.D. McCreary, T.S.R. Coy Commander, and he said he would find out and see what could be done about it.

B76618. Pte Martin J.G.

Q-1 Did you see me go out the back door?
A-1 No.

Q-2 Was your back turned or was you facing the rear door?
A-2 I wasn't facing the rear door, but I heard the rear door open and shut, upon going to the door there was no one in the room other than myself

Q-3 You went to the room where the rear door is?
A-3 Yes.

Q-4 When you heard the door close did you look to see if your cigarettes were missing?
A-4 No I didn't I wasn't concerned with them at all the ones I was concerned with were the ones that were on top of a box near the back door.

Q-5 Did both of us leave the room at the same time?
A-5 No, there was about ½ minute between the time the one fellow went out the door he came in & the back door opened.

Q-6 Between the time we left & the time the cigarettes were lost could it be possible for someone to come through the rear door without you knowing?
A-6 No.

Q-7 In behind where the cigarettes were how high is it?
A-7 Approximately 4 feet.

Q-8 Can you see the back door over the cabinet?
A-8 Yes

Q-9 Between the time you heard the rear door close and time you reported cigarettes were lost did you at any time sit down work on anything at a table?

A-9 Only to see if anything was missing and upon doing so found one carton of 300 Winchester cigarettes missing.

Q-10 Which table were you working on, front or rear table?

A-10 Rear table.

Q-11 Where the back door is?

A-11 Yes.

Q-12 Were you toward the front table at all?

A-12 No.

Q-13 Could you say who stole the cigarettes?

A-13 I have no idea.

Q-14 You didn't see anyone take them.

A-14 No.

Second Witness for the Prosecution

Major J.E. Farncomb having been duly sworn states:-

At approximately 1800 hrs Friday 16 Jan 44 Major McLeod OC TSR Coy reported to me that 300 Winchester cigarettes had been stolen from his Coy mail room and that these cigarettes were the property of Pte Morton, TSR Mail Clerk. He asked me to check personnel of the coal fatigue which was supplied by the SL & Coy on that day, as the cigarettes had disappeared about the time coal had been delivered. The fatigue detailed was composed of Pte Mosquito, Sanders, Walker R.F. and Pfleger, C.F. and was in charge of Cpl Tucker of HQ Coy. I instructed the SL & Orderly Sgt, Cpl Smith, Dvr, to accompany me and together we searched the kit belonging to these men. In the fold of Pte Mosquito's mattress we found an Auto Gas Wallet which contained 8 packages of Winchester cigarettes, 200 cigarettes in all. We found no Winchester cigarettes in the kit of the other men on the fatigue. Cpl Smith & I checked Pte Mosquito's receipts of cigarettes in the mail book and found that the last consignment he had received was a parcel of 300 on the 21 Dec 44. There had been a free issue of 120 British Consols ~~and~~ at Christmas and 50 Legion cigarettes on 14 Jan 44 to all ranks of the company. Neither of these brands was found in Pte Mosquito's kit.

I instructed Cpl Smith to have Mosquito paraded before me that afternoon. I cautioned Pte Mosquito that any statement he made might be used in evidence against him and when questioned he denied any knowledge of the cigarettes found in his kit and stated that he had no cigarettes at all.

On Saturday morning 17 Jan 44, Pte Mosquito was brought before me on a charge of stealing the 300 ~~cigs~~ Winchester cigarettes from Pte Morton

He pleaded "Guilty" and I remanded him for the Commanding Officer.

Cpl. Smith is at present a patient in hospital and is not available as a witness.

F. Curneow. Major
C.M.G.R.U.

Accused declines to question the witness.

Third Witness for the Prosecution

M 53308 Cpl. Tucker, R.G. having been duly sworn states:-

I am M 53308 Cpl Tucker, R.G. "HQ" Coy #1 C.M.G.R.U. I was the Corporal in charge of the coal fatigue on 16 Jan 42. The fatigue consisted of Ptes. Mosquito, Sanders, Walker R.T. and Pfleger C.T. and two trucks. Ptes Mosquito & Pfleger were with me throughout the day. Ptes Sanders & Walker were employed in hauling coke with one of the trucks. Approximately 1000 hrs we reached the TSR mail room, at this point we supply four buildings, No 1 Lecture Room, Sh.1 Orderly Room, TSR Orderly Room & TSR Store Room & Mail Room. During the fact that both myself & driver were to be on parade at 1030 hours, we split the duties, I going to the Sh.1 Orderly Room & No 1 Lecture Room. The driver, whose name I do not know, went with Ptes Mosquito & Pfleger to the TSR Orderly Room and the TSR Store and Mail Room were they delivered coal. When I returned to the truck the driver said the coal was delivered. So we climbed on the truck to go to the next stop. About this time I noticed Mosquito was missing and asked where he was. Either the driver or Pte Pfleger answered "That he had gone to the lavatory". I took no notice of this, except that he was

absent a very short time. We were at the "RMR" Orderly Room, which is right next door when Mosquito returned.

M53308 Cpl. R.G. Tucker.

Q-1 Could you say I was gone more than 5 minutes?
A-1 No.

Fourth witness for the Prosecution

L2669 Pte Armstrong J having been duly sworn states:-

I am L2669 Pte Armstrong J. On the 16 Jan 42 I was the driver of a truck of the coal fatigue. At approximately 1000 hours we reached the No1 Lecture Room, Sh I Orderly Room, TSR Orderly Room and the TSR Stores and Mail Room. The personnel riding with me were Cpl Tucker Ptes Mosquito and Pfleger. Being rushed for time I, with Ptes Mosquito and Pfleger delivered coal to the TSR Orderly Room and TSR Stores and Mail Room while Cpl Tucker went to No 1 Lecture Room to see if they required coal. I entered the TSR Store & Mail Room carrying three blocks of coal. I entered first. While I was inside Ptes Mosquito and Pfleger filled the little tub with coal. Ptes Mosquito and Pfleger had not entered the building before I came out. When the tub was filled Ptes Mosquito and Pfleger carried it indoors while I moved my truck down to the TSR Orderly Room. I was not in the TSR Store and Mail Room while Ptes Mosquito and Pfleger delivered the coal. Pte Pfleger returned to the truck alone and told the Corporal that Mosquito had gone to the toilet. Cpl Tucker and Pte Pfleger delivered one tub of coal to the TSR Orderly Room.

This delivery took approximately 2 or 3 minutes, then we moved to the RMR Orderly Room which is approximately 10 yards away. Just as I stopped the truck I looked around and the Mosquito was there.

L 2669 Pte Harnestone. J.

Q-1 How high is the cupboard in the mail room?
A-1 About the height of a man.

Q-2 Could you see over the cupboard?
A-2 I believe you could.

Q-3 Could you say I was gone more than 5 minutes?
A-3 No, not exactly. I don't believe it could be more than that.

Q-4 Do you suspect I stole the cigarettes that day?
A-4 No, I certainly didn't.

Q-5 Did I look suspicious when I went to the latrine?
A-5 No, a man has to do those things once in a while.

Fifth Witness for the Prosecution

L2839 Pte Ofliger, C.F. "Sh S" boy having been duly sworn states:-

I am L2839 Pte Ofliger C.F. On 16 Jan 42 I was employed on the coal fatigue under Cpl Tucker. The fatigue consisted of Ptes Mosquito, Sanders, Walker R.F. & myself. When we arrived at the T.S.R. Stores and Mail Room Pte Mosquito & I filled the coal bucket while Cpl Tucker left to go to No. 1 Lecture Room. Mosquito & I carried in the coal and emptied it in the corner. Nothing unusual or suspicious happened while we were in the Mail Room. Pte Mosquito told me he was going to the lavatory. I did not reply but left the room carrying the empty coal bucket. I did not see Mosquito leave the building. I returned to the truck and the truck moved on to the "RMR" Orderly Room. Pte Mosquito returned to the truck while I was carrying coal into the Orderly Room.

L.2839 Pte Ofliger C.F

Q.1 Where did I ask you if I was going to the toilet? Inside or outside?
A.1 I wouldn't be sure if it was inside or outside.

Q.2 Do you remember seeing me going to the lavatory?
A.2 I don't remember.

Q.3 While we were dumping coal did you see me take any cigarettes?
A.3 No, I didn't see you take anything.

Q.4 Could you say I was gone more than 5 minutes?
A.4 I don't think you were.

Q.5- During dinner hour did you suspect I had any cigarettes when you came into my room?

A.5 No.

Q.6 Did I leave you after I had gone to the toilet or were we together until the coal fatigue finished for the morning?

A.6 No, you were with me for the balance of the morning.

Q.7 Did I walk from the scales to the hat were we live, with you?

A.7 Yes.

The accused was cautioned in accordance with R.P. 4(E) and elected to reserve his defence.

Certified that R.P. 4 (C) (D) and (E) have been complied with.

Taken down by me in the presence and hearing of the accused this 24th day of January 1942 at Ewshott.

[illegible] Lieut
#1 Edn. M.G. Rein. Unit.

Original

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 31st day of March, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[redacted]

*(1. [redacted]

*(2. [redacted]

*(3. [redacted]

[redacted]:—]

President.

Rank.	Name.	Regiment.
Major	W.E. Morgan	No.2 Cdn Inf Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	G.R. Matthews	No.3 Cdn Inf Hldg Unit
Lieutenant	B.L.F. Breakey	No.1 Cdn Inf Hldg Unit
Lieutenant	D.N. McLean	No.3 Cdn Inf Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed L. J. Page, Brigadier

Commanding Canadian Base Units, Cdn Army.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L-1600 PTE. MOSQUITO, S. (S.L.I reinforcement) No.1 Cdn (M.G.) Hldg Unit.	First Charge A.A. Sec 12 (1)(a) as per charge sheet	NOT GUILTY	NOT GUILTY OF DESERTION, BUT GUILTY OF ABSENCE WITHOUT LEAVE.	
	Second Charge A.A. Sec 12 (1)(a) as per charge sheet	NOT GUILTY	NOT GUILTY OF DESERTION, BUT GUILTY OF ABSENCE WITHOUT LEAVE.	
	Third Charge A.A. Sec 24 (2) as per charge sheet	GUILTY	GUILTY. TO BE IMPRISONED WITH HARD LABOUR FOR ONE YEAR, AND TO UNDERGO STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF £9-17-4½ IN RESPECT OF LOST KIT AND EQUIPMENT.	I confirm the fine and sentence of the Court but commute the sentence to one of one years detention & to undergo stoppages for the sum of £9-17-4½ to make good loss of kit

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" No.
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) L. F. Page. Brigadier (Signed) R. Thomas major
Commanding Canadian Base Units, Cdn Army. *President.*
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4th day of April, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The ~~interpreter~~) Court Stenographer.
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 4th day of April 1941
R. Thomas major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19
President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ P

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 9th day of April 1941.
L. F. Page. Brigadier.
Confirming Officer.

Promulgated and extracts taken in the case of L 1600 Pte. Mosquito, S.
(a) (Dated) 14.4.41 (Signed) R. E. Ladbrook Captain Adjutant No. 1 (M.G.) Holding Unit C.A.S.F.

Promulgated and extracts taken in the case of
(Dated) (Signed)

Promulgated and extracts taken in the case of
(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused No. L-1600, Pte. Mosquito, Solomon, No. 1 Cdn. (M.G.) Holding Unit, C.A.(O). a soldier of the Canadian Active Army, as a reinforcement for his regiment, is charged with:

FIRST CHARGE
Sec. 12 (1)(a) Army Act

When on Active Service, deserting His Majesty's Service

in that he

at Ockley, on the 12th September, 1940 at 0430 hours absented himself from Saskatoon Light Infantry (M.G.) C.A.(O). until he was apprehended by the Canadian Provost Corps at London at 1730 hours, on October 30th, 1940.

SECOND CHARGE
Sec. 12 (1)(a) Army Act

When on Active Service, deserting His Majesty's Service

in that he

at Bordon Hants, at 1645 hours, on December 6th, 1940 while under arrest, escaped from a working party and absented himself from No. 1 Cdn. (M.G.) Holding Unit, C.A.(O). until apprehended at Northampton by the Civil power ar 0850 hours, December 22, 1940, dressed in plain clothes.

THIRD CHARGE
Sec. 24 (2) Army Act

Losing by neglect his clothing, equipment, and Regimental necessaries

in that he

at Bordon, Hants, on or about March 3rd 1941, was deficient of articles of clothing, equipment and regimental necessaries to the amount of nine pounds, seventeen shillings, four and one-half pence.

Lieut-Col.
Commanding,
1 Cdn. (M.G.) Holding Unit,
C.A.(O).

BORDON HANTS
11 MARCH 41

To be tried by Field General Court Martial

Brigadier
Commanding Cdn Base Units.

Bordon Hants
This 31st day of March 41.

Exhibit C.

MEDICAL OFFICERS' CERTIFICATE.

I certify that No. L-1600, Private Solomon Mosquito No. 1 Cdn. (M.G.) Holding Unit, C.A.S.F. is FIT to undergo trial by Court-Martial.

H.R.L. Davis .....Captain. RCAMC.
No. 1 Cdn. (MG) Holding Unit. CASF.

Border Hunt
4-4-41

L-1600, Pte. Mosquito, S., No. 1 Cdn. (MG) Holding Unit, tried by Field General Court-Martial at Bordon, Hants., on the 4th day of April, 1941.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

Prosecutor - Lieut. Macgillivray
Defending Officer - Lieut. Prescott

At 1000 hours the Trial commences.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q1 - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1 - No, sir.

The President and members are duly sworn.

Q2 - Do you object to M-15577 Sgt. Stanley Fidler, The Edmonton Regiment, C.M.H.Q., acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet.

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?
A3 - Not guilty, sir.
Q4 - Are you guilty or not guilty of the second charge against you, which you have heard read?
A4 - Not guilty, sir.
Q5 - Are you guilty or not guilty of the third charge against you, which you have heard read?
A5 - Guilty, sir.

R.P. 35(B) is complied with in connection with the third charge.

Prosecutor, Lieut. R.R. Macgillivray, No. 1 Cdn. (MG) Holding Unit, being duly sworn, produces in evidence the following documents:
1. Certified true copy of Declaration of Court of Inquiry.
2. M.F.B. 264, Certificate of Apprehension.

The Prosecutor proceeds to call witnesses.

First witness for the prosecution, D-76896, Sgt. Wing, P., No. 1 Cdn. (MG) Holding Unit, being duly sworn, is examined by the prosecutor.

Q6 - Will you give the Court your number, name, rank and unit?
A6 - D-76896, Sgt. Percy Wing, R.M.R., No. 1 Cdn. (MG) Holding Unit.
Q7 - Will you state to the Court how it happened on December 6th, 1940, and what you were doing at that time?
A7 - On that date I was sergeant of the guard and the M.P's took this prisoner out and he escaped from them.
Q8 - At what hour?
A8 - Approximately 1645 hours.
Q9 - Do you recognize the accused?
A9 - Yes, sir.
Q10 - Have you seen the accused in camp from that time until December 22nd?
A10 - No, sir.

The defending officer declines to cross-examine this witness.

Second witness for the prosecution, Police Constable No. 129, Cyril H. Cooper, Northampton Borough Police, being duly sworn, is examined by the prosecutor.

Q11 - Will you give your name and occupation please?
A11 - P.C. 129 Cyril H. Cooper, Northampton Borough Police.
Q12 - Do you recognize the accused?
A12 - Yes, sir.
Q13 - Will you tell the Court what happened on the 22nd December, 1940?
A13 - On December 22, 1940, I was on duty and in consequence of what I was told I went to a cafe and saw the accused sitting at a table and I said "What are you doing here" and he said "I have come to visit friends" and I said that I suspected him of being an absentee and I cautioned him and he replied "That is true" and I took him into custody.

The defending officer declines to cross-examine this witness.

The case for the prosecution on the first two charges is closed.

Q14 - Do you apply to give evidence yourself as a witness?
A14 - Yes, sir.
Q15 - Do you intend to call any other witness in your defence?
A15 - No, sir.

First witness for the prosecution, L-1600, Pte. Mosquito, S., No. 1 Cdn. (MG) Holding Unit, being duly sworn, is examined by the defending officer.

Q16 - What is your number, name and regiment?
A16 - L-1600, Pte. Mosquito, S., S.L.I.
Q17 - Where do you come from?
A17 - Stony Reserve, Saskatchewan.
Q18 - Do you remember when you enlisted?
A18 - Yes, sir, the 9th October.
Q19 - What year?
A19 - 1939.
Q20 - When did you first come to this country?
A20 - In the first part of December, the 9th or 8th of December.
Q21 - Of what year?
A21 - 1939.
Q22 - Then you have been in this country more than a year?
A22 - Yes, sir.
Q23 - Did you have any leave after you got here?
A23 - No, sir.
Q24 - Did you at any time when you were away on these two occasions intend to desert His Majesty's forces?
A24 - I had no intention to desert the army at all.
Q25 - Can you tell the Court why you went a.w.l?
A25 - I was just fed-up and had no leave at all and so I went.
Q26 - What is your intention regarding the future?
A26 - I don't understand, sir.
Q27 - Do you intend to be a good soldier?
A27 - I intend to be a good soldier, yes, sir.

Cross-examination by the prosecutor.

Q28 - You say you didn't have any leave in over a year. Did you have any week-ends?
A28 - A few.
Q29 - How many?
A29 - I couldn't say, but very few.
Q30 - What was in your find when you went away the first time? Did you intend to return?
A30 - I intended to return but.....
Q31 - But you didn't return until you were apprehended. Didn't you realize there was danger of an invasion and you would miss the show?
A31 - I didn't know about that at all.

Questions by the President.

Q32 - How old are you?
A32 - Twenty.

Q33 - Could you tell the Court about how many week-ends you had?
A33 - I couldn't.
Q34 - Roughly?
A34 - Four or five.
Q35 - You stated you never had leave. Did you apply?
A35 - One time in 1940 I had £10 and applied for leave and because I didn't have any relations they wouldn't give me leave.
Q36 - Did you apply for landing leave?
A36 - I didn't have any.
Q37 - Did you apply for it?
A37 - No, sir.
Q38 - Did you ask for leave?
A38 - They wouldn't give me any, sir.

Defending Officer - I would like to ask the Court to find the accused not guilty of desertion, but guilty of a.w.l. The fact that the accused was absent for the number of days he was is not sufficient to prove him guilty of desertion. Mere absence is not sufficient.

The Court is closed for the consideration of the finding.

Lieut. R.R. Macgillivray, No. 1 Cdn. (MG) Holding Unit, is duly sworn.

Q39 - Have you any evidence to produce as to the character and particulars of service of the accused?
A39 - A.F.B. 296 and M.F.M. 6, sir.
Q40 - Is the accused the person named in the statement which you have heard read?
A40 - Yes, sir.
Q41 - Have you compared the contents of the above statement with the regimental books?
A41 - Yes, sir.
Q42 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A42 - Yes, sir.

The accused declines to cross-examine.

Q43 - Do you wish to address the Court?
A43 - No, sir.

The Court is closed for the consideration of the sentence.

Summary of Evidence in the case of
no L1600 Private Solomon Mosquito
1 Can (M G) Holding unit C A S F

First witness for the
Prosecution

Capt J E Fawcomb 1 Can (M G) Holding unit
C A S F having been duly sworn states
I am adjutant 1 Can (M G) Holding unit and
produce
1. certified copy of the record of the court
of inquiry on the illegal absence of a soldier
referring to L1600 Private Mosquito S.
being A F B 115 - attached as Exhibit 'A'.
2. letter of Canadian military Police dated
2 Nov 40 Exhibit "B"
3 special Report of Canadian Provost Corps
dated 31-10-40 Exhibit 'C'
4 confidential Report of Metropolitan Police
London dated 1 Nov 40 Exhibit D.

Fawcomb. Capt.

The accused declines to cross-examine
the witness

2nd witness for the
Prosecution

A34088 Sgt Fickling A. having been
duly sworn states that
I am Provost Sergeant of 1 Can M G
Holding unit and acting on instructions
I proceeded to London on 7-11-40 and
took over L1600 Pte Mosquito S from
Canadian military Police and charged

was in close arrest and detained from the
the guard detention room at Guadalupe
Barracks Gordon at 1845 hrs on that
day.

A. Fickling

The accused declines to cross-examine
this witness.

1st witness for the
Prosecution having been recalled and
having been duly sworn states that
I am Capt JE Jamieson adjt 1 Coy (MG) Stirling Hrs and
I produce letter received from the
adjutant of the Rockshire Light Infantry
dated 21 Nov 40 referring to the magneto
No L 1600 to which is attached a certified
statement of shortages of equipment
of the magneto.
The letter and statement are attached as
exhibit E to these proceedings

Jamieson Capt.

The accused declines to cross examine
this witness

3rd witness for the
Prosecution

CQMS Boulder A G No F34627 having
been duly sworn states that
I am attached to quartermasters stores
1 Coy MG Stirling unit and I have
checked the equipment and find of

the mosquito no L 16 and with the statement of stores set out in exhibit E to these proceedings and I find that the mosquito is unable to produce or account for

straps (kennach shoulder left and right)	0 - 8 - 1½
greatcoat	2 - 8 - 6
Frogs Bayonet	0 - 1 - 9½
to the total value of	£ 2 - 18 - 5

W.J. Builder C.Q.M.S.

The accused declines to cross examine this witness.

The accused having been warned in accordance with R.P. 4(5) declines to make a statement

Taken down in the presence and hearing of the accused this 28th day of November 1940

Subject the R.P. 4(c)(d)(e) have been complied with.

Mhu Lunt
1 Cdn Inf Bde Holding Unit
CASF

Adm

Summary of Evidence

in the Case of L1600 Pte Mosquito, S. #1 Cdn Mtg H.U. C.A.(O).
This summary was taken under oath on instructions of the Commanding Officer.

1st Witness for the prosecution — Capt. R.E. Lockhart, Adj. #1 Cdn M.S. Holding Unit C.A.(O), being duly sworn states:-

I am Capt R.E. Lockhart, Adjutant, No 1. Cdn M.S. Holding Unit, C.A.(O). and I produce

① A letter from the Chief Constable of the Borough of Southampton together with a copy of a report by a detective constable of that Borough giving particulars of the arrest of L1600 Pte Mosquito, S, 22nd. Dec. 1940.

② Charge Sheet A.F.B. 252 from the Cdn. Provost Corps. London, containing a statement of Evidence of the arrest of Pte Mosquito on his release from civil custody.

R.E. Lockhart Capt
Cdn M.S. Holding Unit

The accused declined to cross examine the above witness

2nd Witness for B.76091 Sgt Buchanan D.G., No 1. Cdn. M.S. Holding Unit, C.A.(O)., being duly sworn states:-

I am B.76091 Sgt Buchanan D.G., No 1 Cdn. M.S. Holding Unit, C.A.(O). and on March 1st 1941 I was Sgt. of the Guard at that unit at 1610 hrs. L1600 Pte Mosquito, S., was turned over to me by a Lance-Corporal of the C.R.C. and was put into close confinement.

D.G. Buchanan Sgt

The accused declined to cross examine the above witness

2nd Witness for the prosecution. F 34627, C.Q.M.S. Builder, A.G. Accounting Quartermaster Sergeant of No 1. Cdn. M.S. Holding Unit C.A.(O).

I am F 34627, C.Q.M.S. Builder, A.G., No 1. Cdn M.S. Holding Unit, C.A.(O) and am Accounting Quartermaster Sergeant of that Unit. As such I received the kit of L1600 Pte Mosquito, S., when it was sent to this unit after he went absent from the Sask L.I. (M.G.). On Mar. 4, 1941 I checked his kit and found the following deficiencies:-

Badges Cap	0-0-7
Boots Ankle, pr. 2	2-5-0
Braces	0-1-6
Button stick	0-0-2
Brushes Blacking	0-0-8½
" Polishing	0-2-1
Brushes Button	0-1-2
" Shaving	0-1-2
Cap, F.S.	0-2-2
Greatcoat	2-8-6

Summary of Evidence, Pte Mosquito, S.

page 2.

Frogs, Bayonet	1	0 - 1 - 9½
Comb		0 - 0 - 2
Drawers Woolen		0 - 6 - 3
Fork.		0 - 0 - 4
Jersey Pullover		0 - 6 - 9
Knife, Clasp.		0 - 3 - 4
Gloves, woolen		0 - 1 - 8
Trousers, serviceo		0 - 4 - 8
Blouse, B.D.		1 - 2 - 6
Trousers, B.D.		1 - 0 - 6
Anklets		0 - 3 - 11
Drawers, cellular,	2 pairs.	0 - 4 - 4
Bags, ration		0 - 0 - 2½
Covers, mustin		0 - 0 - 3
Helmets, steel		0 - 7 - 0
Sheets, wand		0 - 10 - 0
Curtain, A.G.		0 - 0 - 8
to a total value of:		£ 9 - 17 - 4½

H.C. Builder

The accused declined to cross-examine the above witness.

4th. Witness for the Prosecution D76896 Sgt Wing, P., No 1. Cdn. M.G. Holding Unit, C.A.(O)., being duly sworn states

I am D76896 Sgt Wing, P., No. 1 Cdn M.G. Holding Unit, C.A.(O). and on Dec 6th 1940 I was guard Commander. At 1645 hrs L1600 Pte Mosquito, S., was out on a working party and escaped confinement.

Sgt Percy Wing

The accused declined to cross-examine the above witness.

The accused, in accordance with R.P.4(E), having been duly ~~sworn~~ ~~warned~~, makes the following statement

I am L1600, Pte Mosquito, S. When I first joined the army I hardly had any education and did not speak much English. The only thing I knew about the army at that time was that I was to train for six months, then right into action. Then I got overseas and it happened that I never had any seven-day leave all the time I was in England — only a few week-ends. Well, I just got fed up with soldiering, not ~~that~~ realizing what harm I was doing others, at the same time it was not doing me any good.

In a way, I am glad that I went through prison and trouble. It taught me a lesson and now I know things I ~~[illegible]~~ never dreamed of before I joined up.

Pte Mosquito, S.

Certified that the above evidence was taken down by me in the presence and hearing of the accused and that R.P. 4(C)(D) & (E) have been complied with.

Taken down at
Bordon, Hants.
This 5th day of March, 1941.

D. Macgillivray, Lieut.
No. 1. Cdn. M.G. Holding Unit, C.A.(O).

First Witness for the prosecution — Capt. R.E. Lockhart, being recalled and duly sworn, states:-

I am Capt. R.E. Lockhart, Adj., #1 Cdn M.G. Holding Unit, C.A.(O). I submit (1) a letter from the Chief Constable of the County Borough of Northampton stating that L1600 Pte Mosquito, S., was on 30th Dec. 1940 remanded on a charge of absence without leave and not sentenced on that charge as shown in the report of Detective Constable Nicholson dated 30th Dec. 1940. (Marked Exhibit "H"); (2) A report by P.C. Cyril H. Cooper of the County Borough of Northampton, testifying to the fact that Pte. Mosquito was wearing civilian clothes when apprehended 22nd Dec. 1940. (Marked Exhibit "I")

R.E. Lockhart Capt
1 M G Holding Unit

The documents introduced by the above witness were read over to the accused who said he did not object to their being included in the evidence
The accused declined to cross-examine the above witness

Certified that R.P. 4 (C)(D) and (E) have been complied with and that the above evidence was taken down by me in the presence and hearing of the accused
Taken down at
Bordon, Hants
This 25th day of March, 1941

D. Macgillivray, Lt
#1 C.M.G.H.U., C.A.(O)

LIST OF WITNESSES FOR THE PROSECUTION

Capt. J.E. Farncomb	No. 1 Cdn. (M.G.) Holding Unit, C.A.(O).
No. A-34088 Sgt. Fickling, A.	No. 1 Cdn. (M.G.) Holding Unit, C.A.(O).
No. F-34627 CQMS Builder, A.G.	No. 1 Cdn. (M.G.) Holding Unit, C.A.(O).
Capt. R.E. Lockhart	No. 1 Cdn. (M.G.) Holding Unit, C.A.(O).
No. B-76091 Sgt. Buchanan, D.G.	No. 1 Cdn. (M.G.) Holding Unit, C.A.(O).
No. D-76896, Sgt. Wing, P.L.	No. 1 Cdn. (M.G.) Holding Unit, C.A.(O).
Cyril H. Cooper, P.C. 129	County Borough of Northampton.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

"A" Certified copy of record of Court of Enquiry referring to No. L-1600 Private Mosquito, S. A.F.B. 115.

"B" Letter of Canadian Military Police dated 2 Nov 40.

"C" Special report of Canadian Provost Corps, dated 31 Oct 40.

"D" Confidential report of Metropolitan Police, London, dated 1 November 40.

"E" Letter and certificate as to shortages of equipment dated 21st November, 40.

"F" A letter from the Chief Constable of the Borough of Northampton, together with a copy of a report by a detective constable of that borough.

"G" Charge sheet, A.F.B. 252 from the Canadian Military Police, London.

"H" A letter from the Chief Constable of Northampton, dated 21st March 1941.

"I" Report by Cyril H. Cooper, P.C. 129, County Borough of Northampton.

Description of Court by which, tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Fifth day of March 1941

A.G. Pulliter R.C.
Officer i/c Records,
1 Cdn. M.G. Holding Unit, C.A.S.F.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

No. L-1600 Pte. Mosquito. S. of the 1 Cdn. (M.G.) Holding Unit. (S.L.I.) (MG)

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced to Court with this statement but are not to be annexed to the proceedings.

†See Para. 654, K.R., 1926.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For A.W.L.	3 times	3 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~

~~—or,~~

~~There are no entries in the Conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted,—~~

~~or,~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. 42048,664 50,000 2/40 W. S. Ltd. 51—6004

3. ~~The accused is not under sentence at the present time,~~

~~or,~~

~~The accused at the present time is under sentence for~~
~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges

for 0 days in Civil Custody,

and 67 days in Military Custody.

Total 67 days.

~~Of which days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service~~ / attestation paper is 21

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is Oct 10,1939

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of years' service.~~

9. ~~The accused is entitled to reckon years' service for the purpose of determining his pension, &c.~~

10. ~~The accused is in possession of, or entitled to, no military decoration or military reward (or is in possession of or entitled to~~

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

12. ~~(In the case of an officer.) The accused holds in the army the rank of, dated, and in his regiment (or corps or department) the rank of dated~~

13. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date,~~

~~Date of Promotion.~~

~~In the rank of , years,~~

~~In the rank of , years,~~

~~In the rank of , years,~~

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

—Army Number, Rank and Name L-1600 Pte. Mosquito. S. of the 1 Cdn. (M.G.) Holding Unit. (S.L.I.)(MG).

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
Civil Power Northampton Borough Petty Sessions.	30 Dec. 40	One charge of larceny.	Sentenced to 3 months hard labour, in H.M. Prison. at Bedford.	

(*Continued overleaf.*)

Original Over Copy

No. 1600 Name Mosquito, S Sqn., Battery, or Company D Coy. Corps S.L.I. (MG) Date of enlistment 9.10.39 G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F.B. 123) 16073—8-39 (1793) H.Q. 1772-43-18

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
T. Barracks	2.4.40	Pte	—	Absent W.O.L. while on Active Service from 1800 hrs 2/4/40 to Rev. 3/4/40 while on active service was AWOL	P.S.M. Kirby	7 days C.B. Forfeits 1 days Pay	3/4/40	A.W. Embury	
Wheathy	18.6.40	"	—	from 22.00 hrs 18.6.40 till 1800 hrs V.7.40. Contrary to A.A. Sec 15	Sgt Armagie	7 days C.B.	3.7.40	A.W. Embury	Forfeits 3 days pay.
Oakley	31.7.40	"	—	WOAS was AWOL from 22.00 hrs 31.7.40 to 0730 hrs 7.8.40 (153½ hrs) Contrary to A.A. Sec 15	C.S.M. Hurley	21 days Detn	7.8.40	C. McKerron	Forfeits 7 days pay.
London	22.12.40	"	—	Tried by Civil Power at Northampton Borough Petty Sessions on 22.12.40 and sentenced to 3 months Hard Labour, one days of sentence Undergoing sentence in H.M. Prison Oakham		Forfeits 90 days pay Ans 1448(1)(b) Confirmed Correct R.C. Fullerton Lt. Hunter 1/c Records Leader 146 Holding Unit CMSF	22-12-40	—	Forfeits 90 days pay Ans 1448(1)(b)

(P.T.O.)

Exhibit "A"

RECORD
of the
DECLARATION OF A COURT OF INQUIRY ON THE ILLEGAL ABSENCE OF A SOLDIER

Record of the Declaration of a Court of Inquiry assembled at Ockley Court, Ockley, on the 4th day of October 1940, for the purpose of investigating and recording the absence without leave from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of:-

L1600 Private Mosquito, S. - "D" Coy., Sask.L.I. (MG)

THE COURT DECLARE the Accused was absent without leave from his duty from 0430 hours 12 SEP 40, and at this date 4 OCT 40 has not reported to his Unit.

The equipment of the Accused was deficient of the following:-

Brushes Polishing	- 1	Forks Table,	1
Brushes Shaving	- 1	Helmet Steel	1
Brushes Button	1	Respirator	1
Jacket Sweaters	1	Forage Cap	1
Tins Mess Cover	1	Razor	1
Towels Hand	1	Greatcoat	1
Brushes Boot	1	Boots Ankle	1

(Signed) A.W. Embury, Major - President
" T. de Faye, Capt. - Member
" C.E. DesRosiers, Lieut. - Member.

The Above has been compared with the original declartion of the Court of Inquiry on the illegal absence of No. L1600 Pte. Mosquito, S., and is a true transcript of the same.

(Signed),(C. McKerron), Lieut.Colonel,
O.C. 1st Bn. Sask.L.I. (MG).

CERTIFIED TRUE COPY OF ENTRY IN M.O.68:-

R. Rankin
(R. R. Rankin), Lieutenant,
A/Adjutant,
Sask.L.I. (MG) C.A.S.F.

Ex. A.

Exhibit B.

STATEMENT OF EVIDENCE IN THE CASE OF
L-1500 Pte. Mosquitto B.
Saskatoon Light Infantry.

Sir;

At London on the 30-10-40 at about 1730 hrs. I was proceeding up Bedford Street to Henrietta Street when I stopped the a/m soldier and asked him for his pass. He could not produce one, he was A.W.L. I placed him under arrest and escorted him to C.P.C.H.Q. where he was turned over to the N.C.O. i/c of the Guard to be detained.

John M Baird L/Cpl.
Canadian Provost Corps

London
30-10-40

Sir;
I have read over and corroborate the above statement.

J H Brooks Cpl.
Canadian Provost Corps

London
30-10-40

Ex. B. Bowman

CRIME.

Saskatoon Light Infantry

SQUADRON, BATTERY OR COMPANY.

CHARGE against No. L-1600 Pte. Mosquitto S.

Place	Date of Offence	OFFENCE	Name of Witness.	Punishment Awarded.	By whom Awarded.
London	30-10-40	W.O.A.S. ~~xxx~~ (1) Absent without leave from 0430 hrs Sep. 12-40 until apprehended at about 1730 hrs. 30-10-40. (2) Improperly Dressed i/e no respirator.	L/cpl. Baird Cpl. Brooks Can. Prov. Corps.		

MAJOR
A.P.M. CANADIANS
LONDON AREA

Service years

Number of good conduct badges

Date of last entry in company conduct book

Character

Date of last entry for an act of drunkenness

Number of cases of drunkenness within the last 12 months

Commanding.

M. F. B. 264.

700m.—7-16.

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

H.Q.C. 55-M-1635

CONFIDENTIAL

M.F.D. 3NB

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MARTIN. JEAN PAUL D.146006 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1635

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and place note "With Minute")		
APR 7 1945	5/4/45	BF			NEW FILE	C.R.	APR 5 - 1945
					from Papers C.R. APR 11 1945		
APR 13 1945	4/5	PA	DRB	9 cm	To note, pls	mm	12-4-45
APR 16 1945							
NOV 24 1945				JAG	To note please	CR	23/11/45
DEC - 7 1945	6/12/45	PA		JAG	With Papers C.R DEC 6 1945		
				RMBR	With Papers C.R DEC 22 1945		
DEC 28 1945	27/12/45	PA	GAB	admin	To note, remission pls	WM	28 Dec 45
DEC 26 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

M.8-1-20 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
21st December, 1945.

CENSOR
CO 16719
DEC 22 1945
File CWS-Gen. 16.35
Chgd. to
Referred to EMBR

The Secretary,
Department of National Defence,
Ottawa, Ontario.

SOLDIERS UNDER SENTENCE

Attached hereto, forms for remission in respect to the undermentioned soldiers:-

D-655499 BELL, J.
D-650743 BELLEMARE, J.L.
D-504991 BRUNET, J.P.
D-649942 CECYRE, A.
D-652076 CHABOT, J.
E-628099 COTE, H.
D-655757 CUERRIER, G.
D-615871 DAOUST, J.
D-647202 DAUDELIN, F.
D-615087 DAVID, J.R.
D-656369 DEMERS, P.E.
D-650081 DEMERS, R.
G-422624 DUGUAY, L.
D-527112 DUPLANTIE, L.
D-638314 DUROCHER, G.
D-700108 GARCEAU, R.
D-649994 GRENIER, R.
D-658308 HEBERT, M.
D-655113 LAFORTUNE, B.
D-650637 LANDREVILLE, L.
D-136679 LANGEVIN, R.
D-650451 LANGUEDOC, R.
D-645223 LAVERDURE, H.
D-143752 LEGER, R.
D-643628 LEVASSEUR, P.E.
D-146006 MARTIN, J.P.
C- 33944 MEILLEUR, A.
D-647659 MEILLEUR, E.
D-655077 MELFI, J.
D-610667 MELILLO, A.
D-506333 MESSIER, G.
D-700313 PAILLE, M.
D-472519 REID, R.
D-653586 ROZON, R.
D-645019 SAVOIE, L.
D-641816 ST. AUBIN, M.
D-601611 TOMLINSON, G.

p. Le Roux Capt
(E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCL.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-M-1635
District File No. M.1-M-15406

PART I

No.....D-146006.Rank..PTE.....Name.....MARTIN, J.P.....
Unit.....No. 4. District Depot, C.A.....

PART II

Date of Trial.....30 October, 1945.....
Charge (s).....ABSENTING HIMSELF WITHOUT LEAVE.....
Sentence.....90 days detention.....
Date of sentence..30 October, 1945.....
Confirmation -- (a) Authority:.....D.O.C. M.D. 4.....
(b) Date 30 Oct-45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 18th December, 1945.

Signed at Montreal this 4. DEC day of 1945.
.....
(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.
To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (~~commutation~~) (~~mitigation~~)* promulgated and extracts taken at..Montreal South, Que.....this..18th...day of December, 1945...
(1)
.....
Ass- Officer i/c Documents. (L.R. HAMELIN) Lieut., C.I.C., C.A., att'd to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No.D-146006 Rank..Pte.....Name..MARTIN, Jean Paul.....
The sentence of..90 days detention.....Standing Martial on the...30th October,.....awarded by ~~District~~ Court..... on the..18th December,.....1945..... has been..remitted.....
UNIT..Military District No.4, Montreal, Que.....
Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.
No..303.....Place Jacques Cartier Barracks, Montreal South, Que.....Date..18th December, 1945
Adjutant

(J.McC. CHARLEBOIS) Capt-Adjt General List, C.A., att'd to No.4 District Depot, C.A.

* Strike out and initial words not applicable.

HQC 55-M-1635 (JAG/D-6)

6 December, 1945

District Officer Commanding
Military District No 4
MONTREAL, PQ

Standing

D-146006, Pte Jean Paul MARTIN
~~GIC CA, at~~ Court Martial.

December 3rd? 5

M.1-M-15406 (J)

Receipt is acknowledged of your Standing dated 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

EKM

/jm

(R J Orde) Brigadier

Judge Advocate-General.

8M-5-45(M-96)

IN REPLY PLEASE QUOTE No. M. 1-M-15406 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
December 3rd, 1945.

REGISTERED

R213

The Secretary
Department of National Defence
O T T A W A, Ontario.

CENTRAL REGISTRY Army
CONFIDENTIAL 13235
DEC 5 1945
File
Chgd. to
Referred to Jo G

STANDING COURT MARTIAL
D-146006, Private Jean Paul MARTIN,
C.I.C., C.A., attached to
No. 4 District Depot, C.A.

Reference your H.Q.C. 55-M-1635 (JAG/D-4), dated 24th November, 1945, enclosing the proceedings of the marginally-noted Standing Court-Martial.

2. Same are returned, herewith, for custody, as requested in paragraph 2 of your above-mentioned letter.

J. Lessimoneau Capt.
for (E.J.Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

enc.

NAT. DEF. H. QRS.
20000M-4-44 (4321)
H.Q. 1212-19-267

MEDICAL OFFICER'S REPORT

I certify that No. D146006 Pte MARTIN, J.P.
of R.C.A.M.C., C.A. Att'd to No. 4 DD, CA is in a good state of health,
and fit to undergo Trial by Court martial.

M. Hamel Capt
(M. Hamel) Capt Medical Officer
R.C.A.M.C., C.A.
Att'd to No. 4 DD. C.A.

Station Montreal South, Quebec.

Date 30th October, 1945.

M. F. B. 246
50M—12-45 (3222)
H.Q. 1772-10-490

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4 District Depot,C.A.,Montréal-Sud,P.Q.

le 30ième jour ~~de~~ d'octobre 1945 à 10.50 heures,

pour le procès de D-146006 (Matricule) Private (Grade) Jean Paul MARTIN (Nom et prénoms)

C.I.C.,C.A., attached to No.4 District Depot, C.A. (Unité / Détachement, le cas échéant)

PRÉSIDENT: Major L.J.E.Belleau, Quartiers Généraux,District Militaire No.4.

PROCUREUR: Capitaine (Grade) R.O.Craig (Nom et prénoms)

Quartiers Généraux, District Militaire No. 4. (Unité / Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieutenant (Grade) P. Girard (Nom et prénoms)

~~OU AVOCAT~~

Les Fusiliers Mont-Royal,C.A., attached to No.4 District Depot,C.A. (Unité / Détachement, le cas échéant)

VERDICT: La cour déclare l'accusé, D-146006 Private Jean Paul MARTIN, C.I.C.,C.A., attached to No.4 District Depot,C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-146006 Private Jean Paul MARTIN, C.I.C.,C.A., attached to No.4 District Depot, C.A., à la détention pendant quatre-vingt-dix jours.

Extracts entered as No. 4/390 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 27 day of Nov 1945

Signé à Montréal-Sud,P.Q. ce 30ième jour ~~de~~ d'octobre 1945

L.J.E. Belleau
Président de la cour martiale permanente.
(L.J.E.Belleau)Major

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question à l'accusé: Vous opposez-vous à comme interprète~~

~~Réponse:~~

Question à l'accusé. Vous opposez-vous à D-625377 Cpl. H.Turcot,No.4 Det.C.M.S.C.,C.A. comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermenté~~s~~.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~premier~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ---------- chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

W. H. Bellman Major
Pres. Coy.

"D2"

CHARGE SHEET

The Accused, D-146006, Private Jean Paul MARTIN, C.I.C., C.A., attached to No. 4 District Depot, C.A., a G.S. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1), Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Quebec, Quebec, at 0730 hours on the 25th of June, 1945, absented himself without leave from his unit, Quebec Military Hospital, C.A., until he was apprehended by the Military Authorities at Montreal, Quebec, at 0035 hours on the 5th of October, 1945.

Signed at
Montreal South, Quebec,
23rd October, 1945.

(S. Echenberg) Colonel,
Commanding No. 4 District Depot, C.A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée)~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d). Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

CC-3

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

J'ai parti sur le "loose" parce que j'avais demandé mon transfer ici au dépôt, je l'ai demandé trois fois. Ils m'ont dit qu'ils étaient pour me transférer dans onze jours. Quand ils ont vu que j'étais d'ici ils m'ont transféré au corps médical à Québec, c'est pour ça que j'ai parti sur le "loose".

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR:

Monsieur le Président,

Je ne peux faire autrement que confirmer ce que l'accusé a dit en disant qu'il était déclassé parce que je vois d'après son pulhems, P-3 et L-3, monsieur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

DAILY ORDERS PART II

No. 107

BY

LIEUT.COL. A.D. BEAUDIN RCAMC/CAA.

Place Quebec, P.Q.

Commanding

Date 29 Jun 45

QUEBEC MILITARY HOSPITAL

(Last Order Issued No. 106 of 28 Jun 45

"B" OTHER RANKS

7. ABSENT WITHOUT LEAVE

a) AWL from 0730 hrs.

25 Jun 45

D-146006 Pte MARTIN, J.P.

(Signature Illegible) Capt
for (A.D. BEAUDIN) LIEUT.COL.RAMC/CAA.
O.C. QUEBEC MILITARY HOSPITAL.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Registered PART II ORDERS kept by the Officer i/c Records N.D.H.Q.
DATE OCT 9 1945

Prepared by:
and
Checked by:

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W. Pouliotte. (Number) (Rank) O.C. Composite Provost Companies M.D. No.4 (Name) (Unit)

hereby certify that D-146006 (Number) Pte. (Rank) MARTIN, Jean, Paul. (Name in full)

of the C.I.C., C.A., att'd to Quebec Mil Hospital. (Unit and attachment, if any) Quebec, Que.

Strike out words not applicable } was apprehended by (~~Arrested by~~) H-28766 (Number) L/Cpl (Rank)

DAOUST, R. (Name) Composite Provost Companies M.D. No.4 (Unit or appointment)

at Montreal, Que. (Place) at 0035 (Hour)

on the 5th day of October 19 45

Strike out words not applicable } as a ~~deserter or~~ absentee without leave), and that at the time of his arrest he was ~~wearing military (police) uniform~~ (dressed in civilian clothes).

Dated at Montreal, Que. this 5th day of October 19 45

(R.W. Pouliotte) Major.
(Signature, Number, Rank, Unit or appointment)
O.C. Composite Provost Companies M.D. No.4

EJ

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

A SOLDIER OF THE ACTIVE ARMY.

M.F.M. 216
150M—2-44 (3750)
H.Q. 1772-39-1936

J. E. Belleau Major, Pres. GCM

M.F.S. 355
75M—5-43 (145)
H.Q. 1772-36-620
A.F.B. 294

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number Rank Name Regiment (or unit)

D-146006, Pte. Jean Paul MARTIN, C.I.C., C.A., att'd to No. 4 D.D.C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service And General Regimental and Squadron, Battery~~ ~~Conduct sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For A.W.L.	1 times	A.W.L.	1 times
For	times		times
For	times		times
	times		times

Number of instances of gallantry or distinguished conduct ~~or~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~ ~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for~~ ~~or~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 25 ~~Air Force~~ days in military custody, making a total of 25 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19 years, 11 months. (21st Nov. 1925).

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 17th July, 1944.

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon~~ ~~service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force military decoration or reward.~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number D-14620 Rank PTE

Name MARTIN J. P. of C.I.C. CA. ATTD No. 4 DD ~~Regiment~~ Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
S.C.M.	Valcartier, Quebec, 27th Mar. 1945.	A.W.L., Loss of kit.	45 days detn. $74.02 Stoppages.	15 days.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30 Oct 45 day of

L.R.Hamelin, Lieut.,
C.I.C., C.A., att'd to
No. 4 District Depot, C.A.,
Adjutant.

The above statement (with the schedule of convictions and dispensations with trial) is read, marked ..... signed by the president, and annexed to the proceedings.

L.R.Hamelin, Lieut.,
C.I.C., C.A., att'd to
No. 4 District Depot, C.A.

-19-

Reg. No. D-146006 Name MARTIN Jean-Paul Corps C.I.C.(R) CA Date of enlistment or enrolment 17 Jul 44 Date of Birth

Signature O.C. Company, etc. (Sgd) A. Dubois Lieut.

Sheet No. one of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Valcartier	8 Nov 44	Pte.		Off under A.A. 12(1)a Deserting His Majesty's Service. from 0630 hrs 8 Nov 44 til apprehd. by C.Prov.C. at 1200 hrs 21 Feb45 TOTAL ABS. 105 dys 5 hrs. 30 m. 2nd CHARGE Losing by neg.etc. amt. $35.93 Cost of apprehd.$37.13	Pt II 293 d/8 Dec 44 M.P.M. 216	45 Days Det.	27 Mar 45	Standing Court Martial	Forf: 106 days pay under PR&I
Valcartier Camp P.Q.	9 May 45	Pte.		AA 15 (1) AWL 0715 hrs 9 May 45 til app. at 0300 hrs 22 May 45 Abs. 12 dys 19 hrs 45 min. Cost of app. 26.42	Documentary Evidence MFB 1481 MFB 1482	14 days Detention Stop pay $26.42 cost of app.	29 May 45	Lt.Col. L.P.Cliche	Forf. 13 days pay under PR&I

M.F.M. 6—500M—8-44 (3356)
H.Q. 1772-99-1032

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY L.R.Hamelin, Lieut., C.I.C., C.A., att'd to No. 4 District Depot, C.A., Ass't Officer i/c Records, No. 4 District Depot, C.A.					

H.Q.C.55-M-1635 (JAG/D-4)
Your M. 1-M-15406

24 Nov 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 146006 Pte. Jean Paul Martin,
CIC., C.A., att. No. 4 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.W. Orde) Brigadier
Judge Advocate-General.

JOGR/MM

SM-7-45(M-188)

1635

THIS COPY FOR: H.Q. C. 55-M-[illegible]
M.D.M. 1-M-15406

G.S. MEMORANDUM - STANDING COURT-MARTIAL

No. D-146006 Name Jean Paul MARTIN

Rank Pte. Unit CIC Att No. 4 D.D. CA

Charge AA 15 (1) AWL

Date of Crime 25-6-45

Date of Arrest 5-10-45 Charge Signed 23-10-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. CA 30-10-45

Sentence Detention 90 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 41390

Date 21-11-45

MEMO. Passed 23.11.45

M.D. 4

Absent
3 2/3 mos.

CIC Att No. 4 D.D. C.A.

Sentence
Det. 90 days.

for Judge Advocate-General

1CM-6-45(M-189)

IN REPLY PLEASE QUOTE No. M.1-M-15406

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 16th November 1945.

C.55-M-3063

CONFIDENTIAL.

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

STANDING COURT MARTIAL.
D-146006 Private Jean Paul MARTIN,
C.I.C., C.A., attached to No. 4
District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the court

b) Medical officer's report d/30th October 1945.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E. Belleau) Major
Headquarters, Military District No. 4
President, Standing Court-Martial.

41390

NAT. DEF. B. 441
(2000M-4-44-14331)
H.Q. 1772-39-267

HQS.55-M-1635 (JAG/D)

12 Apr 45

District Officer Commanding,
Military District No. 5,
QUEBEC, Que.

Standing Court-Martial

D.146006, Pte. Jean-Paul MARTIN,
General List, CA, (Att. A-13 CITC CA)

Receipt is acknowledged of your C.39-M-1505 (JA) dated 10th April, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E. L. McCormack
Capt.
for (R. J. Orde) Brigadier,
Judge Advocate General.

/AB

Noted
L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 14 1945

IN REPLY PLEASE QUOTE No. Q. 39-M-4909 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

QUEBEC, PQ, 10 Apr 45.

305902

CENTRAL REGISTRY Army
CONF. SEC.
APR 11 1945
File 55-M-1635
Chgd. to
Referred to JAG

THE SECRETARY,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
D-145006, Pte. Jean-Paul MARTIN,
General List, CA, (Att. A-13 CITC CA).

1. Reference your HQC. 55-M-1635 (JAG/D-9) dated 7 Apr 45.

2. In view of the light sentence awarded by the Court in this case, it is not considered advisable to recommend a revision of sentence.

3. The proceedings of the m/n S.C.M. are returned herewith for custody.

PT/G.

(Edmond BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

NAT. DEF. B. 440
25M-4-44 (4321)
H.Q. 1772-39 787

A

1

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à A-13 CITC, A.C., Camp Valcartier, P. Q.,

le 26 ème - - - - jour de mars, - - - - - - - - - 19 45, à 1430 - - - - heures,

pour le procès de D-146006, - Soldat Jean-Paul MARTIN,
Matricule Grade Nom et prénoms

Liste Générale, A.C., att. à A-13 CITC, A.C.
Unité Détachement, le cas échéant

PRÉSIDENT: Major Armand SYLVESTRE,
Président Permanent, C.M.P., Q.G., R.M. No. 5.

PROCUREUR: Capt. Pierre GELLY, Procureur Permanent, Q. G., R. M. No. 5.
Grade Nom et prénoms Unité Détachement, le cas échéant

XXXXXX
XXX OFFICIER DÉFENSEUR: Lt. Albiny DUBOIS, Liste Gén., A.C., att. A-13 CITC, A.C.
Grade Nom et prénoms Unité Détachement, le cas échéant

VERDICT:

- LA COUR DECLARE le prévenu :-

Mat. D-146006, - Soldat Jean-Paul MARTIN,
Liste Générale, A.C., attaché à A-13 CITC, A.C.,

innocent de l'accusation de désertion, mais coupable d'absence sans permission sous le premier chef d'accusation, et coupable sous le deuxième chef d'accusation. "

SENTENCE: - LA COUR CONDAMNE le prévenu :-

Mat. D-146006, - Soldat Jean-Paul MARTIN, -
Liste Générale, A.C., attaché à A-13 CITC, A.C.,

à la détention pendant quarante-cinq (45) jours, et à une suppression de solde jusqu'à ce qu'il ait remboursé les frais de son appréhension et retour à l'unité, savoir: $37.13, ainsi que la valeur des effets perdus, savoir : $36.89 ".

- - - - - - - - - -

Signé à CAMP VALCARTIER, P. Q., - ce 27 ème - - jour de mars, - - - - - 194 5.

Major,
Président de la cour martiale permanente.
Q. G., R. M. No. 5.

M.F.B. 1486A
5M-6-44 (4826)
H.Q. 1772-33-2290

Extracts entered as No. 3660 in the Record of Courts-Martial kept in the Office of the Judge Advocate General this 7 day of April 1945

SERMENTS

Sténographe

Jurez-vous par le Dieu tout-puissant que vous inscrirez fidèlement, du mieux que vous pourrez, les témoignages rendus devant la présente cour martiale, ainsi que toutes les autres matières qu'il faudra, et que, quand on vous le demandera, vous en fournirez à la cour une transcription fidèle ?

Réponse: Je le jure.

Interprète

Jurez-vous par le Dieu tout-puissant que vous donnerez, selon toute votre habileté, une interprétation et une traduction fidèles, qu'on pourra exiger de vous, concernant la question dont est saisie la présente cour martiale ?

Réponse: Je le jure.

Témoin

Jurez-vous par le Dieu tout-puissant que le témoignage que vous rendrez devant cette cour sera la vérité, toute la vérité et rien que la vérité ?

Réponse: Je le jure.

Déclarations solennelles

La formule de la déclaration est la même que celle des serments, sauf qu'aux mots: "Jurez-vous par le Dieu tout-puissant" se substituent les mots: "(Nom et prénoms), promettez-vous et déclarez-vous solennellement", et que les mots: "promettez-vous et déclarez-vous solennellement" se substituent aux mots: "jurez-vous", partout où ces derniers se présentent.

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. Vous opposez-vous à E-21035, S.M. A/M.O. I. Gaston VIDAL, - - - - comme sténographe ?

Réponse: Non, monsieur. (Le mat. E-21035, S.M. A/M.O. I. Gaston VIDAL, 5ème Détachement C.C.M.E.M., A.C., 5ème Région Militaire, A.C., est dûment assermenté.

Le sténographe ~~[illegible]~~ ~~[illegible]~~ (Voir document marqué "F", ci-joint.)

- MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE:

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: " NON COUPABLE. "

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: " NON COUPABLE. "

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

" B-2 "

CHARGE SHEET

in the case of

The accused, No. D-146006, Private Jean-Paul MARTIN, General List, C.A., attached to A-13 C.I.T.C., C.A., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE: Sec.12(1)(a) Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he

at Valcartier Camp, P.Q., at 0630 hours, on the 8th of November 1944, absented himself without leave from A-13 C.I.T.C., C.A., until apprehended by Military Authorities at Vankleek Hill, Ont., on the 21st day of February 1945, at 1200 hours, wearing military uniform. Cost of apprehension and return to his unit: $37.13.

SECOND CHARGE: Sec.24(2) Army Act.

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND NECESSARIES,

in that he

at Valcartier Camp, P.Q., on the 20th of March 1945, was deficient of the following articles, viz:

(Equipment and clothing)

CLO. DIV. "A"	CARO 1862	Less 25% CARO 3464	
1 Mitts leather pullover	0.93	0.70	
1 Overall combination	2.52	1.89	
1 Coat waterproof	6.91	5.18	7.77
CLO. DIV. "B"			
1 Battle dress blouse	6.50	4.87	
1 Battle dress trousers pr	6.55	4.91	
1 Boots ankle pr	5.82	4.36	
1 Cap field service	0.70	0.52	
1 Drawers cotton short	0.42	0.31	
1 Jacket sweater	1.38	1.03	
2 Shirts khaki cotton S.S.	2.50	1.87	
1 Shoes canvas pr	2.29	1.72	
4 Socks woollen prs	1.84	1.38	
1 Shoes leather black pr	4.84	3.63	24.60
CLO. DIV. "C"			
2 Socks black prs	0.56	0.42	
1 Pin collar safety	0.06	0.04	
1 Bag kit M.K. II	1.27	0.95	
3 Boot laces prs	0.09	0.07	
1 Braces pr	0.28	0.21	
1 Brass button	0.02	0.02	
1 Brush boot polishing	0.21	0.16	
1 Brush cloth	0.17	0.13	
1 Brush button	0.11	0.08	
1 Brush hair	0.39	0.29	
1 Brush shaving	0.42	0.31	
1 Brush tooth	0.09	0.07	

CLO. DIV. "C"(Cont'd)	CARO 1862	Less 25% CARO 3464	
1 Comb hair	0.04	0.03	
1 Fork table	0.08	0.06	
1 Knife table	0.18	0.13	
1 Spoon table	0.08	0.06	
1 Housewife	0.35	0.26	
1 Holdall	0.22	0.16	
1 Razor set	0.42	0.31	
2 Towels hand	0.62	0.46	
3 Discs identity sets	0.03	0.03	4.25
CLO. DIV. "D"			
4 Badges shoulder	0.32	0.24	0.24
SECTION "A/1"			
1 Bag ration	0.04	0.03	0.03
	TOTAL NET.....		$36.89

Valcartier Camp, P.Q., this
23rd day of March 1945.

P.E. Belanger

(P.E. BELANGER) Lieut-Colonel,
T/O.C. A-13 C.I.T.C., C.A.

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins.~~

- LE PROCUREUR REMET AU PRESIDENT DES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE : -

~~Les documents suivants sont introduits par le procureur.~~

1o. M.F.B. 375, déclaration d'une Cour d'Enquête tenue au Camp Valcartier, P. Q., le 6 décembre, 1944, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " G ", signé par le Président et versé au dossier.)

2o. M.F.M. 216, certificat d'appréhension signé à Ottawa, Ont., le 22 février, 1945, par le Major P. Gray, O.C., 33 Coy. C. Pro. C., se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " H ", signé par le Président et versé au dossier.)

3o. M.F.B. 1481, certificat du coût de transport au montant de $27.55, signé au Camp Valcartier, le 19 mars, 1945, par le Capt. H. J. Thériault, C.S. & T.O., Camp Valcartier, P. Q., se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " I ", signé par le Président et versé au dossier.)

4o. M.F.B. 1481, certificat du coût de transport au montant de $4.08, signé à Ottawa, Ont., le 22 février, 1945, par le Major P. Gray, O.C. 33 Coy. C. Pro. C., se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " J ", signé par le Président et versé au dossier.)

5o. M.F.B. 1482, certificat des dépenses incidentes au montant de $5.50, signé au Camp Valcartier, P. Q., le 19 mars, 1945, par le Sgt. R. Lefebvre, escorte, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " K ", signé par le Président et versé au dossier.)

C - 3

6o. Extrait certifié des Ordres du Jour, Partie II, No. 269, émis par A-13 CITC, A.C., à Valcartier, Que., le 10 novembre, 1944, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " L ", signé par le Président et versé au dossier.)

- - - - - - - - - - - - - - - -

- LE PROCUREUR PROCEDE A L'APPEL DES TEMOINS. -

Témoin de la Poursuite:- D-464286, - Sdt. E. MARCHAND, N.R.M.A., A.C., attaché à A-13, C.I.T.C., A.C.,

étant dûment assermenté,

EST INTERROGE PAR LE PROCUREUR : -

Q. Marchand, voulez-vous dire à la Cour quelles sont les fonctions que vous exercez dans l'armée ?

R. Je suis "storeman", monsieur, au Quartier-maître.

Q. Est-ce que vous connaissez l'accusé ?

R. Celui entre les deux escortes, ici (indiquant l'accusé).

Q. En qualité de "storeman" au Quartier-Maître, avez-vous eu l'occasion de faire l'inspection du kit de l'accusé ?

R. Oui, j'ai fait l'inspection lorsqu'il est arrivé.

Q. A quelle date ?

R. Le 19-3-45, lorsqu'il est arrivé.

C - 5

Q. Quelles sont les constatations que vous avez faites lors de cette inspection ?

R. J'ai constaté qu'il lui manquait :

1	Mitts Leather Pullover	$ 0.93
1	Overall Combination	2.52
1	Coat Waterproof	6.91
1	Battledress Blouse	6.50
1	Battledress Trousers	6.55
1	Boots Ankle, pr.	5.82
1	Cap Field Service	0.70
1	Drawers Cotton Short	0.42
1	Jacket Sweater	1.38
2	Shirts Khaki Cotton S.S.	2.50
1	Shoes Canvas, pr.	2.29
4	Socks Woollen, prs.	1.84
1	Shoes Leather Black, pr.	4.84
2	Socks Black, prs.	0.56
1	Pin Collar Safety	0.06
1	Bag Kit MK II	1.27
3	Boot Laces, prs.	0.09
1	Braces, pr.	0.28
1	Brass Button	0.02
1	Brush Boot Polishing	0.21
1	Brush Cloth	0.17
1	Brush Buttons	0.11
1	Brush Hair	0.39
1	Brush Shaving	0.42
1	Brush Tooth	0.09
1	Comb Hair	0.04
1	Fork Table	0.08
1	Knife Table	0.18
1	Spoon Table	0.08
1	Housewife	0.35
1	Holdall	0.22
1	Razor Safety Set	0.42
2	Towels Hand	0.62
3	Discs Identity	0.03
4	Badges Shoulders	0.32
1	Bag Ration	0.04
	CARO 3464 Total	$ 36.93

moins le 25% enlevé.

Q. Avez-vous fait d'autres constatations ?

R. Il a rapporté, lorsqu'il est revenu :

1 Anklets,
1 Muffler,
1 Dressing First Field.

C - 7

1 Greatcoat,
1 Gloves Woollen, pr.
1 Battledress Blouse,
1 Battledress Trousers,
1 Boots Ankle, pr.
1 Cap Field Service,
1 Cap Comforter,
1 Shirt Khaki Cotton S.S.
1 Necktie Black,
1 Badge Cap.

Q. A-t-il rapporté autre chose depuis ?

R. Non, monsieur.

Q. Sur quoi vous êtes-vous basé pour faire ces constatations ?

R. Je me suis basé sur la M.F.B. 375.

- L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER CONTRADICTOIREMENT. -

- De l'avis de la Cour, il n'est pas nécessaire de se conformer à R. P. 83 (b). -

- LE TEMOIN SE RETIRE. -

-o-o-o-o-o-o-o-o-o-o-o-o-o-o-o-o-

-x-x-x-x-

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: L'accusé désire rendre témoignage sous serment, monsieur.

(Voir page D-3 et suivantes.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non, monsieur.

~~*Question à l'accusé.*~~ ~~Êtes-vous complètement en cause à l'appel de votre réputation?~~

~~*Réponse:*~~

D - 3

Témoin de
la Défense:-

L'accusé, mat. D-146006, - Soldat Jean-Paul MARTIN, Liste Générale, A.C., attaché à A-13, C.I.T.C., A.C.,

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR : -

Q. Que faisiez-vous, ici, à Valcartier, Martin ?

R. Ici, je ne faisais rien dans le moment que je suis parti; j'étais déclassé. Je restais dans ma hutte. J'étais supposé être "Fireman", chauffeur de fournaises.

Q. Quel âge avez-vous ?

R. 19 ans, monsieur.

Q. Marié, ou célibataire ?

R. Célibataire, monsieur.

Q. Est-ce que vos parents sont vivants ?

R. Oui, monsieur.

Q. Pouvez-vous dire pourquoi vous êtes parti de Valcartier ?

R. Le 7 novembre au soir, avant que je parte, une couple de jours avant j'étais "light duty", j'étais malade, et je fus forcé de travailler pareil: Brosser les plafonds et les planchers. C'est pour ça que le 7 novembre au soir, j'étais découragé et je suis parti du camp, ici.

Q. Que faisiez-vous pendant que vous étiez chez vous ?

R. J'ai presque toujours été malade; premièrement, j'ai attrapé une maladie vénérienne, après ça, je me suis fait casser la mâchoire. J'ai été presque tout le temps à l'hôpital.

D - 5

Q.- Qui vous soignait ?

R. Le docteur Smith, d'Oxbery.

Q. A quel hôpital étiez-vous ?

R. A l'Hopital Rideau, à Ottawa.

Q. Quelle était votre intention, pendant que vous étiez chez vous ?

R. J'avais l'intention de revenir avant que je poigne la maladie vénérienne; quand j'ai vu ça, j'ai resté à Oxbery. J'étais pour revenir et j'ai reçu un coup de hockey dans le visage et je me suis fait cassé la mâchoire.

Q. Comment se fait-il que vous étiez à Vankleek Hill quand on vous a arrêté ?

R. J'étais chez nous, à Oxbery, et non à Vankleek Hill.

Q. Au sujet de votre équipement, qu'en avez-vous fait ?

R. J'ai viré une brosse et je l'ai perdu.

Q. Tout ce qui vous manque, par conséquent, vous l'avez bien perdu ?

R. Oui, monsieur.

- INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR : -

Q. Vous êtes parti le 8 novembre, 1944 ?

R. Le 7 au soir, monsieur, à 1100 heures.

Q. Le 8, vous n'y étiez pas ?

R. Non, monsieur. J'étais parti le 7.

Q. Vous n'êtes pas revenu au Camp avant d'être arrêté le 21 février ?

R. Non; le 22 février, monsieur.

D - 7

Q. Quelle distance y a-t-il de Vankleek Hill à Oxbery ?

R. Sept milles, monsieur.

Q. Vous avez été arrêté à Oxbery ?

R. Oui, chez nous, monsieur.

Q. Est-ce tout près de Vankleek Hill ?

R. C'est la rue pour Vankleek Hill. Sur la rue pour Vankleek Hill, il y a un chemin qui commence pour aller à Vankleek Hill, c'est là.

Q. Etes-vous en ville ?

R. Oui, monsieur. On se trouve en ville pareil.

Q. La maladie dont vous parlez, où avez-vous attrapé ça ?

R. A Montréal, monsieur.

Q. Votre accident que vous avez eu, comment est-ce arrivé ?

R. J'étais à jouer au hockey, un gars m'a frappé et m'a cassé la mâchoire. J'ai encore une marque ici, c'est enflé.

Q. Vous avez dit que vous étiez déclassé; savez-vous quelle était votre catégorie ?

R. P-3, L-3, monsieur.

Q. Pourquoi ?

R. J'avais des varices, et le physique, je ne sais pas. J'ai été déclassé à Québec et ça été confirmé à Québec.

Q. Quand vous avez été arrêté, qu'est-ce que vous faisiez ?

R. J'étais au lit, j'avais 104° de température. Les prévôts sont arrivés, m'ont arrêté et m'ont monté en haut.

D - 9

Q. Avez-vous été malade, à Ottawa ?

R. J'ai rentré à l'hôpital, à Ottawa.

Q. Avez-vous été opéré ?

R. Le 22, quand ils m'ont arrêté.

Q. Combien avez-vous été de temps à l'hôpital ?

R. Dix-huit jours.

- L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU. -

- De l'avis de la Cour, il n'est pas nécessaire de se conformer à R. P. 83 (b). -

- L'ACCUSE REPREND SON SIEGE. -

-x-x-x-x-x-x-x-x-x-

- LE PROCUREUR ET L'OFFICIER DEFENSEUR SOUMETTENT LA CAUSE TELLE QUE PROUVEE. "

-o-o-o-o-o-o-o-o-o-

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur. (L'accusé, par son Officier Défenseur, dit :-

" Je demanderais à la Cour d'être clémente vu le jeune âge de l'accusé; de plus, il a couru faire son devoir alors même qu'il n'avait pas 19 ans, et, s'il a été déclassé, ce n'est pas sa faute. Il est jeune et, si on lui donne une chance, il saura reprendre sa place et faire son devoir. Je demande donc le minimum de peine possible. "

-o-o-o-o-o-o---o-o-o-o-o-o-o-

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

" P "

- MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE -

Président Gen.

A 1425 heures, le 26 mars, 1945, la Cour s'est ajournée. -

A 1150 heures, le 27 mars, 1945, la Cour se rassemble.

(Le procès se poursuit.)

-o-o-o-o-o-o-o-

RECORD of the Declaration of a Court of Inquiry assembled at Valcartier Camp, P.Q. on the 6th day of December 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-146006 Pte Martin J.P. Gen.List, Att. to A.I.T.C. A-13.

DECLARATION

The Court declare that No. D-146006 (Regt'l No.) Martin J.P. (Full Name) Private (Rank) Gen.List, Att. to A.I.T.C. A-13 (Unit) illegally absented himself without leave from A.I.T.C. A-13 (Place) at Valcartier Camp at 0630 hours on the 8th day of November 1944 that he is still so absent, and that on the 8th November 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
1 Anklets web pr	0 74	1 Brush button	0 11
1 Muffler khaki	0 97	1 Brush hair	0 39
1 Dressing first field	0 21	1 Brush shaving	0 42
1 Greatcoat drab	15 54	1 Brush tooth	0 09
1 Gloves woollen khaki pr	0 66	1 Cap comforter	0 41
1 Mitts leather pullover	0 93	1 Comb hair	0 04
1 Overall combination	2 52	1 Fork table	0 08
2 Battle dress blouse	13 00	1 Knife table	0 18
2 Battle dress trousers prs	13 10	1 Spoon table	0 08
2 Boots ankle prs	11 64	1 Housewife	0 35
2 Caps field service	1 40	1 Holdall	0 22
1 Drawers cotton short	0 42	1 Razor set	0 42
1 Jacket sweater	1 38	2 Towels hand	0 62

P. Boudreau, Major, R.deLevis, President (Name) (Rank) (Unit) Att. to A.I.T.C. A-13.

P.E. Mallette, Capt., R.deMais, Member (Name) (Rank) (Unit) Att. to A.I.T.C. A-13.

G. Basiouck, Lieut., R.22e R., Member (Name) (Rank) (Unit) Att. to A.I.T.C. A-13.

D. Menard, Colonel, O.C. A.I.T.C. A-13. (Name) (Rank) (Unit)

Signed at Valcartier Camp, P.Q. this 6th day of December 1944

Signature of Commanding Officer

Certified true copy J.L. Rameau Lieutenant, General List, C.A., (Name) (Rank) (Unit) Officer i/c Records, A-13 C.I.T.C., C.A. (Signature of Officer having custody of original record)

M.F.D. 175
A.F.D. 135
350M—1-44 (3578)
H.Q. 1773-28-287

3 Shirts khaki cotton S.S.	3	75	3 Discs identity sets	0	03
1 Shoe canvas pr	2	29	1 Badge cap	0	09
4 Socks wollen prs	1	84	4 Badges shoulder	0	32
1 Shoes leather black pr	4	84	1 Bag ration	0	04
2 Socks black prs	0	56	1 Coat waterproof	6	91
1 Necktie black	0	19			
1 Pin collar safety	0	06	C.A.R.O. 1862		
1 Bag kit M II	1	27	C.A.R.O. 3464 less 25%	$88	88
3 Boot laces prs	0	09	being applied on each		
1 Braces pr	0	28	article separately		
1 Brass button	0	02			
1 Brush boot polishing	0	21		$66	64
1 Brush cloth	0	17			

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY ~~[illegible]~~ TO SERVICE AUTHORITIES)

I, Major P. Gray (Number) O.C. (Rank) 33 Coy. C. Pro.C. (Name) (Unit)

hereby certify that D.146006 (Number) Pte. (Rank) John Paul MARTIN (Name in full)

of the A-13 C.I.T.C. Valcartier, Que. (Unit and attachment, if any)

Strike out words not applicable ~~[illegible]~~ was apprehended by ~~[illegible]~~ C.30871 (Number) Cpl. (Rank) Belanger E.

C.31495 Cpl. St. Louis D.H. (Name) 33 Coy. C. Pro.C. (Unit or appointment)

at Vankleek Hill, Ont. (Place) at 1200 (Hour)

on the 21st day of February 1945

Strike out words not applicable ~~[illegible]~~ as a ~~[illegible]~~ (or absentee without leave), and that at the time of his arrest he was wearing military ~~[illegible]~~ uniform (~~[illegible]~~)

Dated at Ottawa, Ont. this 22nd day of February 1945

Active Army

P. Gray (P. Gray) Major
(Signature, Number, Rank, Unit or appointment)
O.C. 33 Coy. C. Pro.C.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1771-59-1936

There are costs of apprehension in this case.

No. 383

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 58/4015 DATED JUNE 5th, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

C.J. Brunette
Assistant Pay.

I.....Capt Theriault H.J. .....No. 5 Dist Coy R.C.A.S.C. CA.....

Hereby certify that I (issued) the hereinafter itemized transportation for escort to proceed from.....Valcartier Camp. (place) to Ottawa Ont. (place) and return to Valcartier Camp, P.Q. for the purpose of escorting

....D-146006 (Number) .....Pte (Rank) .....Martin J.P. (Name in Full) .....(Abs).....

.....A-13 C.I.T.C. CA. (UNIT) .....(Attachment, if any)

alleged to be a deserter or an absentee without leave, the facts date and particulars of (the transport warrants issued) and the cost thereof for said soldier and escort being as follows:-

PARTICULARS.		COST
	T.W.	Autobus. C-949007 $ 2.00
Transport Warrant C-949009 issued on March 15th, 1945 covering transportation of Two Escorts: Escorts from Valcartier Camp, P.Q. to Ottawa Ont and return to Valcartier Camp, P.Q.		17.80
	Tax.	2.65
Transport Warrant C-949009 issued on March 15th, 1945 covering transportation of the Absentee from Ottawa Ont to Valcartier Camp, P.Q.		4.45
	Tax.	.65
	Total	27.55

Dated at Valcartier Camp. PQ. this 19th day of March A.D. 1945.

H.J. Theriault
(H.J. Theriault) Capt. C.S. & T.C. Valcartier Camp, P.Q.
Signature, Rank, Unit & Attachment (if any) and appointment of officer

Received Original copy No. 383

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY) [illegible]

Fill in complete description — I, Major P. Gray (Rank) O.C. 33 Coy. C. Pro.C. (Name) (Unit)

Strike out word not applicable — hereby certify that I (~~is~~) (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Ottawa, Ont. (Place) to Vankleek Hill, Ont. (Place)

and return to Ottawa, Ont. (Place) for the purpose of escorting

Full description of soldier being escorted — D.146006 Pte. John Paul MARTIN (Number) (Rank) (Name in full)

A-13 C.I.T.C. Valcartier, Que. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (~~the~~ ~~[illegible]~~) (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
21 Feb 45	D.N.D. Vehicle 54-420	
	Vankleek Hill, Ont. to Ottawa, Ont.	
	68 miles @ .06¢	4.08
	TOTAL	$ 4.08

Dated at Ottawa, Ont. this 22nd day of Feb. A.D. 19 45

(P. Gray) Major

Signature, rank, unit, attachment (if any) and appointment of officer (~~[illegible]~~ authorizing transportation)
O.C. 33 Coy. C.P.C.
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and not by an Officer "for" him.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(INCIDENTAL EXPENSES)

Complete description

I, D-637018 Sgt. Lefebvre R. to Att. A.I.T.C. A-13,
(No.) (Rank) (Name) (Unit)

Strike out words not applicable

as ~~XXXXX~~ (commander of escort) consisting of Myself & D-605282 R.L.

Members of escort

Pte Dupont C. to Att. A-13

detailed to proceed from Valcartier Camp, P.Q. (Place) to Ottawa Ont. (Place)

Name and description of soldier escorted

to return D-146006 Pte Martin J.P.

alleged to be a deserter or ~~XXXXX~~ AWL without leave, to Valcartier Camp, P.Q. (Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
16 March 1945.	
1 Lunch for escorts @ $1.00	$1.00
17 March 1945.	
3 Lunchs for escorts @ $0.75	$2.25
18 March 1945.	
3 Lunchs for escorts and prisoner @ $0.75	$2.25
Total	$ 5.50

Dated at Valcartier Camp this 19th day of March A.D. 1945

R Lefebvre Sgt

Signature and rank (of commander of escort)

Strike out description if inapplicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1493
75M—2-42 (8626)
H.Q. 1772-39-1850

DAILY ORDERS PART II
by
LT-COLONEL W.A. CROTEAU,
T/O.C.

A-13 CANADIAN INFANTRY TRAINING CENTRE

Order No 269
10 Nov 44
Valcartier, Que.

(Last Orders Issued No 268 d/9 Nov 44)

"B" OTHER RANKS

19. ABSENT WITHOUT LEAVE.

a) Absent without leave from 0630hrs. 8 Nov 44

D-146006 Pte. MARTIN, J.P.

(SIGNED) R.A. Cloutier, Lt.,
For:(R.PLANTE) Capt. A/Adjutant,
A-13 CANADIAN INFANTRY TRAINING CENTRE,
VALCARTIER CAMP, P.Q.

Certified true extract of Daily
Orders Part II No.269 dated
10 November 1944.

J L Perreau Lieut.& Off.i/c Records,
General List, C.A., att. A-13 CITC, CA.

"Y"

M.F.B. 355
10M—4-42 (5921)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-146006	Private	Jean-Paul MARTIN	General List, C.A., attached to A-13 C.I.T.C., C.A.

1. The following is a fair and true summary of the entries in the Field ~~Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army Act~~ and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 34 days in ~~military~~ custody, making a total of 34 days in custody, of which 21 days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ attestation paper is 19 years 4 months

6. The date of his ~~attestation~~ specified in his ~~attestation~~ attestation paper 17 July 1944

9. The accused is in possession of or entitled to no ~~military~~ military decoration, or ~~military~~ military reward

44 ~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Unit

Name.....of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26th day of March 1945. J L Ronsau LD
Officer i/c Records

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

45

No. D-146006

Name MARTIN Jean-Paul

Sqn., Battery, or Company } Corps C.I.C.(R) CA

Date of enlistment } 17 Jul 44

G.C. Badges }

Tradesmen's Rates of Pay }

M.F.M. 6 (A.F.B. 1225) 5000M—11-41 (2498) H.Q. 1772-39-1632

No. and date of last drunk }

Period not reckoning towards freedom from extra fine }

Sheet No. one

Signature O.C. Company, etc. } J.R.Mercier Capt.

Character

Place	Date of offence	How	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				S.O.S. Deserter DO Pt II No. 293 d/8th December 1944.					
				CERTIFIED TRUE COPY					
				J.L.Ramsay Lieut.& Off.i/c Records, General List, CA, att. A-13 CITC, CA.					

(P.T.O.)

PRECIS OF EVIDENCE

in the case of

No. D-146006, Private Jean-Paul MARTIN, General List, C.A., attached to A-13 C.I.T.C., C.A.

CHARGES: - (1) WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

(2) LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND NECESSARIES.

To prove the first charge, the following evidence is available:

Documentary: - M.F.B. 375,
M.F.M. 216,
M.F.B. 1481,
M.F.B. 1481,
M.F.B. 1482,
Extract from Part II Order of A-13 C.I.T.C. No.269 dated 10 Nov 44, respecting the absence of the accused.

To prove the second charge, the following evidence is available:

Documentary: - M.F.B. 375.

Verbal: - D-464286, Private E. Marchand, N.R.M.A., C.A. who will give evidence as to recoveries and deficiencies at kit inspection.

MEDICAL OFFICER'S REPORT

I certify that No. D 146006 Pte MARTIN, J.P.

of 2nd Inf Coy A-13 is in a good state of health,

and fit to undergo Trial by Court martial.

Roy Batt
Medical Officer (R.A.M.C.) AF.
M.O. A.I.T.C. A-13 VALCARTIER

Station Valcartier Camp, P.Que.

Date 26 Mar 45

M. F. B. 246
60M—4-43 (2254)
H.Q. 1772-39-480

MEDICAL OFFICER'S REPORT

I certify that No. D-146006 Pte Martin J.F.

of 2nd. Inf. Coy.A-13 is in a good state of health,

and fit to undergo Trial by Court martial.

Roy Capt.

Medical Officer (R.C.A.M.C.)

M.O. A.I.T.C. A-13 VALCARTIER

Station Camp Valcartier Que

Date 27 Mar 1945

M. F. B. 246

SPM—5-43 (254)
H.Q. 1772-99-480

H.Q.C.55-M-1635 (JAG/D-9)
Your Q.39-M-4909

7 Apr 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

D.164006 Pte. Jean-Paul Martin,
Gen. List., C.A., att. A-13 C.I.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde), Brigadier
Judge Advocate-General.

LYV/MM

3

THIS COPY FOR: H.Q.C.55-[illegible]-1635
M.D.4.39-4-[illegible] 4909

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D.164006 Name MARTIN, Jean-Paul

Rank Pte Unit Gen List C.A. att A. 13 C.I.T.C. C.A.

Charge (1st) A.A. 12 (L) (a) - Desertion

(2nd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 8-11-44; (2) 20-3-45

Date of Arrest (1) 21-2-45 Charge Signed 22-3-45

Orders for D.C.M.

Place and Date of Trial A. 13 C.I.T.C. C.A. Camp Valcartier Que 26-3-45

Sentence Det 45 days; stoppages $74.02

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36600

Date 5-4-45

MEMO Guilty A.W.L.

M.D. 4 - A. 13 CITC CA

Absent Sentence

Stops Det. 45 days

(over)

for Judge Advocate General

(M-4629)

IN REPLY PLEASE QUOTE

No. Q:39-M-4909

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Quebec, P.Q., March 31st, 1945

CONFIDENTIAL
CONF. SEC.
APR 5 1945
File G.55-M-1635
Chgd. to
Referred to

THE JUDGE ADVOCATE GENERAL,
Dept. of National Defence,
Ottawa, Ont.

STANDING COURT-MARTIAL

D/146006, Pte. Jean Paul MARTIN,
General List, C.A.,
(Att. to A-13, C.I.T.C., C.A.)

Enclosed herewith please find the proceedings of the m/n Standing Court-Martial, which are forwarded to you pursuant to C.A.R.O. 4565 (11)(a).

(ARMAND SYLVESTRE) - Major,
Permanent President S.C.M.

36600

75
12 (7229)
(101-2)

H.Q.C. 55-M-1636

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CONFIDENTIAL

M.F.E. 1028
(AM-4-43 (1000))
(H.Q. 301-1-30)

SUBJECT

STANDING COURT-MARTIAL
MAUTHE. EDWARD H.610161 PTE.

CROSS REFERENCE

CONFIDENTIAL
H.Q.C. 55-M-1636

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS (If space for entries referred cannot be increased on one line, add minute to file and enter here "With Minute")	INITIALS	DATE
APR 10 1945							
MAY 4-1945	5-5-45			J. A. G.	NEW FILE	C.R.	APR 5-1945
MAY 12 1945				J. A. G.	PER B.F. MAY 5-1945		
MAY 11 1945	11-5-45				With Papers C.R. MAY 7 1945		
					To note pls.	MM	10-5-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1636 (JAG/D)

10 May 45

The District Officer Commanding,
Military District No. 6, Halifax, N.S.

STANDING Court-Martial

H.610161 Pte. Edward Mauthe,
No. 2 Transit Camp, C.A.

Receipt is acknowledged of your H.M.4019 dated 2nd May 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

It is noted that this soldier was granted a remission of sentence one day after embarkation.

E.L.M.
Capt
for (B.J.Grdo) Brigadier
Judge Advocate-General.

MM

Note & cf Capt
L. M. CLAYTON
Capt. - Colonel
Judge Advocate General
MAY 11 1945

IN REPLY PLEASE QUOTE
No. H. M-4019 (JAG)

312293

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CANADA

Headquarters, M. D. No. 6,
Halifax, N.S., 2nd May 45. 194

CENTRAL REGISTRY ARMY
MAY 7 1945
File C55-24-1636
Chgd. to
Referred to JAG

CONFIDENTIAL

Secretary,
Department of National Defence,
Ottawa, Ontario.

Standing Court-Martial
H-610161 Pte. Edward MAUTHE
No. 2 Transit Camp, C.A.

Reference AQC.55-M-1636(JAG/D-6) d/9 Apr 45.

2. The proceedings of this Court-Martial are herewith returned for safe keeping having been daily reviewed.

3. This soldier was granted a remission of sentence one day after embarkation. Form of Remission is dated 9 Apr 45. He was not attested as a G.S. soldier.

(D.A. White) Brigadier,
D. O. C., M. D. No. 6.

NFM/jmcg

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

PROCEEDINGS OF A STANDING COURT-MARTIAL

H-610161 Private Edward MAUTHE,
No. 2 Transit Camp, CA

Debert, N.S., 28th day of March, 1945

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Debert, N.S.

on the 28th day of March 1945 at 1430 hours,

for the trial of: H-610161 Private Edward MAUTHE,
Number Rank Full Name

No. 2 Transit Camp, CA
Unit Attachment, if any

PRESIDENT: Major R.F. Barnes, E.D., Headquarters, M.D. No. 6, CA
Permanent President Standing Courts-Martial, M.D. No. 6

PROSECUTOR: Capt. A.L. Bourque, M.C., Headquarters, M.D. No. 6, CA
Permanent Prosecutor District Courts-Martial, M.D. No. 6
Rank Full Name Unit Attachment, if any

~~COUNSEL~~
OR DEFENDING OFFICER: Lieut. G.F. Porter, No. 2 Transit Camp, CA
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused, H-610161 Private Edward MAUTHE, No. 2 Transit Camp, C.A., guilty of the charge.

SENTENCE: The Court sentence the accused H-610161 Private Edward MAUTHE, No. 2 Transit Camp, C.A., to undergo detention for sixty (60) days.

Signed at Debert, N.S. this 28th day of March 1945

R.F. Barnes Major
President,
Standing Court-Martial.

M.F.E. 1186
25M-8-44 (4926)
H.Q. 1172-22-2396

Extracts entered as No. 36661 in the Standing Court-Martial kept in the Judge Advocate-General's Office this 5 day of Apr 1945

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter ?~~

Answer:

Question to the accused. Do you object to G-13090 Pte. (A/S/Sgt) G.H. Russell, No. 6 Detachment, C.M.S.C., C.A. as shorthand writer ?

Answer: No sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: Yes sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Guilty.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B-2"

R. Barnes
(R. BARNES) Major
President S.C.M.

The accused has elected to be tried by Standing Court-Martial.

CHARGE SHEET

The accused, H-610161 Private Howard MAUTHE, No. 2 Transit Camp, C.A., a N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:

CHARGE
Sec. 15(1)
ARMY ACT

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Debert Military Camp, Nova Scotia, on the 25th day of February, 1945, absented himself without leave from No. 2 Transit Camp, C.A., from 0645 hours on the said 25th day of February, 1945, until apprehended by Military Authorities at Mont Joli, Province of Quebec, at 1715 hours, the 8th day of March, 1945, dressed in military uniform, cost of apprehension and return to Unit -- $30.00.

A.E. Routier
(A.E. Routier) Col., R.C.A.,
Commandant,
No. 2 Transit Camp, C.A.

27 March, 1945,
Debert Military Camp, N.S.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. Yes sir. (See overleaf)

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

STATEMENT OF ACCUSED IN REFERENCE TO PLEA OF GUILTY:
H-61061 Private Edward MAUTHE

Sir:

I am married and my wife is not feeling so well. Last year in August when I was in Wainwright I got a letter stating she had a nervous breakdown, and the doctor advised her to get out of the city. I applied for a leave and they would not give it to me, and I brought her down to Wainwright with me during my training. I was on furlough in the meantime, and she was having a baby, and in her condition I was worried, and I received only one letter, and that letter said she wrote five or six letters. So I went home to see what condition she was in. I wrote home and asked for a statement from the doctor stating the condition she was in. I have varicose veins and my chest bothers me. That is all, sir.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No sir.

Question to the accused. Do you wish to address the Court?

Answer. No sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

8

M.F.R. 555
75M—3-43 (145)
H.Q. 1777-35-400
A.F.B. 396

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Marked "Y" and signed by me.

R. T. Bazant MAJOR
~~President~~, C.M.
~~Regiment~~ (or unit)

Number	Rank	Name
H-610161	Private	Edward MAUTNE No. 2 Transit Camp, C.A.

1. The following is a fair and true summary of the entries in the field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	1 times	A.W.L.	5 times
For	N.A.	times	Neglect to the prej.	1 times
For	N.A.	times	N.A.	times
For	N.A.	times	N.A.	times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

~~NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 20 days in ~~Air Force~~ military custody, making a total of 20 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 29 years and 3 months

6. The date of his ~~commission~~ enrollment specified in his ~~record of service~~ attestation paper is 21 May 1942

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~

~~military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

9

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28 Nov 45 day of P. Guthrie, Lt. Asst. Adjt., No. 2 T.C., Debert, N.S.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. H-610161 Name MAUTHE, E. Sqn., Battery, or Company WINNIPEG LIGHT INFANTRY (CA) Corps Marked "Z" Date of enlistment 21 May 42 G.C. Badges Rates of Pay 20¢

No. and date of last drunk Period not reckoning towards freedom from extra fine Signed by me, Sheet No. Two Signature O.C. Company, etc. U.A. Shilstra, Maj.

M.F.M. 6 (A.F.B.122) 75016—12-43 (7537) H.Q. 1173-39-1162

Place	Date of offence	Rank	Cases of drunkenness	Offence	Evidence	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
				Sheet 1 destroyed 21 Nov 41 Date of last entry 24 Aug 42.	Names of Witnesses				
Armstrong, BC	22 Aug 42	Pte.		AA Sec 15 (a) AWL 22 hrs Total forf 3 days pay	Sgt. Doig J.	8 days CB Forf 2 days pay FR&I 149 (2)	24 Aug42	Lt-Col HF Cotton (Sgd) UAS	Forf 1 days pay FR&I 149 (1)(a)
Vernon, BC	4 Jan43	Pte.		AWL 1 day 2 hrs. 45 mins. AA 15 (1) Total forf 4 days pay.	Documentary	7 days CB Fined 2 days pay FR&I 149(2)	7 Jan 43	Lt-Col HF Cotton (SGD) UAS	Forf 2 days pay FR&I 149 (1) (a)
Terrace, BC	20 Jul 43	L/Cpl.		AWL 2 days 20 hrs 45 mins AA Sec 15 (1)	Documentary	Reduced to Ranks	27 Jul 43	Lt-Col HF Cotton	Forf 3 days pay FR&I 149 (1)(a)
Wainwright Alta	14 Aug 43	Pte.		Neglect: in that he neglected to clean his rifle on 14 Aug 43	CSM Goral	4 days CB	14 Aug 43	Capt UA Shilstra (Sgd) UAS	
								(Sgd) UAS	

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Nanaimo, BC	29 Dec 43	Pte.		AWL from 1400 hrs 29 Dec 43 to 1345 hrs 7 Jan 44 AA Sec 15 (1) (Absent 8 days 23 hrs 45 mins). Total forf 27 days pay.	Documentary	14 days CB awarded forf 13 days pay FR&I 149 (2)	8 Jan 44	Lt-Col HF Cotton	Auto forf 9 days pay FR&I 149(1)(a) (Sgd) UAS
Winnipeg, Man	20 Dec 44	Pte.		AWL from 1400 hrs 25 Dec 44 till 1145 hrs 22 Jan 45(27 days 21 hrs 45 mins) Sec. 15(1) A.A.	Documentary	Forf. 28 days pay	25-1-45	Lt. Col. CH Ackland	Forf. 28 days pay FR&I 149 (1)(a)a7

P Guthrie, Lt. Asst. Adjt, No 2 Transit Camp. Debert, N.S.

CERTIFIED TRUE COPY

DAILY ORDERS PART II

D.O. No. 71
7 Mar 45
Debert, N.S.

By
BRIGADIER W.G. COLQUHOUN M.C.
Commanding

TRAINING BRIGADE GROUP

(Last Order Issued No. 70 d/6 Mar 45)

NO 2 TRANSIT CAMP WING

53 ABSENT WITHOUT LEAVE (CONT'D) SERIAL 2587

(a)(cont'd) Absent without leave from 0630 hrs 25 Feb 45.

H-610161 Pte. MAUTHE E.

(Sgd) J.A. Brochu,
(J.A. BROCHU) Lieut.,
Officer i/c Records,
Trg Bde Gp.

Certified true extract from
Part II Order No. 71, Trg
Bde Gp, d/7 Mar 45.

J.A. Cockburn Capt
Officer i/c Records,
Trg Bde Gp.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, D-66147, (Number) Sgt. (Rank) Guertin, G. (Name) No.46 Co'y, C. Prov. C. (Unit)

hereby certify that H-610161, (Number) Pte. (Rank) MAUTHE EDWARD. (Name in full)

of the W.L.I. VERNON, B.C. (Unit and attachment, if any)

Strike out words not applicable } was apprehended by [redacted] E-80250, Cpl. E-80254, Pte. (Number) (Rank)

Belzile, J.A.
Lavoie, M. (Name) of No.46 Co'y, CANADIAN PROVOST CORPS, (A.F.) (Unit or appointment)

at Mont-Joli, P.Q. (Place) at 1715 (Hour)

on the 8th, day of March, 19 45.

Strike out words not applicable } as [redacted] absentee without leave), and that at the time of his arrest he was wearing military ([redacted]) uniform [redacted]

Dated at Mont-Joli, P.Q. this 8th, day of March. 19 45.

Guertin G.
D-66147, Sgt. Guertin, G.
i/c. Mont-Joli Detachment.
(Signature, Number, Rank, Unit or appointment)
No. 46 Co'y, C. Prov. C.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

DAILY ORDERS PART II

By
BRIGADIER W.G. COLQUHOUN M.C.
Commanding
TRAINING BRIGADE GROUP

D.O. No. 89
20 Mar 45
Debert, N.S.

(Last Order Issued No. 88 d/19 Mar 45.)

NO 2 TRANSIT CAMP WING

47 ABSENT WITHOUT LEAVE

(c) Apprehd by Mlty Auth 1715 hrs 8 Mar 45 at Mont-Joli, Que. Ret to unit and held in close arrest 1624 hrs 19 Mar 45.

H-610161 Pte. MAUTHE E.

(Sgd) J.A. Brochu,
(J.A. BROCHU) Lieut.,
Officer i/c Records,
Trg Bde Gp.

Certified true extract from
Part II Order No. 89, Trg
Bde Gp, d/20 Mar 45.

J.A. Cockburn Capt
Officer i/c Records.
Trg Bde Gp.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER ~~1099, 1941~~ 1877, 1942

(INCIDENTAL EXPENSES)

Complete description

I, D-66147, (No.) Sgt. (Rank) Guertin, G. (Name) No.46 Co'y, C. Prov., C. (Unit)

Strike out words not applicable

as ~~(escort)~~ (commander of escort) consisting of Myself and E-80250, Cpl.

Members of escort

Belzile, J.A. of No.46 Co'y, Canadian Provost Corps, (A.F.)

detailed to proceed from Mont-Joli, P.Q. (Place) to Rimouski, P.Q. (Place)

Name and description of soldier escorted

to return H-610161, Pte., MAUTHE EDWARD.

alleged to be ~~escaped~~ absentee without leave, to W.L.I. Vernon, B.C. (Place),

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
8-3-45 1 Meal.....	$0.79
Total.....	$ 0.79

Dated at Mont-Joli, P.Q. this 8th, day of March, A.D. 19 45.

D-66147, Sgt. Guertin, G.
1/c. Mont-Joli, Det.
No.46 Co'y, C. Prov. C.

(Signature and rank of commander of escort)

~~escort~~ Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1462
7536—5-42 (8596)
H.Q. 1773-89-1850

(46)

ABSENTS IRRÉGULIERS ET DÉSERTEURS

CERTIFICAT EN CONFORMITÉ DE L'ARRÊTÉ EN CONSEIL C. P. 58/4015 DU 5 JUIN 1941, TEL QUE PUBLIÉ DANS L'ORDRE DE SERVICE COURANT DE L'ARMÉE CANADIENNE 1877 DE 1942

(TRANSPORT SEULEMENT)

Signalement complet — Je, soussigné, Lieut. R. Drapeau (Grade) Officer i/c Transport M.D. No.5 (Unité)

Rayer les mots inutiles — certifie, par les présentes, avoir (délivré) (~~XXXXXX~~) les moyens de transport ci-dessous énumérés pour permettre à une escorte de se rendre de Mont Joli, P.Q. (Endroit) à Rimouski, P.Q. (Endroit) et retourner à Mont Joli, P.Q. (Endroit) afin d'escorter

Signalement complet du militaire escorté — H-610161 (Matricule) Pte Mauthe Edward (Grade) (Nom et prénoms) W.L.I. (Unité) Vernon, B.C. (Détachement, s'il y a lieu)

Rayer l'expression inutile — qui est censé être déserteur ou absent sans permission et que les faits, la date et les détails (des mandats de transport émis) (~~XXXXXXXXXXXXXXXX~~) ainsi que les frais en découlant pour ledit militaire et l'escorte sont les suivants:

DÉTAILS	FRAIS
Transport Warrant No. C-949388-89 issued on 14th March 1945 covering transportation of E-80254 Pte Lavoie M. escorts from Mont Joli, P.Q. to Rimouski, P.Q. and return to Mont Joli	.60
Transport Warrant No. C-949388-89 issued on 14th March 1945 covering transportation for the absentee from Rimouski, P.Q. to Mont Joli, P.Q.	.30
TOTAL	$ .90

DEPUTY ASST. PROVOST MARSHAL H.Q. M.D. No. 5 MAR 15 1945 QUEBEC

Donné à Quebec, P.Q. ce 14th jour de March A.D. 19 45

(R. Drapeau) Lieut Officer i/c Transport MD 5

Signature, grade, unité, détachement (~~XXXXXX~~) et emploi de l'officer (émettant les mandats de transport) (~~XXXXXXXXXXXXX~~).

Le certificat doit être établi par l'officier qui a délivré ou autorisé les mandats de transport ou le transport d'un militaire censé être déserteur ou absent sans permission, pour qu'il soit reconduit à son corps, unité ou garnison, et de l'escorte pour ledit militaire. *Transport seulement.*

Les dates des mandats ou du transport délivrés doivent être indiquées.
Le coût des repas et des faux frais doit être inscrit sur le modèle M.F.B. 1482.

M.F.B. 1481A
20M-4-43 (9773)
Q.G. 1772-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Capt. M.F. Vining, C.S. & T.O., Debert, N.S.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from Debert, N.S. (Place) to Rimouski, Que. (Place)

and return to Debert, N.S. (Place) for the purpose of escorting

Full description of soldier being escorted — H-610161, Pte. Mauthe, E.,
(Number) (Rank) (Name in full)
No. 2 Transit Camp, Debert, N.S.
(Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation~~) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
Total cost of transportation for the purpose of escorting the A/W absentee to unit: Escort & Absentee.	
Transport Warrant No. C-874743	$ 28.31
TOTAL	$ 28.31

Dated at Debert, N.S. this ~~XXX~~ 17 day of Mar. A.D. 19 45

M F Vining
(M.F. Vining) Capt.,
C.S. & T.O., Debert, N.S.
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing officer~~)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
125m—10-43 (5462)
H.Q. 1772-99-1481

MEDICAL OFFICER'S REPORT

I certify that No. H-610161 Pte Mauthe E

of # 2 Transit Camp is in a good state of health,

and fit to undergo Trial by Court martial.

H.S. Asselstine Lt

Medical Officer
H.S. Asselstine Lieut RCAMC
Attached # 2 Transit Camp,

Station Debert, Nova Scotia

Date 28 Mar 45

M. F. B. 246
50M—5-43 (154)
H Q 1773-39-460

H.Q.C.55-M-1636 (JAG/D-8)
Your H.M. 4019

9 Apr 45

The District Officer Commanding,
Military District No. 6, Halifax, N.S.

STANDING COURT-MARTIAL

H.610161 Pte. Edward Mauthe,
No. 2 Transit Camp, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. Your attention is directed to K.R.(Can) 563(c).

(R.J.Orde), Brigadier
Judge Advocate-General.

MO/MM

842

THIS COPY FOR: H.Q.55-A-1636
M.D.M.4019

NPMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL.

No. H.610161 Name MAUTHE. Edward

Rank Pte Unit No. 2 Transit Camp CA

Charge A.A. 15 (1) - A.W.L.

Date of Crime 25-2-45

Date of Arrest 8-3-45 Charge Signed 27-3-45

Orders for D.C.M.

Place and Date of Trial Debert N.S. 28-3-45

Sentence Det 60 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36601

Date 5-4-45

MEMO

M.D. 6 - No. 2 Transit Camp CA

Absent	Sentence
12 days	Det. 60 days

for Judge Advocate-General

10M-1-45(M-4629)

In reply please quote R.M.-4019 (JAG)

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

CONFIDENTIAL

Headquarters, M.D. No. 6,
Halifax, N. S. 31 Mar 45.

GENERAL REGISTRY ARMY
APR 5 1945
Class 55-M-1626
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Canada.

STANDING COURT-MARTIAL:

H-61061 Pte. E. Mauthe
No. 2 Transit Camp, CA

1. Proceedings of the m/n Court are forwarded herewith for the consideration of the Judge Advocate General, in accordance with R. O. 4566.

(R. P. BARNES) Major
President Standing Courts-Martial,
M. D. No. 6.

RPB/GHR
Encl.

36601

H.Q.C. 55-M-1637 CONFIDENTIAL

N.F.R. 508
15M—1-45 (1600)
H.Q. 55-140

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MICIAK. MIKE PETER M.601864 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1637

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")							
APR 3 1945					NEW FILE	C.R.	APR 5 - 1945
APR 13 1945	12 4/45	PA	EKM	J.A.G.	For Recirculation C.R. APR 12 1945		
				JAG	For Reports C.R. APR 22 1945		
APR 25 1945				JCM	To note pls. PA of	MM	24-4-45
APR 27 1945					PER B.F. MAY 27 1945		
MAY 29 1945							
JUN 5 1945				JCM	For Reports C.R. JUN 5 1945		
JUN 19 1945	cancelled	cancelled		JCM	For Recirculation C.R. JUN 19 1945		
				JCM BR	For Recirculation C.R. SEP 15 1945		
				AB	—	WAS	OCT 22 1945
NOV 6 1945	6-11-45	PA	GOB	Adm	Passed pls	GOB	24.10.45
				AJG	For Reports C.R. NOV - 7 1945		
NOV 8 - 1945	4 11/45	PA	RLC	Admin	Mem pls	RCC	7-11-45
NOV - 9 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

CLAIR C. JOHNSTON
BARRISTER, SOLICITOR, NOTARY PUBLIC

PHONE 24284
EDMONTON, ALBERTA
CANADA

CENTRAL REGISTRY Army
6973
NOV 3 1945
Chgd. to
Referred to

November 1st, 1945.

Judge Advocate General,
OTTAWA, Canada.

Dear Sir:

Re: M. 601864 Pte. MICIAK, M.P.

Would you please review the file of the above with a view in reduction in sentence and advise me of your conclusions.

Miciak was absent without leave and a greater part of the time he was absent he was with one Emil Litzenberger, who I understand has been released. No doubt the same treatment should be extended to both these men.

I would appreciate being advised.

Yours very truly,

CLAIR C. JOHNSTON

Per: SB

CCJ-sb

IN REPLY PLEASE QUOTE

No. R.1-M-2067(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 1 Nov 1945.

7055
NOV 4 1945
H.Q.C. SIG. M-1637
Ch. Admin 1 Y 12
Referred to Admin

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

M.601864 - Pte. MICIAK, M.P.

Reference HQC 55-M-1637 Adm 3(a) dated 24 October, 1945.

2. Herewith for custody M.F.M. 288 in respect of the marginally named soldier, the balance of whose sentence of detention has been remitted, effective 1 November, 1945.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

44

D.D. 23
500CM-10-44 (3769)
H.Q. 1773-101-23

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of M.601364 (Number) Pte. (Rank) Mike Peter MICIAK (Name in full)

No. 12 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to Detention for one year.

on 29th day of March, 1945. at Regina, Saskatchewan.

being served at Regina Jail, Regina, Saskatchewan. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 years, 10 months. 4th December, 1941

Medical grade or category AI

FIRST TRIAL—PART II

To Adjutant-General, Department of National Defence, Ottawa, Ont. (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be (suspended) (~~put into execution~~) (~~reviewed on~~ ..... (date)) for reasons given in paragraph X.

Place Regina, Sask.,

Date 19 April, 1945.

(Confirming Authority)
(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ..... 5, and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

43

62

M.F.M. 288
(Army Form A-3104)
153M—6-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
APR 26 1945	Adjutant-General for Superior Military Authority	MAY 23 1945 Adjutant-General for Superior Military Authority	
JUN 19 1945	B.F. for ~~Review~~ on 29/10/45	Adjutant-General for Superior Military Authority	
29 Oct 45	Balance of sentence of detention remitted effective 1st November, 1945. (G.A.H. Trudeau), Brigadier, D.O.C., M.D. No. 12.		

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
WHEN ON ACTIVE DESERTING HIS MAJESTY'S SERVICE - AWL from 0330 hrs 7 July 43, until apprehended at Regina, Saskl at 0300 hours 27 Feb. 45 by the Mil. Power, dressed in plain clothes.	7 Jul 43	29 Mar 45
WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER - ~~xxfxx~~ did not put on the uniform of the Canadian Army when ordered to do so by L.22001 RQMS Sneddon, D.L., No. 12 Dist. Depot, CA.	9 Mar 45	29 Mar 45

Signature of Officer making entry

(E.A. Cooke) Lt.-Col.,
Commanding Officer,
No. 12 District Depot, CA.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
14th April, 1945	That sentence be served. (E.A. Cooke) Lt.-Col., Commanding Officer, #12 Dist. Depot, CA	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
19th April, 1945	Recommend that soldier be despatched overseas under suspended sentence in accordance with para. 6A radio ~~Rankie~~ 6253.	(G.A.H. Trudeau), Brigadier, D.O.C., M.D. No. 12.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

42

61

THIS IS AN ACTION COPY
IF INDICATED OTHERWISE COMPLETE BELOW AND RETURN TO ADMIN WOODS

BRANCH	TIME	SIGNATURE

RECEIVED
OCT 24 1945
A.D.M.I.N.
3a

R.C.SIGS
631 NATIONAL DEFENCE BLDG.
OCT 24 1945
(OTTAWA)
ARMY SIGNAL OFFICE

Odm

AWER V CIR NR 30

FROM CMDG 12 REGINA SASK 241400T

TO THE SECTY DND OTTAWA ONT

GR 14 BT

R 1021 RESTRICTED YOUR RANKS 1144 RESTRICTED ACKNOWLEDGED

BT 241426T IB AR

1130
24/10/45

81650

241631-

HQC 55-M-1637, Adm 3(a)

24 Oct 45.

AIR MAIL

District Officer Commanding,
Military District No 12,
REGINA, Sask.

M-601864 - Pte MICIAK M P

Ref our Ranks 1144 this date:-

1. Enclosed herewith MEM 228 for

2. the m/n soldier.

(A E Walford)
Major-General,
Adjutant-General.

Encl 1)

GDB:mw

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

HQC 55-M-1637,
Adm 3(a)

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE

PLACE OTTAWA, Ont DATE 24 Oct 45.

District Officer Commanding,
Military District No 12,
REGINA, Sask.

RANKS 1144 (RESTRICTED)

REVIEW REF AG 0267 D/18 OCT 45

REFERS M-601864 PTE MICIAK M P (.)

CMBR RECOMMENDS RELEASE ON ONE NOV

45 (.) AG CONCURS (.) ACK

ADJUTANT GENERAL

Infm copy to:
CMBR
JAG

GDB:mm

G D Butler

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED			

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

HQC 55-M-1637 (CMHQ-4)
19 Sep 45

PAGE 1.

Case No 0195

REVIEW OF SENTENCE

1. No, Rank and Name: M.601864, Pte. WICIAK, M.P.

2. Unit at date of offence: 1st charge - #11 DD (CA) Vancouver, B.C.
2nd " - #12 DD (CA) Regina, Sask.

3. Charge: 1. AA 12(1)(a) Desertion
(Absent from 7 Jul 43 until apprehended in plain clothes on 27 Feb 45 - 19¾ mos)

2. AA 9(2) Disobeying a lawful command (didn't put on the uniform of the Canadian Army when ordered to do so)

4. Place and Date of Trial: The Armoury, Regina, Sask. 22 Mar 45

5. Finding: Guilty of both charges

6. (a) Sentence: One year detention

(b) Date of Sentence: 29 Mar 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at Regina Gaol in MD 12

(N.B. - Discharged under RO 1029 ( ) for
wef).

Case No----------

CONDUCT

11. (a) Prior to conviction: Fair

Date of enlistment:

Date of enrolment: 4 Dec 41 Present Age: 25

(b) After conviction: Good

(Expected date of release 28 Jan 46)

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

Unsworn statement of accused: Requested spring leave - not granted. While home on furlough worked to put crop in. Subsequently requested leave to take crop off - not granted so went absent. Father sick on farm and accused only one available. Went out on trip with intention of being apprehended "to get it over with". Didn't refuse to put uniform on. Wanted to wait and see what was in his documents first.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC Reviewing Offr, etc).

Rev. Offr: No remission

Reviewed by (W. A. Gold) Lieut.

---

14. ~~Decision~~ Recommendation of the Board: Release on 1 Nov 45

W a Stilwell Maj

Date: OCT 16 1945 194---.

~~Chairman/Member~~/Secretary, Court Martial Board of Review

IN REPLY PLEASE QUOTE

No. R.1-M-2067(AJAG)

CANADA

AIR MAIL

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 3 Oct 1945.

CENTRAL REGISTRY Army
CONF. SEC.
2203
OCT 10 1945
File: C 55-M-1637
Chgd. to CMBR 15-9-45
Referred to CMBR.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

M.601864 - Pte. MICIAK, M.P.

Reference HQC 55-M-1637(CMBR) dated 1 October, 1945.

2. Herewith M.F.M. 288 relative to the m/n soldier, together with latest report on conduct.

3. This case had been B.F'd. for review on 29 October, 1945.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-161-23

I.C.M. - D

REPORT ON CONDUCT

H. Q. C. 55- M-1637 (ICM)
5 Th. June 194 .5

To:- Secretary,
Department of National Defence,
Ottawa, Ontario.

1.	Soldier under sentence	M-601864, Pte. M.P. MICIAK.
2.	PLEASE STATE:-	
(i)	Date of sentence	(1) March 29, 1945.
(ii)	Sentence	(2) 1 year's hard labour.
(iii)	Date you received soldier	(3) April 4, 1945.
(iv)	(a) Can soldier read and write?	4a. Yes.
	(b) Religion	4b. Greek Orthodox.
	(c) Married, widower, single	4c. Single.
	(d) What Army trade has soldier?	4d. None. (Farmer).
(v)	(a) Conduct of soldier	5a. Good.
	(b) Industry of soldier	5b. Good.
	(c) Remission earned:-	5c. Remission earned:
	(i) Number of days actually earned.	(1) 11 days.
	(ii) Number of days obtainable to date.	(2) 11 days.
(vi)	Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	6. not ill
	(a) Whether imprisonment or detention will seriously aggravate soldier's condition.	6a.
	(b) Whether further confinement is likely to prove fatal.	6b. _____ GAOL SURGEON.
(vii)	(a) Whether in your opinion conduct of soldier warrants remission of balance of sentence?	7a. Conduct good
	(b) Moral effect confinement has had?	7b. good
(viii)	Date term will expire if all remission earned from now on.	8. January 28, 1946.

Signature _____
THOS. P. HAYES, Warden.

Date of Report. 15/6/45

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LHC/IL

DEPARTMENT OF NATIONAL DEFENCE
- Army -

EXC 55-M-1637 (ICM)

MDHQ Ottawa, Ont

31 Jul 45 1945

CONFIDENTIAL
C.M.

District Officer Commanding,
Military District No. 12,
REGINA, Sask.

~~M.601864 Pte. MICIAK, M. P.~~

Ref 1-M-2067

2. Enclosed herewith:-

(a) MFM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for Capt Gordon
(A E Walford)
Major-General
Adjutant-General

39

SASKATCHEWAN

PROVINCIAL GAOL

CENTRAL REGISTRY Army
CONF. SEC.
JUN 19 1945
File C55-M-1657
Chgd. to
Referred to F.C.M.

ADDRESS YOUR REPLY TO
THE WARDEN

REGINA June 15. 19 45.

322637

12

The Secretary,
Department of National Defence,
Ottawa, Canada.

Dear Sir:

Re Michael P. Miciak, our #35912,
Your No. M.601864, Pte. M.P. Miciak:

In compliance with your request of the 5th instant, we are enclosing herewith "Report on Conduct" Form duly completed in connection with the above-named inmate.

Yours very truly,

THOS. P. HAYES,
Warden.

TPH/DRB.
Enc. 1.

37

I.C.M. - C

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

H. Q. C. 55- M-1637 (ICM)
OTTAWA, 5 Th. June 1945

The Warden,

Regina Common Gaol,

REGINA, Sask.

M-601864, Pte. M.P. MICIAK.

1. Herewith "Report on Conduct" form in respect of this soldier who is serving, in your institution, a sentence of 1 Year imprisonment with hard labour awarded by a Standing Court-Martial on the 29 day of March 1945

2. Please complete said form and forward same BY RETURN MAIL addressed to the Secretary, Department of National Defence, Ottawa, Ontario.

F. Dalton
Deputy Minister (Army).

LHC/IL

35

1M-5-45(M-74)

IN REPLY PLEASE QUOTE

No. R.1-M-2067(AJAG).

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 1 June 1945.

319118

Army
JUN 4 1945
File 1.55.M-1637
Chgd. to
Referred to Sgt.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

M.601864 Pte. MICIAK, M.P.

Reference HQC.55-M-1637(ICM) dated 29 May, 1945.

2. It is recommended that this soldier should complete his sentence in detention.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

34

N.D. 23
3000M—10-44 (5769)
H.Q. 1712-101-23

HQC.55-M-1637 (ICM)
your file No.R.C.1-M-2067

OTTAWA, Ontario.

29 MAY 45.

District Officer Commanding,
Military District No. 12,
REGINA, Sask.

M601864 Pte. MICIAK, M.P.

Ref. telegram Confidential ICM 209 dated 27 APR 45.

2. Owing to recent developments Overseas the suspension of sentence effective one day after embarkation has been cancelled.

3. Please submit your recommendation as to whether

(a) this soldier should complete his sentence in detention, or
(b) the sentence should be suspended immediately, or
(c) at some future date (in which case please recommend a date).

(A.E. WALFORD)
Major-General,
Adjutant-General.

LHC:WS.

33

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: [illegible]

PLACE	DATE
OTTAWA, Ontario.	27 APR 45.

District Officer Commanding,
Military District No. 12,
REGINA, Sask.

CONFIDENTIAL IGH 209

REFER DATED 19 APR 45 FORM C ONE DASH H DASH TWO RANGE SIX SEVEN BRACKET AND BRACKET NUMBER H 601864 PTE W T. MICKLE SERIAL 2990 (.) SENTENCE SUSPENDED EFFECTIVE ONE DAY AFTER PROMULGATION

ADJUTANT-GENERAL

ORIGINATOR'S INSTRUCTIONS

31

MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
Major-General, Adjutant-General		IMPORTANT	270310

7 - FOR ORIGINATOR'S FILE COPY 2 WILL BE RETURNED AS CONFIRMATION

DUPLICATE

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of ..... Number ..... Rank ..... Name in full

..... Unit ..... Attachment (if any)

Sentenced to .....

on ..... at .....

being served at ..... (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment .....

Medical grade or category .....

FIRST TRIAL—PART II

To ..... Superior Military Authority

For details of offence see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place .....

..... Confirming Authority

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... Confirming Authority

Date .....

M.F.M. 268
(Army Form A-3106)
15M—6-43 (841)
H.Q. 1772-39-2015

30

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
APR 27 1945	[illegible]	Adjutant-General for Superior Military Authority	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Arrested from 7/7/43 till apprehended 27/3/45.	7/7/43	29/3/45
Leaving lawful command.	9/3/45	29/3/45
B. A. Cook, Lt Col. Signature of Officer making entry		

C. O. No 12. D. D. C. R.

H.Q.C.55-M-1637 (JAG/D-1)

24 Apr 45.

District Officer Commanding,
Military District No. 12,
Regina, Sask.

Standing Court-Martial
M.80184 Pte. Mike Peter MICIAK
No. 12 District Depot, C.A.

1

Receipt is acknowledged of your R.C. 1-M-2067 (AJAG) dated 10th April 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial together with M.F.M.288.

E.L.M.
Capt.
for (R.J.Orde) Brigadier,
Judge Advocate-General.

ALT/ET

Noted
JFL
L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 25 1945

DAG (b)

Reference Part I of MFM 288. Recommended that sentence be suspended effective one day after confirmation.

L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 26 1945

Approved
R. Oxnum
R. AUTEROUSSE
BRIGADIER
D.A.G. (b)
28
APR 26 1945

IN REPLY PLEASE QUOTE No. R.C.1-M-2067(AJAG).

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Regina, Sask., 19 Apr., 1945.

308666

CONFIDENTIAL

CENTRAL REGISTRY Army
APR 22 1945
C SJ-M-1637
JAG.

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
M.601864 - Pte. Mike Peter MICIAK
No. 12 District Depot, C.A.

Reference H.Q.C.55-M-1637 (JAG/D-1) dated 9 April, 1945, forwarding proceedings of the marginally noted Standing Court-Martial pursuant to C.A.R.O. 4565(12).

2. M.F.M. 288 has been completed in this case and is enclosed herewith, together with the proceedings.

G.A.H. Trudeau

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

27

NAT. DEF. B. 440
250014-4-44 (4287)
H.Q. 1772-29-787

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armoury, Regina, Sask.,

on the 22nd day of March, 1945 at 1415 hours,

for the trial of: M.601864 Pte. Mike Peter MICIAK,
Number Rank Full Name

No. 12 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major S.L. Waterman, E.D., President, Courts-Martial, M.D. No. 12.

PROSECUTOR: Capt. P.W. McMeans, Prosecutor, Courts-Martial, M.D. No. 12.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ The Court adjourns. See document marked "H" attached.

~~OR~~ DEFENDING OFFICER: Lieut. G.C. Beesley, No. 12 District Depot, C.A.
Rank Full Name Unit Attachment, if any

(See documents marked "G", "H" and "I" attached.)

FINDING: The Court find that the accused, M.601864 Pte. Mike Peter MICIAK, No. 12 District Depot, C.A., is guilty of both the charges.

SENTENCE: The Court sentence the accused, M.601864 Pte. Mike Peter MICIAK, No. 12 District Depot, C.A., to undergo detention for one year.

Signed at Regina, Sask., this 29th day of March, 1945.

S.L. Waterman Major,
President,
Standing Court-Martial

M.F.B. 1486
25M-6-44 (4838)
H.Q. 1772-39-2280

Extracts entered as No. 36602 in the Record of Courts Martial kept in the Office of the Judge Advocate-General this 5 day of Apr 1945

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: ~~as interpreter?~~

Question to the accused. Do you object to L-25640 SM (A/W.O.I) W.H. Matthews, H.Q. M.D. 12 (CMSC Sub-Staff), as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or other~~ Court-Martial?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. That's right, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer. Guilty, sir. (The Court, not being satisfied that the accused understands the implications of pleading guilty advises him to plead not guilty. The accused thereupon changes his plea to "Not guilty.")

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

25

(The accused having pleaded guilty to the second charge ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B2" S/Waterman
Resident S.C.M.

5.

CHARGE SHEET

The accused, M.601864 Pte. Mike Peter MICIAK, No. 12 District Depot, CA., Regina, Saskatchewan, an NRMA soldier of the Canadian Army placed on Active Service is charged with:

FIRST CHARGE
Section 12 (1)(a) Army Act.

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE.

in that he

at Vancouver, B.C. at 0730 hours on the 7th July, 1943, absented himself from No. 11 District Depot, CA until apprehended at Regina, Saskatchewan at 0300 hours on the 27th February, 1945 by the Military Power, dressed in plain clothes.

SECOND CHARGE
Section 9 (2) Army Act.

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

at Regina, Saskatchewan at 0940 hours on the 9th March, 1945, at the Q.M. Stores, No. 12 District Depot, CA. did not put on the uniform of the Canadian Army when ordered to do so by L.22001 RQMS Sneddon, D.L., No. 12 District Depot, CA.

B.A. Cooke
(B.A. COOKE) Lt.-Col.,
Commanding Officer,
No. 12 District Depot, CA.

21st March, 1945
Regina, Saskatchewan.

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Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor declines to make an opening address.

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

~~being duly sworn, is examined by the Prosecutor.~~

Question

THE PROSECUTOR: I produce M.F.B. 375 and M.F.M. 216.

The Defending Officer raises no objection to either of the documents.

The documents are read and marked Exhibits "J" and "K" respectively, signed by the President and attached to the proceedings.

FIRST WITNESS FOR THE PROSECUTION:

L.22001 RQMS (W.O.II) D. L. SNEDDON, No. 12 District Depot, C.A., being duly sworn, is examined by the Prosecutor.

Q. Sergeant-Major, will you tell the Court your number, rank, name and unit, and your employment in that unit?

A. I am L.22001 RQMS Sneddon, D.L., 12th District Depot, Regina, Saskatchewan, employed at the Q.M. Stores, 12th District Depot.

Q. Do you recognize the accused?

A. I recognize the accused, sir.

Q. What is his name?

A. Pte. Miciak, if I pronounce it correctly, sir.

Q. Did you have occasion in the course of your duties recently to give the accused an order?

A. I did, sir.

Q. Will you tell the Court the approximate time and date and what took place on this occasion?

A. On March 9th, 1945, at approximately 0940 hours the accused was paraded to me at the Q.M. Stores, 12th District Depot, Regina, Saskatchewan, for the purpose of being outfitted with the Canadian Army uniform. I was dressed in the uniform of the Canadian Army. Showing the accused the badge of rank, W.O.II, on the sleeve of my battledress blouse I asked him if he knew what it meant. He replied, "Sergeant-Major."

A. cont'd Showing the accused the uniform of the Canadian Army I asked him if he knew what it was. He said, "Army uniform." I said, "What Army?" He said, "Canadian." I asked him if he understood what an order was. He said, "Yes." Offering the accused the uniform I said, "Put this uniform on now." The accused answered, "I'll leave it off until I get other particulars."

Offering the accused the uniform a second time, I said, "This is a direct order: Put this uniform on now." The accused answered, "The answer is still the same." Again offering the accused the uniform I said, "This is a third direct order: Put this uniform on now." The accused answered, "The answer is still the same." The accused did not take or put the uniform on. There was privacy and the accused could have put the uniform on if he had wished to do so. I also explained to the accused the seriousness of the offence of disobeying a lawful command, saying he was liable after trial to get imprisonment. I then told the escort to take him to the Guard Room.

Q. How was the accused dressed when he was paraded to you?
A. In civilian clothes, sir.

The Defending Officer declines to cross-examine.

QUESTIONED BY THE COURT

Q. I understand your evidence is that when you gave the order the first time the answer by the accused was: "I'll leave it off until I get further particulars."
A. "I'll leave it off until I get other particulars."

Q. That's what I said: "I'll leave it off until I get other particulars"; is that right?
A. Yes, sir.

Q. Did you ask him at any time, as the other answers were the same, what he meant by that?
A. I asked him, sir, and he said something about papers; and I told him I had no concern about the papers. I told him that he was here to put the uniform on.

Q. Why didn't you give that in direct evidence?
A. I just slipped my mind, sir.

Q. I would like you to explain that again; what you said to him and what his answer was.
A. After.....

Q. Just what was said after he said he wanted further particulars.
A. I asked the accused, "What particulars?" He said, "I want more particulars from my papers in my documents." The papers sent with his documents, sir.

Q. I see. And following the second or third order that you state you gave his answer was: "The answer is still the same."?
A. Yes, sir.

Q. Did you report this conversation with the accused, or what happened, to your senior officer?
A. No, sir.

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Q. Did you, yourself, take any action on it about these papers?

A. No, sir.

THE COURT TO THE WITNESS AT THE REQUEST OF THE PROSECUTOR: Did you explain this conversation about other particulars demanded by the accused to your Commanding Officer at any time?

THE WITNESS: No, sir.

The witness withdraws.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make an unsworn statement, sir. (See document marked "L" attached.)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

The Defending Officer makes a closing address. See document marked "M" attached.

The Prosecutor makes a closing address. See document marked "N" attached.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. Not on them, sir.

Question to the accused. Do you wish to address the Court?

Answer. I don't think so, sir, but my Defending Officer will speak for me.

THE DEFENDING OFFICER: Mr. President: There isn't very much that I can say at this time except that I wish the Court to take into consideration the accused has been under close arrest for 31 days.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

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DD #26

Regina, Sask., 21st March...1945

Officer Commanding,
No. 12 District Depot CA,
Regina, Sask.

This is to certify that I have been advised by the Officer Commanding, No. 12 District Depot of the following facts:

(1) That I will be prosecuted at my trial by Standing Court-Martial by an officer who is a qualified barrister in civilian life.

(2) That I may, if I so wish, hire a civilian lawyer to defend me.

(3) That I may ask for and have an officer detailed to defend me if I so wish.

(4) That I may conduct my own defence if I so wish.

(5) That I may call witnesses, army personnel or civilian, in my own defence if I so wish.

2. I ~~do not~~ wish to have an officer defend me at my trial by Standing Court-Martial.

M.601864 Pte. Mike Peter MICIAK
No. 12 District Depot CA.

WITNESS

(J.M. Policha) A/Capt.
No. 12 District Depot CA.

18

"H"

Swaseman

Major,
President, Standing Court-Martial.

MINUTE REGARDING DEFENDING OFFICER

QUESTIONS BY THE PRESIDENT TO THE ACCUSED

Q. I have a letter here purporting to be signed by M.601864 M. P. Miciak. Is that your signature (showing the accused the document marked "G")?

A. That's right, sir.

Q. It is dated the 21st March 1945 and in this letter you acknowledge that you have been advised as to your rights in arranging your defence; and then at the end, I would like to have you clarify what it says here. It has been erased. Does it say, "I wish to have an officer defend me"?

A. I wish to have a Defending Officer.

THE COURT: You wish to have a Defending Officer. Well, there is no letter before the Court from the Commanding Officer detailing an officer to defend you. Perhaps, Capt. McMeans, you could explain the situation.

THE PROSECUTOR: Sir, upon investigation I was informed by the Commanding Officer that the accused had a Defending Officer made available for his defence. The accused, nevertheless, requested an officer out of the District to be detailed for his defence. A communication has been forwarded to District Headquarters for a request to National Defence Headquarters for appointment of this officer. It is suggested that, if the Court so desires, an adjournment could be granted now at this stage of the proceedings for one week.

THE COURT: The Court will grant the adjournment as requested.

At 1425 hours on the 22nd day of March, 1945, the Court adjourned.

At 1015 hours on the 29th day of March, 1945, the Court is reopened.

THE COURT: Now, accused, a week ago when you first appeared before the Court you had no Defending Officer detailed and you said you wished to have one, and the Court was adjourned for one week for that to be done. Now there is a letter before the Court (document marked "I") from Lieut.-Col. Cooke, Commanding Officer of No. 12 District Depot, stating that Lieut. G. C. Beesley has been detailed to act as your Defending Officer. Are you satisfied to have Mr. Beesley act as your Defending Officer?

THE ACCUSED: Yes, sir.

"1" Swaterman Major President SCM

21.

IN REPLY PLEASE QUOTE No. DDR 6-0-1 (Legal)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Regina, Sask. 29th March, 1945

Major S.L. Waterman, E.D.,
President, Courts-Martial
Regina, Sask.

Standing Court-Martial
M.601684 Pte. MICIAK, M.

Lieut. G.C. BEESLEY, No. 12 District Depot, C.A., has been detailed to act as Defending Officer at the trial of the marginally named soldier.

J. M. Polischa Capt
for (B.A. COOKE) Lt.-Col.,
Commanding Officer,
No. 12 District Depot, CA.

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NAT. DEF. B. 440
3300M-4-44 (4321)
H.Q. 1123-38-297

Exhibit "J"
Examined
President. SCM.

RECORD of the Declaration of a Court of Inquiry assembled at Vancouver, B.C. on the 4 day of August 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. M-601884 Pte. MICIAK M.P.

DECLARATION

The Court declare that No. M-601884 Pte. MICIAK M.P. of #XI District Depot, Little Mountain Camp, Vancouver, B.C. illegally absented himself without leave From 1st. Bn. R.M.R. C.A. at 0720 hours on the 7 day of July 1943, that he is still so absent, and that on the 7 July 1943 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
Kit Deficiencies listed on reverse side			

Signed at Vancouver, B.C. this 4 day of Aug 1943

W.L. DOCKER Capt. President
#XI District Depot CA(A)

J.L. MONTGOMERY Capt. Member
#XI District Depot CA(A)

S.A. KEISBERG Capt. Member
#XI District Depot CA(A)

Signature of Commanding Officer M.E. COGMAN Lt. Col.
#XI District Depot CA(A)

Certified true copy H Anderson Major R.A.P.C.
#XI District Depot CA(A)
Signature of Officer having custody of original record

M.F.B. 373
A.F.B. 113
100M—4-42 (4337)
H.Q. 1771-59-337

15

2a

CLO. DIV. "A"			
Dressing, First, Field	1		$ .23
Gloves, Woollen, Khaki,	1		.59
CLO. DIV. "B"			
Battle Dress, Serge, Blouses	2 @ 5.25		10.50
Battle Dress, Serge, Trousers.	2 @ 5.39		10.78
Boots, Ankle,	2 @ 5.46		10.92
Drawers, Cotton, Shorts,	2 @ .36		.72
Drawers, Woollen	2 @ 1.20		2.40
Shirts, Cotton, Khaki, w/sc	2 @ 1.25		2.50
Shirts, Flannel, Khaki	2 @ 1.71		3.42
Shirts, Under, Cotton, w/ss	2 @ .39		.78
Shirts, Woollen,	2 @ 1.20		2.40
Shoes, Canvas	1		2.55
Socks.	4 @ .37		1.48
Trousers, Service	1 @ [illegible]		1.37
CLO. DIV. "C"			
Belts, Waist, Leather, Brown	1		
Blacking,	Tins 1		.37
Boot Dressing,	Tins 1		.05
Braces,	1		.05
Braces, Button	1		.32
Brushes, Boot, Polishing	1		.02
Brushes, Button,	1		.19
Brushes, Cloth,	1		.11
Brushes, Hair	1		.27
Brushes, Shaving,	1		.26
Brushes, Tooth,	1		.42
Caps, Comforter,	1		.09
Combs	1		.33
Forks, Table	1		.04
Holdalls,	1		.08
Housewives	1		.19
Knives, Table	1		.35
Razors, Safety	1		.18
Socks, Black	Sets 1		.39
Spoons, Table	prs. 2 @ .27		.54
Towels, Hand	1		.07
CLO. DIV. "D"	2 @ .23		.46
Badges, Arm, Worested, "Canada"	3 @ .04		.12
Badges, Embroidered, Coloured RMR	3 @ .11		.22
Badges, Shoulder, Worested, RMR	1		.08
SECTION "J"			
Sheets, Ground Drab, MK VIII	1		2.47
TOTAL			$58.30

Exhibit "K" Government President S.C.M.

25.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY ~~SURRENDER BY~~ for SERVICE AUTHORITIES)

I, Capt. L.A. MALLESON, Officer i/c Regina Detachment, No.43 Provost
(Number) (Rank) Company, C.Pro.C. (Unit)

hereby certify that M.601684 Private MICIAK, M.
(Number) (Rank) (Name in full)

of the Rocky Mountain Rangers, C.A.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~surrendered to~~ for L.95638 Sergeant
(Number) (Rank)

Ivan Gordon PORTER, Regina Detachment, No.43 Provost Company, C.Pro.C.
(Name) (Unit or appointment)

at Regina, Sask. at 0300
(Place) (Hour)

on the 27th day of February, 1945.

Strike out words not applicable } as a ~~deserter or~~ for absentee without leave), and that at the time of his arrest he was ~~wearing military clothing~~ (dressed in civilian clothes).

Dated at Regina, Sask. this 27th day of February, 1945.

L.A. Malleson Capt.
(L.A. Malleson) (Signature, Number, Rank, Unit or appointment)
Officer i/c Regina Detachment,
No.43 Provost Company, C.Pro.C.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

A

"L"

Swarman
Major,
President, Standing Court-Martial.

STATEMENT BY THE ACCUSED

Well, sir, the reason, I applied for my spring leave and then I got my furlough instead of spring leave and so I put the crop in and put in for an extension--another application. And I waited about a month and I didn't get it so I left to take the crop off.

And then I stayed on the farm, and I knew I had to get it over with sometime and I went out on a trip with the intentions of being caught. Well, the reason I was on the farm all the time was because my father was always sick and I was the only one on the farm. That's all I have to say for the first charge.

On the second charge, I didn't refuse to put the uniform on. I told him I was going to wait and see what was in my documents. That's about all, sir.

"M"

Major,
President, Standing Court-Martial.

CLOSING ADDRESS BY THE DEFENDING OFFICER

Mr. President of the Court: I haven't anything to say concerning the first charge.

On the second charge I fail to see where the Prosecution has proved the man disobeyed a lawful command when he stated, "I do not wish to put on the uniform until I see my documents." Therefore, I would ask the Court to consider dismissing the accused on the second charge.

12

"N"

Major,
President, Standing Court-Martial.

CLOSING ADDRESS BY THE PROSECUTOR

Mr. President: As to the second charge the Defending Officer has raised the point that by making a statement, "I do not wish to put on the uniform until I have seen my documents" or words to that effect, that excuses the accused from obeying a lawful command.

This is not a lawful excuse for refusing to obey a lawful command, it is respectfully submitted. While the Quartermaster Sergeant may have been remiss in not reporting the wish of the soldier to see his documents, nevertheless, this does not exonerate or excuse the accused for his conduct in refusing to obey the command.

"Y" Swaarman Maj. President S.C.M.

33.

M.F.B. 355
H.Q. 1772-39-620
10M-8-40 (M19)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or~~ unit)
M.601864	Pte.	Mike Peter MICIAK	No. 12 District Depot, CA.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron/Battery~~ Conduct sheets ~~or Company Conduct sheets of the accused~~, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment
For	times	A.W.L.	4 times
For	times		times
For	times		times
For	times		times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct ~~sheets of the~~ accused.

~~NOTE:—If the charge is for drunkenness, the entry for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

Previous convictions of the accused by a court-martial ~~or a civil court~~, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and dispensations with trial under A.A. 73 A.F.A. 73 are set out in the Schedule ~~annexed to this statement~~.

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of ..... beginning on the ..... day of ..... .~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 31 days in military custody, making a total of 31 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment form is ~~attestation paper is~~ 25 years, 1 months

6. The date of his ~~commission~~ enrolment specified in his ~~record of service~~ enrolment form is ~~attestation paper~~ 4th December, 1941

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held ~~the regimental rank of .....~~

10

34

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of March, 1945 Capt. & Adjt.

(J.A. PETERS) Officer having custody of Original Records, #12 DD CA.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

35

M.F.M. 6
(A.F.B.122)
750M—12-43 (5527)

No. M601864 Name Pte. Miciak, M. Sqn., Battery, or Company "C" Corps 1 Bn RMR CA Date of enlistment 4-12-41 G.C. Badges Tradesmen's Rates of Pay Character

No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. ONE Signature O.C. Company, etc. S.T.J. Ellerton Lieut. Adjt.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Canrose	21/12/41	Pte		Total absence 1 hr. 30 min. Sec. 15 A.A. A.W.L. from 2230 hr 21/12/41 till 2400 hr. 21/12/41	Cpl. Twissell A.H. " Spink	7 days C.B.	22/12/41	C.A.(B)T.C.131 MJr. Pratley	"E"
CAMROSE, Alberta	25-1-42	Pte.		AWL., 0700 hrs., 25-1-42 to 2235 hrs., 25-1-42	Cpl. SPINK, D. Cpl. WAKENSHAW. Cpl. COATES.	7 days C.B.	26-1-42	Lt. B.A. WOOD, a/O.C. C Coy. CABTC.131.	Forf. 1 days pay "CWV"
Colwood Camp Victoria, B.C.	18.9.42	Pte.		Granted special furlough transportation ABSENT WITHOUT LEAVE from 1700 hrs. 18.9.42 to 1650 hrs. 26.9.42 Total 7 days 23hrs 50 min. AA 15-1	4.9.42 Cpl. R.H. Allan	48 hrs detention Forf 2 days pay Auth Art 149-1B	28.9.42	Major D.B. Holman	Forf 8days pay, Auth Art.149-1(a.) FR&I CA "CWV"
Nanaimo, B.C.		Pte.		Special Leave & Furlough T/W	A 381241	wa. 3.5.43			

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Nanaimo, B.C.	21.5.43	Pte.		Absenting Himself Without Leave From A415-1 1400 hrs. 21.5.43 until 1330 hrs. 11. 6.43. Total 20 days, 23 hrs. 30 min.	Pte. Sherman, EB	14 days C.B. For. 14 days' Pay Auth Art 149-2 FR&I	11.6.43	Lt Col D.B. Holman	For 21 days Pay Auth Art 149-1a FR&I "CWW"

CERTIFIED TRUE COPY

(J. A. Peters) Capt. & Adjt.,
Officer having custody of original documents,
No. 12 District Depot, C.A.

"L" Paragraphs
President SCM

MEDICAL OFFICER'S REPORT

I certify that No. M.601684 - Pte. MICIAK, M.

of No. 12 District Depot, CA is in a good state of health,

and fit to undergo Trial by Court martial.

J. McGetrick Capt
Medical Officer
R.C.A.M.C.
att. to No. 12 District Depot, CA

Station Regina, Sask.

Date 22 Mar 45

8

M. F. B. 246

DAM—2-43 (8520)
B.Q. 1773-38-480

MEDICAL OFFICER'S REPORT

I certify that No. M.601684 - Pte. MICIAK, M.
of #12 District Depot, CA is in a good state of health,
and fit to undergo Trial by Court martial.

W. E. Goodman Capt
Medical Officer
R.C.A.M.C. att. No. 12 District Depot, CA

Station Regina, Sask.,

Date 29 Mar 45

M. F. B. 246
18M—10-42 (6668)
H.Q. 1772-29-42

7

PRECIS OF EVIDENCE

in the case of

M.601864 Pte. Mike Peter MICIAK, No. 12 District Depot, CA., Regina, Saskatchewan, an NRMA soldier of the Canadian Army placed on Active Service.

CHARGES: WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER.

To prove the charge, the following evidence is available:

DOCUMENTARY: M.F.B. 375
M.F.M. 216

ORAL: L.22001 RQMS SNEDDON, D.L.
No. 12 District Depot, CA.

(J.M. Policha) A/Capt.
Officer detailed to take
the Precis of Evidence
No. 12 District Depot, CA.

6

C O P Y

DEPARTMENT OF NATIONAL DEFENCE
Army

R.C. 1-M-2067(AJAG)

Regina, Sask., 9th April 1945

A I R M A I L

The Secretary,
Department of National Defence,
Ottawa, Ontario.

M-601864 - Pte. Mike Peter MICIAK
No. 12 District Depot

Mr. W.P. Atton, Barrister of Regina, Sask., has been retained by the marginally named soldier who was tried by S.C.M. on 22nd March 1945 and sentenced to detention for one year.

2. Mr. Atton has requested to be supplied with a copy of the proceedings of the Court including copies of exhibits. May this be supplied together with advice as to the cost thereof.

(Signed) T.P. Davidson
Major
for (G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No.12

TPD/JW

4

M.Q.C.55-M-1637(JAG/D-2)

12th April 1945.

District Officer Commanding,
Military District No.12,
Regina, Sask.

Standing Court-Martial
M-601864 - Pte. Mike Peter MICIAK
No. 12 District Depot

Reference your R.C. 1-M-2067 (AJAG) dated 9th April, 1945, advising Mr. W.P. Atton, acting for the marginally named soldier, has requested a copy of the proceedings of this court-martial, including copies of exhibits.

2. These proceedings were forwarded to you, pursuant to C.A.R.O.4565 paragraph 12, on 9 April 1945, under cover of this Headquarters above numbered letter dated that day.

3. A copy of the proceedings may be furnished by you in accordance with Mr. Atton's request, on payment of the amount provided by R.P. 99.

(R.J. Orde), Brigadier,
Judge Advocate-General.

JMM:ELM

6

5

H.Q.C.55-M-1637(JAG/D-1)
Your File No. R.C.1-M-2067

9 Apr 45

District Officer Commanding,
Military District No. 12,
Regina, Sask.

STANDING COURT-MARTIAL

M.601864 - Pte. Mike Peter Miciak
No. 12 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

A.J.

(R.J.Orde), Brigadier,
Judge Advocate-General.

ALT/MR

3

THIS COPY FOR: H.Q.Y.55-M-1637
M.D.R.C.1-A-2067

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. M.901864 Name MICIAK, Mike Peter

Rank Pte Unit HQ. 12 D.D. C.A.

Charge (1st) A.A. 12 (1) (a) - Desertion

(2nd) A.A. 9 (2) - Disobeying a lawful command ...

Date of Crime (1) 7-7-43; (2) 9-3-45

Date of Arrest (1) 27-2-45 Charge Signed 21-3-45

Orders for D.C.M.

Place and Date of Trial The Armoury, Regina Sask 22-3-45

Sentence Det 1 yr

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36602

Date 5-4-45

MEMO

M.D. 12 - No. 12 D.D.

Absent	Sentence
19¼ mos.	Det 1 yr

H Thurlow Capt
for Judge Advocate-General

10M-1-45 (M-4629)

2

IN REPLY PLEASE QUOTE
No. R.C.1-M-2067

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CANADA

Regina, Sask., 1 Apr 1945.

CENTRAL REGISTRY Army
COURTS CTC.
APR 5 1945
File. 22-M-437
Chgd to
Referred to

VIA AIRMAIL

CONFIDENTIAL

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

M.601864 - Pte. Mike Peter MICIAK
No. 12 District Depot, C.A.

1. Pursuant to the provisions of paragraph 39 of C.A.R.O. 4566, I enclose herewith proceedings of The Standing Court-Martial held in connection with the marginally named soldier.

S.L. Waterman
(S.L. Waterman), Major,
President, Courts-Martial, M.D. 12.

Encl.

36602

1

N.D. 28
3000M—10-44 (5769)
H.Q. 1772-101-23

CONFIDENTIAL

H.Q.C. 55-M-1638

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MARKOWSKI. NICK L.534218 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(Purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute") NEW FILE C.R.		APR 6 - 1945
APR 10 1945							
APR 13 1945							
APR 13 1945							
APR 28 1945							
APR 30 1945							

CONFIDENTIAL
H.Q.C. 55-M-1638

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days thus keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to see same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1638 (JAG/D-3)

27 Apr 45.

District Officer Commanding,
Military District No. 12,
Regina, Sask.

Standing Court-Martial

L.534218 Pte. Nick MARKOWSKI
No. 12 District Depot, C.A.

Receipt is acknowledged of your R.C. 1-M-2052 (AJAG) dated April 23, 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M.288.

(R.J. Orde) Brigadier,
Judge Advocate General.

Notes & Judgt
L. H. CLAYTON
Lieut.-Colonel
Deputy Director of Court Martial
APR 30 1945

Notes as to delay in receipt of reg. docs.
/ET

Capt

IN REPLY PLEASE QUOTE No. R.C.1-M-2052(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Regina, Sask., 23 Apr., 1945.

CONFIDENTIAL

309461

CENTRAL REGISTRY, ARMY
APR 26 1945
File C55-M-1638
Chgd. to
Referred to JAG

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
L.534218 - Pte. Nick MARKOWSKI
No. 12 District Depot, C.A.

Reference H.Q.C.55-M-1638(JAG/D-3) dated 9 April, 1945, forwarding proceedings of the marginally noted Standing Court-Martial pursuant to C.A.R.O. 4565(12).

2. M.F.M. 288 has been completed in this case and is enclosed herewith, together with the proceedings.

3. Referring to para. 3 of your above referenced letter, attached hereto is copy of letter received from the Officer Commanding No. 12 District Depot, C.A. explaining the delay in bringing the accused to trial.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

NAT. DEF. B. 445
2500M-4-44 (4001)
H.Q. 1772-26-30

In reply please quote No. DDR 6-0-1 (legal)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 16th April, 1945.

Headquarters,
M.D. No. 12,
Westman Chambers,
REGINA, Sask.

Standing Court-Martial
L.534218 - Pte. Nick MARKOWSKI
No. 12 District Depot, C.A.

Reference your R.C.1-M-2052 (AJAG) dated 12th April, 1945.

2. The marginally named soldier was apprehended by the R.C.M.P. at 1630 hours 6th March, 1945. He was confined to No. 12 Dist. Depot guard room at 0615 hours 8th March, 1945. He appeared before the Commanding Officer the same date and remanded pending instructions as to disposal. Instructions were received reference RS3-1-5E(DAAG), dated 11th March, 1945, that the marginally noted be taken on strength No. 12 Dist. Depot for disciplinary action and subsequent disposal. The regimental documents were received 27th March, 1945, and on 28th March, 1945, he was remanded for Standing Court-Martial. He was tried by Standing Court-Martial 2nd April, 1945. The delay of 28 days in bringing this soldier to trial was mainly due to the length of time before regimental documents were received at this Depot.

"J.M. Policha" Capt.
for (B.A. Cooke) Lt.-Col.,
Commanding Officer,
No. 12 District Depot, C.A.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of L.534218 (Number) Pte. (Rank) Nick MARKOWSKI (Name in full)

No. 12 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to Detention for six months -- Stoppages $16.50

on 2nd day of April, 1945. at Regina, Saskatchewan.

being served at No. 80 Military Detention Barracks, Dundurn, Saskatchewan. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 23 years, 6 months.-- 5th October, 1942.

Medical grade or category 19-1-1-1-1-1-1-

FIRST TRIAL—PART II

To Adjutant-General, Department of National Defence, Ottawa, Ont. (Superior Military Authority)

For details of offence see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be (suspended) (~~put into execution~~) (~~reviewed on~~ ..... date) for reasons given in paragraph X.

Place Regina, Sask.

Date 23rd April, 1945.

(Confirming Authority)
(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 288
(Army Form A-2104)
1434—6-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE - AWL from 2000 hrs 24 Dec 44 until apprehended at St. Laurent Dist. Sask., at 1630 hrs 6 Mar 45, by Civil Power, dressed in plain clothes, cost of apprah. & return to unit $16.50	24 Dec 44	2 Apr 45

B A Cooke
Signature of Officer making entry
(B.A. Cooke) Lt.-Col.,
Commanding Officer,
No. 12 Dist. Depot, CA.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

.....
Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
18th April, 1945.	That consideration be given to early dispatch overseas, with remission of sentence after embarkation. B A Cooke (B.A. Cooke) Lt.-Col., Commanding Officer, No. 12 District. Depot, C.A.	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
23rd April, 1945.	Sentence remitted effective day following embarkation and soldier being despatched overseas. (G.A.H. Trudeau), Brigadier, D.O.C., M.D. No. 12.	

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armoury, Regina, Sask.,

on the 2nd day of April, 1945, at 1430 hours,

for the trial of: L.534218 Pte. Nick MARKOWSKI,
Number Rank Full Name

No. 12 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major S.L. Waterman, E.D., President Courts-Martial, M.D. 12.

PROSECUTOR: Capt. P.W. McMeans, Prosecutor Courts-Martial, M.D. 12.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lieut. E.G. Lee, No. 12 District Depot, C.A.
(See documents marked "G" and "H" attached.)
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, L.534218 Pte. Nick MARKOWSKI, No. 12 District Depot, C.A., is guilty of the charge.

SENTENCE: The Court sentence the accused, L.534218 Pte. Nick MARKOWSKI, No. 12 District Depot, C.A., to undergo detention for six months and to be put under stoppages of pay until he has made good the sum of $16.50 in respect of the cost of apprehension and return to his Unit.

Signed at Regina, Sask., this 2nd day of April, 1945.

S.L. Waterman Major,
President,
Standing Court-Martial.

Extracts entered as No. 36651 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 9 day of April 1945

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2298

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: ~~as interpreter?~~

Question to the accused. Do you object to L-25640 SM (A/W.O.I) W.H. Matthews, H.Q. M.D. 12 (CMSC Sub-Staff), as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial?~~

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read?

Answer: Not guilty.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

5

"B2" Swarenman Maj.
President S.C.M.

CHARGE SHEET

The accused L.534218 Pte. Nick MARKOWSKI, No. 12 District Depot, CA., Regina, Saskatchewan, an NRMA soldier of the Canadian Army placed on Active Service is charged with:

CHARGE
Section 12 (1)(a)
Army Act.

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE.

in that he

at Debert, N.S. at 2000 hours on the 24th December, 1944, absented himself from the Prince of Wales Rangers, until apprehended at St. Laurent District, Saskatchewan, at 1630 hours on the 6th March, 1945 by the Civil Power, dressed in plain clothes, the cost of his apprehension and return to his Unit being, $16.50.

B.A. Cooke
(B.A. COOKE) Lt.-Col.,
Commanding Officer,
No. 12 District Depot, CA.

28th March, 1945
Regina, Saskatchewan.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor declines to make an opening address.

~~The Prosecutor proceeds to call witnesses.~~

First Witness for prosecution.

~~being duly sworn, is examined by the Prosecutor.~~

Question

THE PROSECUTOR: I produce M.F.B. 375; M.F.M. 215; M.F.B. 1481 in the total sum of $1.08; M.F.B. 1481 in the total sum of $9.17; and M.F.B. 1482 in the total sum of $6.25.

The Defending Officer raises no objection to any of the documents.

THE COURT: In admitting M.F.B. 375 the Court draws to the attention of the Prosecutor that this method of submitting M.F.B. 375 is not a sound one and not in accordance with instructions laid down. It seems to the Court that just one printed form M.F.B. 375 should be used and if the list of deficiencies is too lengthy for that one form, then the same should be entered on a separate list and attached to that form and initialed by the certifying officer. Another weakness is that the declaration is on one printed sheet (page 1) and the certificate is on the third printed sheet (page 3).

M.F.B. 375 is read and marked Exhibit "I", signed by the President and attached to the proceedings.

M.F.M. 215 is read and marked Exhibit "J", signed by the President and attached to the proceedings.

THE COURT: The officer signing M.F.B. 1481 in the amount of $1.08 does not show the capacity in which he certifies; that is, either that he is the officer "issuing transport warrants" or that he is the officer "authorizing transportation." The description which did not apply should have been deleted and initialed. However, as this officer does certify in the body of the certificate that he "authorized" the transportation, the document is held to be admissible and is admitted. The Court would ask the Prosecutor in these matters to instruct these people making the documents to observe the formalities properly.

M.F.B. 1481 in the amount of $1.08 is read and marked Exhibit "K", signed by the President and attached to the proceedings.

C.3

M.F.B. 1481 in the amount of $9.17 is read and marked Exhibit "L", signed by the President and attached to the proceedings.

M.F.B. 1482 in the amount of $6.25 is read and marked Exhibit "M", signed by the President and attached to the proceedings.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I will make a sworn statement.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

FIRST WITNESS FOR THE DEFENCE:

The accused, L.534218 Pte. Nick MARKOWSKI, No. 12 District Depot, C.A., being duly sworn, is examined by the Defending Officer.

Q. Markowski, will you tell the Court when you were enrolled in the Army?
A. I was enrolled in 1942 on August 5th.

Q. Have you ever tried to..... You are a N.R.M.A. soldier?
A. Yes.

Q. Have you ever tried to go Active?
A. Yes.

Q. When did you try to go Active?
A. It is about August 8th, 1942.

Q. That was after you were called up?
A. Yes, sir.

Q. And what happened?
A. I was given the application to fill in before joining up and I went on a draft to Maple Creek to take my basic and six weeks after I was called for my medical. And after I had my medical my category was C-1 so I was told by the Medical Officers that they can't make my grade to get in the Active service.

Q. I see. Do you know what your category is now?
A. Yes.

Q. What is it?
A. A-1.

Q. A-1. Are you suffering at all from ill health at all; anything wrong with you?
A. Yes, I do.

Q. What is it?
A. Ears.

Q. When you were told that your category was C-1 were you told that it was that because of your ears?
A. Yes, sir.

Q. When you were apprehended, according to the Charge Sheet you were dressed in plain clothes. Will you tell the Court what you were wearing at that time?
A. I was wearing Army coveralls and all the rest of the clothes was Army issue except my boots and hat. It was civilian.

Q. And where were you at that time?
A. At my brother's place.

Q. At the farm?
A. Yes, sir.

Q. What was your reason..... Will you tell the Court what your reason was for going away?
A. Because I didn't want to go as a N.R.M.A. overseas.

Q. That was your only reason?
A. Yes.

Q. Have you ever tried since 1942 to go Active, since the first time?
A. No, I didn't.

Q. Why?
A. Well, because I figured there was no use trying again the way I was told that I can't make it.

Q. So you thought there was no use trying?
A. Yes.

Q. Did you intend..... What were your intentions as regard to returning to your Unit?
A. I figured I would come back in about a few days after I was caught, or arrested.

Q. Will you explain that a little better? When did you figure this; before or.....
A. Before.

Q. You intended to come back.....
A. Yes, sir.

Q. .....in a few days?
A. Yes, sir.

Q. Is there anything else you would like to explain to the Court? Anything at all in regards to your absence; the reason or anything further that you would like to add.
A. I don't think so.

CROSS-EXAMINED BY THE PROSECUTOR

Q. Pte. Markowski, you admit then that you were absent from your Unit, the Prince of Wales Rangers, from 2000 hours on the 24th December 1944, without leave?
A. Yes.

Q. Your Unit was then at Debert, Nova Scotia?
A. Yes, sir.

Q. And that you remained so absent until you were apprehended at 1630 hours on the 6th March 1945 by the Mounted Police; that's right, isn't it?
A. Yes.

Q. And you were dressed in a civilian cap.....
A. Yes.

Q. .....and other than Army boots, but you had on an Army issue coverall?
A. Yes.

Q. What did you have underneath?
A. I had a sweater, a shirt and underwear.

Q. Sweater, shirt and underwear. I show you a document. Is that your signature?
A. Yes, sir.

Q. Did you sign that document?
A. Yes, sir.

Q. Was there an officer present when you signed this?
A. Yes.

Q. Was this document explained to you?
A. Yes, it was, sir.

Q. You know what that document is, don't you?
A. Yes, sir.

Q. It is a warning order to you, isn't it?
A. Yes, sir.

Q. That you were to proceed on special duty?
A. Yes, sir.

Q. And you were warned of the consequences if you didn't report as you were told to?
A. Yes, sir.

Q. What were the consequences?
A. Section 12 of Army Act.

Q. And what is that about?
A. Charged with desertion.

The Prosecutor tenders the document as an exhibit.

The Defending Officer raises no objection.

The Warning Order is read and marked Exhibit "N", signed by the President and attached to the proceedings.

Q. Now, you have told the Court about an application to try and go Active right after you were enrolled. Did you know what your medical category was when you were enrolled on the 5th of August, 1942?
A. Yes, sir.

Q. What was it?
A. A-1.

Q. And this application that you made; was your category lowered after you made that application?
A. Not right after.

Q. Was it ever lowered?
A. Well, only when I had my medical or reboard at Maple Creek.

Q. You had a reboard at Maple Creek?
A. Yes, sir.

Q. And was your category lowered then?
A. He showed me the papers that it was.

Q. You again had a reboard in 1943, didn't you?
A. Yes, sir.

Q. And this time on your reboard you had a Pulhems Profile, didn't you?
A. Yes, sir.

Q. A very careful examination; and the result of that was what?
A. I was A-1.

Q. A-1 or one across the board?
A. Yes.

Q. When you found this out did you make any effort then to.....
A. No, I didn't.

Q. You were on your brother's farm?
A. Yes.

Q. You have a farm of your own, haven't you?
A. Not any more.

Q. Not any more. Is your father operating that farm now?
A. My brother.

Q. Is that the brother whose place you were at?
A. Yes.

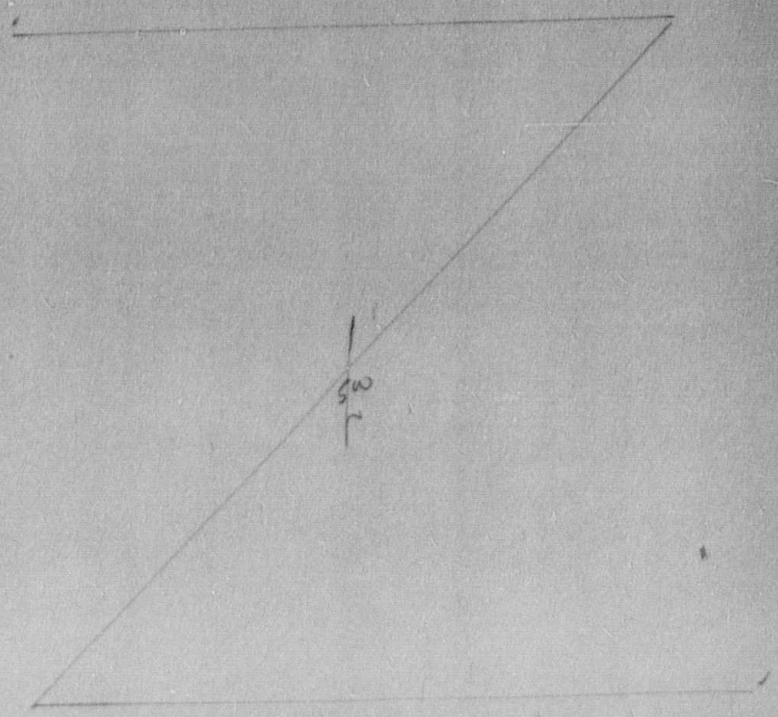
Q. But you weren't at your parents' place?
A. No, not at the time I was arrested.

The Defending Officer declines to re-examine.

The witness resumes his seat.

The Prosecutor declines to make a closing address.

The Defending Officer makes a closing address. See document marked "O" attached.



E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. No, sir.

THE COURT: Do you wish to say anything in mitigation, Mr. Lee?

THE DEFENDING OFFICER: Yes, sir. I would like to enter a plea for leniency in view of the excellent record of Pte. Markowski since his enrolment in the Army, sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"G" S.L. Waterman Major President. C.M.

CANADA

IN REPLY PLEASE QUOTE No. DDR 6-0-1 (legal)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Regina, Sask., 2nd April, 1945.

Major. S.L. Waterman, E.D.,
President, C ourts-Martial,
REGINA, Sask.

L.534218 Pte. Nick MAREKOWSKI
No. 12 District Depot, C .A.

Lieut. E.G. Lee, No. 12 District Depot, C.A., has been detailed to act as defending officer at the trial of the marginally named soldier.

(B.A. Cooke) Lieut.-Col.,
Commanding Officer,
No. 12 District Depot, C.A.

NAT. DEF. R. 440
250000-4-44 (A527)
H.Q. 1732-10-767

"H"

S. Warren
Major,
President, Standing Court-Martial.

MINUTE REGARDING DEFENDING OFFICER

QUESTION BY THE PRESIDENT TO THE ACCUSED

Q. There is a letter here from Lieut.-Col. B. A. Cooke, Commanding Officer of No. 12 District Depot, stating that Lieut. E. G. Lee--that is this officer here (indicating the Defending Officer)--has been detailed to act as your Defending Officer at this trial. Is that satisfactory to you?

A. Yes, sir.

Exhibit "1" Swearing Maps (Consisting of Pages One Two and Three) President Slim

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Page One

RECORD of the Declaration of a Court of Inquiry assembled at No. 6 District Depot, C.A. on the 24th day of January 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L-534218 Pte. MARKOWSKI, N. No. 6 Dist. Depot, C.A.

DECLARATION

The Court declare that No. L-534218 (Regt'l No.) Pte. (Rank) MARKOWSKI, N. (Full Name) No. 6 District Depot, C.A. (Unit) illegally absented himself without leave from P.W.R.

at Debert, N.S. (Place) at 2000 hours on the 24th day of December 1944

that he is still so absent, and that on the 25 Dec 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Anklets web prs.	2	1	12	Jacket sweater	1	1	03
Cap W.M.C.	1		29	Shirts flannel khaki	2	2	46
Dressing F.F.	1		16	Shirts under cotton	2		66
Gloves woollen prs.	1		50	Shirts woollen	2	1	80
Greatcoat drab	1	11	66	Shirts khaki cotton	2	2	32
Mitts leather	1		70	Shoes canvas prs.	1	1	73
Overalls comb.	1	1	89	Socks woollen prs	4	1	40
Blouses serge B.D.	2	9	76	Trousers K.D. Shorts	1		98
Trouser serge B.D.	2	9	82	Muffler khaki	1		70
Boots ankle prs.	2	8	74	Shoes leather black	1	3	63
Caps F.S.	2	1	06	Bags kit	1		96
Drawers cotton prs.	2		64	Braces	1		21
Drawers woollen prs.	2	2	10	Braces button	1		02

..... President
(Name) (Rank) (Unit)

..... Member
(Name) (Rank) (Unit)

Signed at .....

..... Member
(Name) (Rank) (Unit)

this ..... day of ..... 19 .....

Signature of Commanding Officer .....
(Name) (Rank) (Unit)

Certified true copy .....
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

M.F.B. 275
A.F.B. 115
15036—10-42 (35500)
H.Q. 1272-59-247

29

RECORD of the Declaration of a Court of Inquiry assembled at

on the day of 19 , for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. L-534218 (Regt'l No.) Pte. (Rank)

MARKOWSKI, N. (Full Name) No. 6 District Depot, C.A. (Unit)

illegally absented himself without leave

at (Place) at hours on the day of

that he is still so absent, and that on the he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Brushes boot polishing	1	16	Knives clasp overseas	1	75
Brushes button	1	09	Razor safety	1	32
Brushes cloth	1	13	Towels ~~xx~~ hand prs.	2	48
Brushes hair	1	30	Neck tie black	1	15
Brushes shaving	1	32	Pins collar	1	05
Brushes tooth	1	07	Socks black prs.	2	42
Cap Comf.	1	31	Belt W.L.B.	1	27
Comb hair	1	03	Bags ration	1	03
Knife table	1	14	Belts waist	1	57
Fork table	1	06	Bottles water	1	47
Spoon table	1	06	Braces shld. L.	1	27
Hold all	1	17	Braces shld. R.	1	25
Housewife	1	27	Carriers Water bottle	1	28

(Name) (Rank) (Unit) President

(Name) (Rank) (Unit) Member

Signed at

(Name) (Rank) (Unit) Member

this day of 19

Signature of Commanding Officer (Name) (Rank) (Unit)

Certified true copy (Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

M.F.B. [illegible]
A.F.B. 129
1500M—10-42 ([illegible])
H.Q. 1772-39-257

H

RECORD of the Declaration of a Court of Inquiry assembled at

on the day of 19 , for the purpose of investigating

and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition.

Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. L-534218 (Regt'l No.) Pte. (Rank)

MARKOWSKI, N. (Full Name) No. 6 District Depot, C.A. (Unit)

illegally absented himself without leave

at (Place) at hours on the day of

that he is still so absent, and that on the he was deficient, and

that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Carriers cartridge	2		92	Outfits A/D	1		03
Frogs bayonet	1		14	Sheets ground	1	1	85
Haversack	1	1	73	Blankets G.S.	1	3	06
Helmet steel	1	1	79	Mugs enamel	1		12
Pack	1	1	70				
Straps shoulder havsack	2		48	Total:		$93	.62
Straps web supporting	2		22				
Tins mess	1		43				
Slings rifle web	1		16				
Capes A/G	1	3	32				
Respirator A/G & Hvsack	1	4	51				
Ointment A/G	1		20				
Eyeshields	6		78				

W.G. Evans, Maj. No. 6 D.D. C.A. (Name) (Rank) (Unit) President

R.O. 4633 (Name) (Rank) (Unit) Member

Signed at Halifax, N.S.

R.O. 4633 (Name) (Rank) (Unit) Member

this 24th day of January 19 45

Signature of Commanding Officer F.I. Andrew, Col. No. 6 Dist. Depot, C.A. (Name) (Rank) (Unit)

Certified true copy L.H. LeBlanc Capt. (Name) (Rank) (Unit) (Signature of Officer having custody of original record)

M.F.B. 175
A.F.B. 118
10M—10-41 (5357)
H.Q. 1773-39-267

L.H. LeBlanc, Capt. Adj. No. 6 District Depot, C.A.

Exhibit "J" Statement made President SCM.

33

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, AS PUBLISHED IN GENERAL ORDER No. 127, 1942.

(Apprehension by or Surrender to Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by ~~[illegible]~~

Strike out words not applicable

Cst. N.D.CHMARA, Wakaw Det.R.C.M.P.
(Name of Peace Officer or Constable)

at St.Laurent District, Sask. (Place) at 4.30 PM (Hour)

on the 6th day of March 1945

Strike out words not applicable

and at the time of arrest ~~[illegible]~~ he was ~~[illegible]~~ (dressed in civilian clothes).

Regimental particulars of officer or soldier referred to above.

No. L.534216
Rank Pte.
Name MARKOWSKI,N.
Unit P.W.Rangers

Description

Age 25
Height 5'3"
Complexion Medium
Hair Brown
Eyes Blue
Marks Nil

Signature of peace officer or constable by whom arrest, or to whom surrender, was made, or of officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.

N D Chmara

Reg.#13119 Cst.N.D.Chmara, R.C.M.P. Wakaw
(Peace Officer) (Constable) (or Officer in Charge of Police Station)

Strike out words not applicable

M.F.M. 215
75M—12-43 (3178)
H.Q. 1772-39-1935

Exhibit "K" Swarsinski v Maj. President. SCM.

35

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Major L.A. Malleson Officer i/c Regina Detachment (Unit)

Strike out word not applicable — No.43 Provost Company, C.~~Pro~~.C. hereby certify that I ~~have~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Prince Albert, Sask. (Place) to Wakaw, Saskatchewan (Place) and return to Prince Albert, Saskatchewan (Place) for the purpose of escorting

Full description of soldier being escorted — L-534218 (Number) Private (Rank) Nick MARKOWSKI (Name in full), 1st Battalion (Unit) Prince of Wales Rangers, Ex Pacific Command. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of ~~[illegible]~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
7th March, 1945.	
Mileage D.N.D. Vehicle No.63-973 in proceeding from Prince Albert, Sask. to Wakaw, Sask. and return to Prince Albert, Sask. 90 miles, @ .06¢ per mile.....	$5.40
Amount recoverable from the above mentioned soldier: 20% of $5.40	$1.08
TOTAL	$1.08¢

Dated at Regina, Saskatchewan, this 8th day of March, A.D. 19 45.

L.A. Malleson, (Major).

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (authorizing transportation)

Strike out description not applicable.

Officer i/c Regina Detachment

No.43 Provost Company, C.Pro.C.

Certificate to be completed by officer ~~[illegible]~~ the transportation ~~[illegible]~~ for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
(20m—10-40 (1481))
H.Q. 5772-10-1941

Exhibit "L" Sworn in Maj. President S.L.M.

37

M.F.B. 1481
11M—[redacted](2206)
H.Q. [redacted]9-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. J.S. Sykes, No. 12 Dist. Coy., R.C.A.S.C., C.A.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~(authorized)~~ the hereinafter itemized transportation for escort

Complete — to proceed from Prince Albert, Sask. (Place) to Regina, Sask. (Place) and return to Prince Albert, Sask. (Place) for the purpose of escorting

Full description of soldier being escorted — L 534218 (Number) Pte. (Rank) MARKOWSKI, N. (Name in full)
Prince of Wales Rangers, (Unit) Ex Pacific Command (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation authorized~~) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
7 Mch. 1945	M.D.No. 12 Transport Warrant No. C 898627 dated 7 Mch., 1945, covering: One single second class fare from Prince Albert Sask. to Regina, Sask. for Absentee. L 534218 Pte. Markowski, N.	$4.20
7 Mch., 1945	M.D. No. 12 Transport Warrant No. 898629 dated 7 Mch., 1945, covering: One single second class fare Prince Albert to Regina, One first class fare Regina to Prince Albert, One upper standard berth Regina to Prince Albert .....$12.43 For Escort, L 110551 Pte. F.A. Kurtenbach.	
7 Mch., 1945	M.D. No. 12 Transport Warrant No. C 898630 dated 7 Mch. 1945, covering: One single second class fare Prince Albert to Regina, One single first class fare Regina to Prince Albert, One upper standard berth Regina to Prince Albert.....$12.43 for Escort, K 2719 L/Cpl. Regan, A. Total - $24.86 One fifth of the above amount recoverable from this Absentee	$4.97
	TOTAL	$ 9.17

Dated at Prince Albert, Sask. this 7th day of March A.D. 19 45

(J.S.Sykes), Lieut., No. 12 Dist. Coy. R.C.A.S.C., C.A.
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~(authorizing transportation)~~
Strike out description not applicable
Officer i/c Supplies, No. 12 Dist. Coy., R.C.A.S.C.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.
This form must be signed by the Officer who authorizes or issues the transportation and not by an Officer "for" him.

Exhibit "M" of warrant of President S.C.M.

39

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL, P.C. 58/4015
DATED JUNE 5TH, 1941.

(INCIDENTAL EXPENSES)

Complete description — I K-2719 Lance-Corporal Allen REGAN, Prince Albert Detachment, (Name) (Unit)
No.43 Provost Company, C.Pro.C. L-150551 Private
Strike out words not applicable — as ~~Officer~~ (commander of escort) consisting of
Members of escort — Francis Anton KURTENBACH, Prince Albert Detachment
No.43 Provost Company, C.Pro.C.
detailed to proceed from Prince Albert, Sask. to Regina, Saskatchewan
Name and description of soldier escorted — to return L-534218 Private Nick MARKOWSKI, 1st Battalion
Prince of Wales Rangers
alleged to be a deserter or absentee without leave, to Regina, Saskatchewan. (Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
Expenses incurred by R.C.M.Police in apprehending, and escorting the above mentioned Absentee are as follows:	
6th March,1945.	
To hire of Snowmobile from Alvena to St.Julien District to St.Laurent District and return to St.Julien District, 30 miles,@.30¢ per mile.....	$6.00
Incidental expenses incurred by Prince Albert Detachment No.43 Provost Company,C.Pro.C. in escorting the above mentioned soldier are as follows:	
9th March,1945.	
2 Breakfasts,(Escorts) @.61¢....$1.22. Amount recoverable from the above mentioned soldier: 20% of $1.22.....	.25¢
Total.....	$6.25¢

Dated at Prince Albert, Saskatchewan this 9th day of March, A.D. 1945.

Allen Regan L/Cpl
(Signature and rank of commander of escort)
~~XXXXXXXX~~
Strike out inapplicable if not applicable.

K-2719 Allen REGAN, L/Cpl.
Prince Albert Detachment
~~No.43 Provost Company, C.Pro.C.~~

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.S. 1498
20M—4-44 (9485)
H.Q. 4772-21-1-50

Exhibit "N"

Sgt Watsuma nat - President - S.C.M.

41

WARNING ORDER

PRINCE OF WALES RANGERS CA

Vernon, B.C.
10 Dec 44.

I the undersigned, hereby acknowledge that I have been warned this 11th day of Dec that I will proceed on special duty any date after 0400 hours on the 11 Dec 44. I further acknowledge that I have been ordered to report upon the expiration of my leave at CNR Stn Fraser to off St John Bus by 2000 hrs. 24 Dec 44 and I am aware that if I absent myself without leave or if I overstay my pass or furlough for anytime or if I fail to report as ordered I shall be liable to be charged with desertion under Section 12 of the Army Act.

Signed R Matsumoto

Witnessed Wm McCarty Jr

"O"

Swarmon

Major,
President, Standing Court-Martial.

CLOSING ADDRESS BY THE DEFENDING OFFICER

I wish to submit this to the Court: That the accused was possibly under the impression that his category could not warrant him going Active Service; at least it was--he was under that impression shortly after his enrolment. And evidently, from his statement, he would have gone Active and gone overseas, but he did not wish to go over as a N.R.M.A. soldier.

He was apprehended and although he had a civilian hat on and shoes, the rest of his clothing was of Army issue; coveralls, sweater, shirt, underwear. And he also states that he did intend to come back, but before he had possibly made up his mind he was apprehended as laid down in the Charge Sheet.

So, possibly, sir, he has been labouring under a slight misapprehension as regards to his category; and he may have wished to have gone overseas but did not like to do so as a N.R.M.A. soldier; and at the same time he thought he could not go Active because of his supposedly low category.

That is all, sir.

"Y" Swarenman Maj. President S.C.M.

45

M.F.B 355
H.Q. 1772-39-620
10M-8-40 (M19)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or~~ unit)
L.534218	Pte.	Nick MARKOWSKI	No. 12 District Depot, CA.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

~~NOTE: If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

Previous convictions of the accused by a ~~court-martial or a civil court~~, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and dispensations with trial under ~~A.A. 73~~ A.F.A. 73 are set out in the Schedule ~~annexed to~~ this statement.

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for 1 days in civil custody, and 27 days in military custody, making a total of 28 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment form is 25 years, 11 months ~~attestation paper is~~

6. The date of his ~~commission~~ enrolment specified in his ~~record of service~~ enrolment form is 5th August, 1942 ~~attestation paper~~ ~~attestation~~

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon~~ ~~service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force military decoration or reward.~~

10. (If the accused is a warrant officer.) ~~The accused before he was made a warrant officer last held the regimental rank of~~

46

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

J. M. Policha
A/Capt. and Legal Officer
No. 12 District Depot, CA

Signed this 2nd day of April 1945

(J.M. Policha) Officer having charge of Original Records, #12 DD., CA.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

7

No. L.534218 Name MARKOWSKI N. Sqn., Battery, or Company } Corps 25 Fd Coy RCE NRMA Date of enlistment } 5-8-42 G.C. Badges } Tradesmen's Rates of Pay }

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. Signature O.C. Company, etc. } C Lovat Fraser Maj. Character

M.F.M. 6 (A.F.B. 122) 750M—12-42 (7537) H.Q. 1772-39-1653

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				OLD SHEET DESTROYED - NIL ENTRIES - 20 Aug 44					
				CERTIFIED TRUE COPY					
				J.M. Polocha					
				(J.M. Polocha) A/Capt. & Legal Office, No. 12 District Depot, CA. Officer having charge of Original Records No. 12 District Depot, CA.					
				"L" Swarzman Capt. President SCM.					

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. L.534218 - Pte. MARKOWSKI, N.

of #12 Dist. Depot, C.A. is in a Good state of health,

and Fit to undergo Trial by Court martial.

E. M. Jurecapt
Medical Officer

R.C.A.M.C. att: No. 12 District Depot, C.A.

Station Regina, Sask.

Date 2nd day of April, 1945.

M. F. B. 246
(6M—12-43 (3221)
H.Q. 1173-29-400

PRECIS OF EVIDENCE

in the case of

L.534218 Pte. Nick MARKOWSKI, No. 12 District Depot, CA., Regina, Saskatchewan, an NRMA soldier of the Canadian Army placed on Active Service.

CHARGE: WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE.

To prove the charge, the following documentary evidence is available:

DOCUMENTARY: M.F.B. 375
M.F.M. 215
M.F.B. 1481 (2)
M.F.B. 1482

(J.M. Policha) A/Capt.
Officer detailed to take
the Precis of Evidence,
No. 12 District Depot, C.A.

H.Q.C.55-M-1638 (JAG/D-3)
Your R.C.1-M-2052

9 Apr 45

The District Officer Commanding,
Military District No. 12, Regina, Sask.

STANDING COURT-MARTIAL

L.534218 Pte. Nick Markowski,
No. 12 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 28 days in custody awaiting trial. May an explanation for this delay be furnished, please.

(R.J.Orde), Brigadier
Judge Advocate-General.

EMC/MM

THIS COPY FOR H.Q. C.55-M-1638
M.D. R.C.1-M-2052

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. L.534218 Name MARKOWSKI Nick

Rank Pte Unit No. 12 D.D. C.A.

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 24-12-44

Date of Arrest 6-3-45 Charge Signed 28-3-45

Orders for D.C.M.

Place and Date of Trial The Armoury Regina Sask 2-4-45

Sentence Det 6 mos; stoppages $16.50

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36651

Date 9-4-45

MEMO

M.D. 12 - No. 12 D.D.

Absent	Sentence
2½ mos	Det. 6 mos

for Judge Advocate-General

10M-1-45 (M-4629)

9 Apr 45

Pass. on inquiries and
explanation of delay

IN REPLY PLEASE QUOTE
No. R.C.1-M-2052

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 3 Apr 1945.

VIA AIRMAIL

CONFIDENTIAL

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

6.55-M-1638

L.534218 - Pte. Nick MARKOWSKI
No. 12 District Depot, C.A.

1. Pursuant to the provisions of paragraph 39 of C.A.R.O. 4566, I enclose herewith proceedings of the Standing Court-Martial held in connection with the marginally named soldier.

S.L. Waterman

(S.L. Waterman), Major,
President, Courts-Martial, M.D. 12.

Encl.

36651

N.D. 23
W/M—10-44 (5769)
T.Q. 1772-101-23

H.Q.C. 55-M-1639 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MARTIN. JULIEN D.647366 PTE.

CONFIDENTIAL
H.Q.C.55-M-1639

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
(If space for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")							
APR 10 1945					NEW FILE	C.R.	APR 6 - 1945
					With Papers C.R. APR 20 1945	OK	
				JAS			
APR 21 1945				J.C.M.	To note, pls	M.M.	23-4-45
APR 26					PER B.F. MAY 17 1945		
MAY 1					With Papers C.R. MAY 23 1945	OK	
MAY 23 1945					With Papers C.R. AUG 17 1945	OK	
AUG 18 1945					For Application C.R. NOV 19 1945		
					Recommendation		DEC 15 1945
JAN 18 1946					PER B.F. JAN 21 1946		
JAN 21 1946	21-1-46			Admin			
JAN 26 1946	26-1-46			Admin	For Application C.R. JAN 25		
					With Papers C.R. JAN 29 1946	OK	
					To note pls		30-1-46
JAN 30 1946	31-1-46			Admin	"		30 Jan 46
JAN 31 1946							
MAY 28 1946	MAY 27				For Application C.R. APR 15 1948		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. T-20-M-16362 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
26th January, 1946.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

The Commander,
CAMP BORDEN, Ontario.

(for information
(CB 40-M-2933(AJAG) d/12 Aug 45)

CENTRAL REGISTRY Army
4416
CASE No.
CHECK No.
Date

Remission of Sentence
D-647366 Ex-Pte. Julien MARTIN

Reference H.Q.C. 55-M-1639 (ICM)
dated 31st July, 1945.

2. Herewith Appendix "G" to C.A.R.O. 5913 being the remission of the balance of the sentence of imprisonment with hard labour awarded the marginally-named ex-soldier, effective the date of discharge, namely, 7th January, 1946, together with particulars of promulgation and Part II Orders.

3. Also enclosed herewith M.F.M. 288 with respect to the marginally-named, for disposal, please.

for Burnell McSinger Capt
(F. M. Benson)
Colonel
M.D. 2.

T/D.O.C.

Adl 21 Dec 45 465 days 7936

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM.

NDHQ File No.
District File No. T-20-M-16362

PART I

No. D-647366 Rank Pte. Name Julien MARTIN
Unit No. 2 district Depot, C.A. (formerly A-10 C.A.S.C.T.C. C.A.)

PART II

Date of Trial 2 April 1945 (at CAMP BORDEN)
Charge(s) Desertion (AA Sec. 12(1)(a)
Sentence 2 years less 1 day Imprisonment with Hard Labour - Discharge with Ignominy
Date of Sentence 2 April 1945
Confirmation - (a) Authority : N/A (SCM)
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act ~~xxxx

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of No. D-647366 Pte. Julien MARTIN
(Number, Rank, Name in full)

A-19 Canadian Army Service Corps Training Centre, C.A.
(Unit, Attachment (if any))

Sentenced to be imprisoned with hard labour for two years less one day and to be discharged with ignominy from His Majesty's Service.

on 2nd day of April, 1945 at Camp Borden, Ont.

being served at Industrial Farm, Burwash, Ont.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19 years, 25 May 43

Medical grade or category 24 - 2 1 1 1 1 1 1

FIRST TRIAL—PART II

To Adjutant-General
(Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be (~~suspended~~) (~~put into execution~~) (reviewed on 2 AUG 46) for reasons given in paragraph X.
(date)

Place Camp Borden, Ont.

Date 18 APR 45

Maj. Gen.
(A. G. Cameron Gibb)
(Confirming Officer)
for Commander - Camp Borden

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority

M.F.M. 289
(Army Form A-2104)
3M—6-43 (661)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
MAY 23 1945	As few 7/12/45	R.H. Clayton Lt Col Adjutant-General for Superior Military Authority	
21 Dec. 45	Remit effective date of discharge 7th January 1946	Arthur E Potts (A.E. Potts) Major-General D.O.C. M.D. No.2.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Sec. 12(1)(a) A.A. - Desertion - AWL from 1300 hrs 8 OCT 43, until apprehended by the military authorities at Montreal, Que. at 2300 hrs 23 MAR 45, dressed in civilian clothes. Costs of apprehension and return to his Corps, $25.77. (R.A. Hicks) Lieut. A/Adjutant, A-19 C.A.S.C. T.C. Signature of Officer making entry	8 OCT 43	2 APR 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
16 APR 45	Character of Accused: Fair Ability & Usefulness as Soldier: Fair I recommend (no) review of sentence on day of 1945	Lt Col. COMMANDANT, A/19 C.A.S.C., T.C., C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
18 APR 45	I recommend review of sentence after 17 months have been served with a view to remitting the balance on completion of 18 months thereof.	Maj.G. (A.C. Epstein) for Commander - Camp Borden

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

COPY

VER V CIB NR 7

FROM COMDG TWO TOR 240941R

TO SEC DND OTT

GR 53 BT

TZ-21 UNCLASS RETEL RANKS 6765 UNCLASS DATED 21 JAN 46 STOP D647366 PTE MARTIN J RELEASED 7 JAN 46 STOP B155548 PTE LEGENDRE U R J RELEASED 20 DEC 45

BT 240952R

LEN B

CLEAR

ARMY MESSAGE

(OUTGOING)

FILE: 33-2-2324
AGM 3(b)3

PLACE DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 2
TORONTO ONT

OTTAWA ONTARIO 23 JAN 46

RADIO 6765 UNCLAS

INTEL RADIO 1496 D/19 DEC 45 RE D 647366 FOR MARTIN F AND RADIO

[redacted] 1491 D/19 DEC 45 RE D 155540 FOR LEDERMAN U R F (.) ADVISE

ACTION TAKEN (.)

ADJUTANT GENERAL

MTM/MA

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT, INCLUDING WIRELESS

Major-General
Adjutant-General

SIGNED

DEGREE OF PRIORITY

TIME OF ORIGIN

SINGLE COPY FORM FOR CLEAR MESSAGE

(THIS FORM IS TO BE USED FOR ADDITIONAL DISTRIBUTION)

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION TO THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE REC 55-M-1639 Adm 3(a)

PLACE DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 2
TORONTO ONT

OTTAWA ONTARIO 19 DEC 45

RANKS 1496 RESTD

REVIEW REF AG 0267 D/18 OCT 45 REVERS D 647366 PTE MARTIN J (.) CMER

RECOMMENDS IMMEDIATE RELEASE (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL.

INFM COPY TO: CMER

JAG

GDB/MA

ack 21-12-45
Release - 20-12-45

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	THIS MESSAGE IS LIABLE TO BE PUBLISHED. INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
		DEFERRED	0925

Major-General
Adjutant-General

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

(CMHQ 7)EH-

JOC 55-M-1539

21 Nov 45.

Case No-----

PAGE 1.

RESUME OF EVIDENCE
BY
COURTS-MARTIAL BOARD OF REVIEW.

1. No, Rank and Name: D-647366 Pte MARTIN, J.

2. Unit as date of offence: A-19 C.A.S.C. T.C. C.A.

3. Charge: AA Sec 12 (1)(a) W.O.A.S. Deserting H.M.S. at Camp Borden, Ont. on 8 Oct 43 absenting himself from 1300 hrs until apprehended by military authorities at Montreal, Que. at 2300 hrs 23 Mar 45 dressed in civilian clothes. (Absent 1 year 5 months 15 days).

4. Plea: NOT GUILTY.

5. Place and Date of Trial: Camp Borden. 2 Apr 45. (SCM)

6. Finding: GUILTY.

7. (a) Sentence: Imprisonment with hard labour for 2 years less 1 day and to be discharged with ignominy from H.M.S.

(b) Date of Sentence: 2 Apr 45.

8. Date of Confirmation: N/A

9. Date of Promulgation: N/A

10. Being served at: Industrial Farm - Burwash - in M.D. 2 / 1496

11. Discharged under AO 9 / 9 for ignominy

12. Discharged under ... 12 Aug 45.

CONDUCT

11. (a) Prior to conviction: Offence Date Sentence

(i) Civil Convictions: NIL

(ii) Courts-Martial: NIL

(iii) Summary Convictions: NIL

(b) After convictions: Good. Expected date release Dec 17 1946

(c) Date of enrolment/enlistment: 25 May 43 Present Age: 21

---

12. Remarks: (Here note any Petition of Representation other than in Item 10 but if Item 10 has been omitted, so state and show here any mitigating circumstances.)

Item 10 has been omitted.

Defending Officer in final address stated that the father and mother of accused do not get along. The father is a heavy drinker. There is no home. The family have moved from room to room and the money earned by accused looks after his mother. The accused does not look like a soldier or think like one. He cannot adopt himself to army life. The defending officer further recommended that the accused be sentenced to a civil jail with hard labour so that ultimate aim of sentence will be to discharge accused from the service so that he may go back and work and be of some use to his family, mother and himself.

13. Recommendations: (State by whom made, e.g. CMHQ, DOC, Reviewing Offr., etc.)

After serving one half sentence providing conduct is satisfactory Commander Camp Borden recommends remission.

Reviewing Officer: Immediate remission.

Reviewed by A D Crow
(A.D. CROW) Capt.

---

14. Recommendation of the Board:

Immediate Release

Date DEC 1 5 1945

R. A. Stewart Maj
Secretary
Courts-Martial Board of Review

C.B. 40-M-2933 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Camp Borden
Camp Borden, Ontario
12 AUG 45

The Secretary
Dept. of National Defence (For Information)
OTTAWA, Ontario

District Officer Commanding
Military District No. 2
TORONTO, Ontario

GENERAL REGISTRY Army
AUG 17 1945
Referred to

Director of Records
A.G. Branch
AUG 16 1945
Nat. Defence
Ottawa, Ontario

D-647366 Pte. MARTIN, J.

Reference HQC 55-M-1539 (ICM), dated 31 JUL 45.

2. In view of para 3 of HQC 9039-1 Vol. 2 Adm 3b, dated 25 JUL 45 and paras 19 and 20 of CARO 5913, NFR 288 and most recent report on conduct are enclosed herewith as the marginally-named [redacted] is to be transferred to No. 2 D.D. [redacted] for discharge under CARO 1029(9).

3. The Commander, Camp Borden recommends a remission of sentence in this case after this soldier has completed one-half of his sentence, provided the Superintendent of the civil institution in which he is incarcerated reports favourably on the marginally-named's conduct.

4. If a remission of sentence is granted in this case may this Headquarters be advised, please, as to the effective date thereof for record purposes.

(A.C. Spencer)
Major-General
Commander - Camp Borden

ar

24

DEPARTMENT OF NATIONAL DEFENCE
- Army -

55-M-1539 (ICM)

HQ Ottawa, Ont

31 Jul 45 1945

CONFIDENTIAL
C.M.

~~Commander,~~

~~Camp Borden Military Camp,~~

~~CAMP BORDEN, Ont.~~

~~D.647366 Pte. MARTIN, J.~~

Ref 40-M-2933

2. Enclosed herewith:-

(a) MFM 386

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 574, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A B Walford)
Major-General
Adjutant-General

23

H.Q.C.55-M-1639 (JAG/D-

Baden

23 Apr 45.

Commander,
Camp Borden Military Camp,
Camp Borden, Ontario.

Standing Court-Martial
D-547366 Pte. Julien MARTIN
A-19 CASCTC, CA

Receipt is acknowledged of your C.B. 40-M-2933 (AJAG) dated 18th April 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial. together with M.F.M.288.

Noted
L.H. Clayton
L.H. CLAYTON
Lieut.-Colonel
Inspector of Courts Martial
APR 25 1945

/ET

E.A.M.
Capt
for (R.J.Orde) Brigadier,
Judge Advocate-General.

22

2M-8-44 (M-4177)

I.C.M. - L 4184

REVIEW OF SENTENCE

DATE APR 25 1945

H.Q.C. File: 55-17-1639

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES
Deserting from 8 Oct. 43. till arrested 23 March 45 17 months.

8. PREVIOUS CONDUCT
~~ENLISTED~~ ENROLLED 25 May 42 AGE 21
Nil. Release 24-2 (illegible)

9. STATEMENT OF ACCUSED D.O. Parents don't get along. Father heavy drinker. Have to move from room to room. Accused's chief interest in life is looking after his mother. Army comes second will continue that way as long as conditions are as they are at his home. Will never become a soldier. Recommend I.H.C. in civil jail so will be discharged from Army to go back home + work be of some use to mother + himself.

10. RECOMMENDATION

21

I.C.M. - C

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

H. Q. C. 55- M-1639,(ICM)
OTTAWA, 16 MAY 1945

The Superintendent,

Burwash Industrial Farm,

BURWASH, Ontario.

D647366 Pte. Julien MARTIN,

1. Herewith "Report on Conduct" form in respect of the marginally-noted soldier who is serving, in your institution, a sentence of 2 yrs less 1 day imprisonment with hard labour awarded by a Standing, Court-Martial on the 2 day of APR 1945.

2. Please complete said form and forward same BY RETURN MAIL addressed to the Secretary, Department of National Defence, Ottawa, Ontario.

F. DeMarsh
Deputy Minister (Army).

LHC:WS.

20

IM-8-44 (M-4175)

File No. C.B. 40-M-2933 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

308365

Headquarters, Camp Borden,
Camp Borden, Ontario,
18 APR 45

CENTRAL REGISTRY Army
COURTS M.C.
APR 20 1945
File 055-M-1639
Chgd. to
Referred to

The Secretary,
Dept. of National Defence,
OTTAWA, Ont.

STANDING COURT-MARTIAL

D-647366 Pte. Julien MARTIN
A-19 CASCTC, CA

Reference H.Q.C.55-M-1639 (JAG/D-8), dated 9 APR 45.

2. Returned herewith for custody the proceedings of the marginally-noted Standing Court-Martial, together with MFM 288 in which review of sentence is recommended after 17 months have been served with a view to remitting the balance on completion of 18 months thereof.

3. No administrative action appears to be necessary in this case.

(A.C. Spencer)
~~([illegible])~~
Major-General
Commander, Camp Borden.

19

(1)

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Camp Borden, Ontario,

on the 2nd day of April 19 45 at 1350 hours,

for the trial of: D-647366 Private Julien MARTIN
Number Rank Full Name

A-19 C.A.S.C.T.C., C.A.,
Unit Attachment, if any

PRESIDENT: Major J.C.A. Campbell, President Courts-Martial, Camp Borden, C.A.

PROSECUTOR: Capt. E.W. Costello, Prosecutor Courts-Martial, Camp Borden, C.A.
Rank Full Name Unit Attachment, if any

~~Counsel~~ OR DEFENDING OFFICER: Lieut. R.N. Shadeed, A-19 C.A.S.C.T.C., C.A.
Rank Full Name Unit Attachment, if any

FINDING:

The Court find that the accused is guilty of the charge.

SENTENCE:

The Court sentence the accused to be imprisoned with hard labour for two years less one day and to be discharged with ignominy from His Majesty's Service.

Signed at Camp Borden, Ont., this 2nd day of April 1945.

J.C.A. Campbell (Major)
(J.C.A. Campbell) President, Standing Court-Martial.

M.F.B. 1486
25M5-44 (4826)
H.Q. 1772-39-2296

Entered as No. 36662 in the Register of Courts Martial kept in the office of the Judge Advocate-General this 9 day of Apr 1945

18

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter?~~

Answer:

Question to the accused. Do you object to No. C-96564, S/Sgt. (S.M.)(A/W.O.1.) T.S. Hubbard, H.Q., Camp Borden, C.A. as shorthand writer ?

Answer: No, sir.

The shorthand writer is ~~and interpreter (if any) are~~ duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

17

B 2

(5)

J C A Campbell major
Pres Secy.

CHARGE SHEET

The accused, No. D-647366 Private Julien MARTIN A-19 Canadian Army Service Corps Training Centre, C.A., Camp Borden, Ontario, a NRMA soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec 121 (1) A
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at Camp Borden, Ontario, on the 8th day of October, 1943, absented himself from, A-19 C.A.S.C. T.C. C.A., from 1300 hours on the said 8th day of October, 1943, until apprehended by Military Authorities at Montreal, Quebec, at 2300 hours on the 23th day of March, 1945, dressed in civilian clothes.
Costs of apprehension and return to his corps, $25.77.

Camp Borden, Ontario,
31st March 1945.

(M.L. Brennan) Colonel
Officer Commanding
A-19 CASC TC CA
Camp Borden, Ont.

16

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

First Witness for prosecution.

~~The Prosecutor proceeds to call witnesses.~~ JC&C

~~being duly sworn, is examined by the Prosecutor.~~ JC&C

Question

BY THE PROSECUTOR:

Sir, the evidence is all documentary, sir. I submit M.F.B. 375 dated 30th October 1943; M.F.M. 216 dated 24 MAR 45; M.F.B. 1481 dated 29 MAR 45 and M.F.B. 1482 dated 29 MAR 45.

BY THE DEFENDING OFFICER:

I have seen the documents, sir, and I have no objection to them.

--- The above-mentioned documents are read by the Court, marked Exhibits "F", "G", "H" and "I" respectively, are signed by the President and attached to the proceedings.

JC&C

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. No, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

--- The Prosecutor makes a Closing Address.
(See document marked "J".)

--- The Defending Officer makes a Closing Address.
(See document marked "K".)

~~*Question to the accused.* Is the witness to be called a witness as to character only?~~

~~*Answer.*~~

(11)

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir. Through my Defending Officer.

(See document marked "L".)

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"E" (13)

RECORD of the Declaration of a Court of Inquiry assembled at CAMP BORDEN, Ont. on the 30th day of October 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-647366 Pte. MARTIN, J., No. 3 Trg. Coy., A-19 C.A.S.C. T.C.

J.C.A. Confirming in Free Seen.

DECLARATION

The Court declare that No. D-647366 (Reg'l No.) Private (Rank) MARTIN, J., (Full Name) A-19 C.A.S.C. T.C. (Unit) illegally absented himself without leave from A-19 C.A.S.C. T.C. at CAMP BORDEN, Ont. (Place) at 1300 hours on the 8th day of October 1943 that he is still so absent, and that on the 8 Oct 43 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	Reduced VALUE		ARTICLES	VALUE	
2 Caps, F.S.	1	04			
1 Drawers, C.S., prs		27			
1 Jackets, sweaters	1	03			
1 Shirts, undercotton		29			
1 Jackets, S.D., O.C	7	60			
1 Pins, C.S.		04			
1 Shoes, L.B. prs	3	31			
1 Trousers, S.D. H.P	3	21			
1 Badges, cap		04			
1 Combs, hair		03			
1 Housewives,		26			
1 Spoons, table		05			
1 Bags, ration		03			
	$17	20			

Capt. R.F. Boudignon, (Name) (Rank) President (Unit) A-19 C.A.S.C. T.C. C.A.

Signed at CAMP BORDEN, Ont.

Lieut. J.R.M.A. Neveu, (Name) (Rank) Member (Unit) A-19 C.A.S.C. T.C.

this 30th day of October 1943

Lieut. M. Michaud, (Name) (Rank) Member (Unit) A-19 C.A.S.C. T.C.

Signature of Commanding Officer W.M. Copeland, (Name) Lt-Colonel, (Rank) A/Commandant, (Unit) A-19 C.A.S.C. T.C.

Certified true copy R.A. Hicks (Name) (Rank) (Unit)

(Signature of Officer having custody of original record)

(H.A. Hicks) Lieut.
A/Adjutant, A-19 C.A.S.C. T.C.

M.F.B. 378
A.F.B. 118
15676M—10-43 (8630)
H.Q. 1772-39-257

12

"G" (13)

J. Campbell Ingram
Res Serve

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 20th, 1942, and Ministerial Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.N. POULIOTTE, O/C. Composite Provost Companies M.D. 4
(Number) (Rank) (Name) (Unit)

hereby certify that D-647336 Private MARTIN, Julien
(Number) (Rank) (Name in full)

of the R.C.A.S.C.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrendered to~~) D-149256 Private
(Number) (Rank)

MARTIN, P. Composite Provost Companies M.D. 4
(Name) (Unit or appointment)

at Montreal, Que. at 2300
(Place) (Hour)

on the 23rd day of March 19 45

Strike out words not applicable } as a ~~deserter~~ absentee without leave), and that at the time of his arrest he was ~~wearing military clothing~~ (dressed in civilian clothes).

Dated at Montreal, Que. this 24th day of March 19 45

JPG...

(R.N. POULIOTTE) Major R.N. Pouliotte
(Signature, Number, Rank, Unit or appointment)

O/C. Composite Provost Companies M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1172-39-1936

An "R" Recruit called under N.R.M.A.

"H" (17)

ABSENTEES AND DESERTERS

J. A. Campbell may in Pres SCM

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. R.A. Hicks, (Rank) A/Adjutant, (Name) A-19 C.A.S.C. T.C. (Unit)

Strike out word not applicable — hereby certify that I ~~[illegible]~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from CAMP BORDEN, Ont. (Place) to MONTREAL, Que. (Place)

and return to CAMP BORDEN, Ont. (Place) for the purpose of escorting

Full description of soldier being escorted — D-647566 (Number) Pte. (Rank) MARTIN, J., T.S. Gcy., (Name in full)

A-19 C.A.S.C. T.C. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of ~~[illegible]~~ ~~transportation issued~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
TRANSPORTATION:	
Absentee	
Cost of one single second class militia ticket from MONTREAL, Que. to CAMP BORDEN, Ont.	$ 6.59
Escort	
Cost of one return second class militia ticket from CAMP BORDEN, Ont. to CAMP BORDEN, Ont., and return.	13.18
15% Tax	3.00
CAMP BORDEN T. W. No. C-668253, d/26 Mar 45. TOTAL	$ 22.77

Dated at CAMP BORDEN, Ont. this 29th day of March A.D. 1945.

R. A. Hicks
(R.A. Hicks) Lieut.
A/Adjutant, A-19 C.A.S.C. T.C.

Signature, rank, unit, attachment (if any) and appointment of officer ~~(issuing transport warrants)~~ (authorizing transportation)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
(Rev—19-42 (1000))
H.Q. 1772-29-1001

11

I 19

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER ~~1099, 1941~~ 1877, 1942

(INCIDENTAL EXPENSES)

Complete description — I, L/7950 (No.) Sergeant (Rank) BATES, A. (Name) A.19 C.A.S.C.T.C. (Unit)

Strike out words not applicable — as (escort) ~~[illegible]~~ 28

Members of escort — detailed to proceed from CAMP BORDEN (Place) to MONTREAL, P.Q. (Place)

Name and description of soldier escorted — to return B/647366 Pte. MARTIN, J. TS Coy. A.19 C.A.S.C.T.C. (Place) alleged to be a deserter or absentee without leave, to A.19 C.A.S.C.T.C. Camp Borden, Ont. (Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
MEALS	
3 meal tickets at $1.00 each	3.00
Escort	
Breakfast 28-3-45 $1.00	
Absentee	
Supper 26-3-45 $1.00	
Breakfast 28-3-45 1.00	
Issued on Camp Borden T.W. No.C/668253, d/- 26 Mar 45.	
Total	$ 3.00

Dated at Camp Borden this 29th day of March A.D. 19 45

Bates A. Sgt.

(A. Bates), Sgt.
L/7950 TS Coy. A.19 C.A.S.C.T.C.

Signature and rank ~~[illegible]~~ (escort) — Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

R.F.D. 1401
10M—1-42 (3080)
H.Q. 172-9-1006

10

EXHIBIT "J"

CLOSING ADDRESS BY THE PROSECUTOR

Sir, the accused is charged with desertion. The Prosecution has presented documentary evidence showing that the accused was absent from his unit from October 8th, 1943, until 23rd March, 1945. It is shown further that he was apprehended at Montreal, Quebec, and at the time of his apprehension he was dressed in civilian clothes. I suggest that all these facts raise a presumption from which the Court can find that there was an intention on the part of the accused, either at the time he went absent or at some time during his absence, not to return to His Majesty's Service. If the Court so find, then the accused must be found guilty of the charge and if the Court cannot so find, then I submit he is guilty of absence without leave.

- - - - - - - -

JCC

EXHIBIT "K"

CLOSING ADDRESS BY THE DEFENDING OFFICER

Sir, again the Prosecution basis its findings on the fact that a presumption as to intention exists and I suggest that the Manual of Military Law states that the fact that a man is apprehended in civilian clothes is not proof of intention to Desert, and the fact that the length of time is there is also not indicative of the fact that his intention is not to return to the service, and the fact that he was apprehended in Montreal; distance also is not indicative of the fact that an intention to Desert exists. Under these circumstances I submit to the Court that if there is sufficient proof of the fact that the intention not to return exists then the man is guilty of the charge, if not, I would submit that this charge be changed to read from Desertion to Absence Without Leave.

- - - - - -

jcsc

jcsc

8

"Y"

J. A. Campbell Maj

M.F.B. 355

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Corps
D-647366	Private	Julien MARTIN	A-19 C.A.S.C. T.C. C.A.

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months	Since enlistment or appointment
Nil	Nil

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his Enrolment Form is 21 years

6. The date of his enrolment specified in his Enrolment Form is 25 May 43

7.

8.

9. The accused is in possession of or entitled to no military decoration, or military reward

10.

~~H: (In the case of an officer:)— The accused holds in the Royal Canadian Air Force the rank of~~

Permanent Force
unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		Nil		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Nil 2nd. day of April Nil 45 R.A. Hutchison

A/ADJUTANT, A/19 G.A.S.C. T.C. C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

~~11. (In the case of an officer.)—The accused holds in the Royal Canadian Air Force the rank of~~

Permanent Force

unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		Nil		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Nil 2nd. day of April Nil 45 R.A. Hutchinson

ADJUTANT, A/19 G.A.S.C. T.C. C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. D-647366 Name MARTIN J. Sqn., Battery, or Company } Corps C.A.S.C. Date of enlistment } 25-5-43 G.C. Badges } Signature O.C. Company, etc. } Character

No. and date of last drunk } N/A Period not reckoning towards freedom from extra fine } N/A Sheet No. One

N.F.M. 6 (A.F.B.122) 750M—12-42 (1539) H.Q. 1773-39-1003

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden, Ont.				Original sheet destroyed on completion of six months service 25 Nov 43 Nil entries, Nil cases of drunkenness.					
				Certified True Copy A/ADJUTANT, A/19 C.A.S.C., T.C., C.A.					

(P.T.O.)

EXHIBIT "L"

FINAL ADDRESS BY THE DEFENDING OFFICER

Sir, for some time now the accused has been having trouble at home. It seems that his mother and father do not get along and his father is quite a heavy drinker and as a result they have not been able to stay in any one home which they have managed to rent. They have moved from room to room and the accused's job seems to be looking after his mother, which is his chief interest in life. The army takes second place in that respect and I understand that as long as conditions are as they are at his home he will more or less have his mother as the first object of interest and will do the utmost to help her in view of the fact that his father does not help her at all. I might also suggest that the accused is not a soldier. He does not think like a soldier, look like a soldier or see anything like a soldier. He cannot adapt himself to the army ways and I have more or less made this diagnosis myself. I have had some experience in meeting up with these accused and he strikes me as being the type that will never become a soldier. I would recommend that in the sentence to be awarded him that the accused be given imprisonment in a civil jail with hard labour so that the ultimate aim of this sentence will be to discharge the accused from the Service so that he may go back and work and be of some use to his family, his mother and himself.

- - - - - - - -

MEDICAL OFFICER'S REPORT

JC&C

I certify that No. D-647356 Pte. MARTIN, J.,

of A-19 C.A.S.C. T.C. is in a Good state of health,

and Fit to undergo Trial by Court martial.

F. Wiener
Medical Officer

(F. Wiener) Capt. R.C.A.M.C.,
Medical Officer att.A-19 CASC T.C.

Station CAMP BORDEN, Ont.

Date 2 Apr 45

M. F. B. 246
MOM—5-44 (34437)
H.Q. 1772-39-480

4

H.Q.C.55-M-1639 (JAG/D-8)
Your C.B. 40-M-2933

9 Apr 45

The Commander,
Camp Borden Military Camp, Ontario.

STANDING COURT-MARTIAL
D.647366 Pte. Julien Martin,
A-19 C.A.S.C.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

MO/MM

(R.J.Orde), Brigadier
Judge Advocate-General.

THIS COPY FOR H.Q. C.55-M-1639
M.D. C.B.40-M-2933

NRMA

MEMORANDUM - STANDING ~~DISTRICT~~ COURT-MARTIAL

No. D.647366 Name MARTIN, Julien

Rank Pte Unit A 19 C.A.S.C.T.C. CA

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 8-10-43 Charge Signed 31-3-45

Date of Arrest 23-3-45

Orders for D.C.M.

Place and Date of Trial Camp Borden Ont 2-4-45

Sentence Imprisonment W.H.L. 2 yrs less 1 day; discharged with ignominy

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36652

Date 9-4-45

MEMO. Balance of sentence remitted by Conf. Auth. 7-1-46

Borden - A 19 CASCTC CA

Absent	Sentence
17½ mos	Imprisonment W.H.L. 2 yrs less 1 day. Discharged with ignominy

2

for Judge Advocate-General

1039-1-45(M-2629)

C.B. 40-M-2933 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

Headquarters, Camp Borden,
Camp Borden, Ontario.
2 APR 45

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.55-M-1639

STANDING COURT-MARTIAL
D-647366, Pte. Julien MARTIN,
A-19 C.A.S.C.T.C., C.A.

Herewith proceedings of the m/n trial by Standing Court-Martial, for registration and custody, please.

J.C.A. Campbell major
(J.C.A. Campbell),
(~~Irvine Landrieu~~) Major,
President,
Standing Court-Martial.

36652

1

CONFIDENTIAL

H.Q.C. 55-M-1640

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MCDONALD. MELVIN ELMER B.162832 PTE.

CENTRAL REGISTRY	DATE	P.A. OR D.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					NEW FILE C.R.		APR 6 - 1945
APR 10 1945				J. A. G.	Was Papers C.R. APR 18 1946		
				JAG		mm	20-4-45
				JCM.	To note, ok		
APR 21 1945	23/4/45	PA		ARB	AUG 17 1946		
APR 23 1945	30/8/46	PA	was				
AUG 31 1946							

CONFIDENTIAL
H.Q.C. 55-M-1640

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1640 (JAG/D-

20 Apr. 45.

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

Standing Court-Martial
B-162832 - Pte. Melvin Elmer McDONALD
No. 20 C.I. (B) T.C., C.A.

Receipt is acknowledged of your T-20-M-18629 (JAG) dated 17th April 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E & M Capt.
for (R.J.Orde) Brigadier,
Judge Advocate-General.

/ET

Noted
L. H. Clayton
L. H. CLAYTON
Lieut.-Colonel
Director of Courts Martial
APR 23 1945

IN REPLY PLEASE QUOTE No. T-20-M-18629 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY **307681**

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
17th April, 1945.

CENTRAL REGISTRY Army
CONF. SEC.
APR 18 1945
File C55-M-1640
Chgd. to
Referred to

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-162832 - Pte. Melvin Elmer McDONALD,
No. 20 C.I.(B)T.C., C.A.

Reference H.Q.C.55-M-1640 (JAG/D-3) dated 9th April, 1945.

2. Returned herewith proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O. 4567(7)(C)(e).

3. Pursuant to H.Q.55-1-41 F.D. 74 (Adm) dated 16th January, 1945, there appears to be no administrative action arising from the proceedings.

(A. E. Potts)
Major-General
M.D. 2.

D.O.C.

NAT. DEF. B. 440
250CM-4-44 (A320)
H.Q. 172-39-167

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No 20 Canadian Infantry (Basic) Training Centre, C.A. BRANTFORD Ontario

on the 13th day of March 1945 at 1010 hours,

for the trial of: B 162832 Private Melvin Elmer McDONALD
Number Rank Full Name

No 20 Canadian Infantry (Basic) Training Centre, C.A.
Unit Attachment, if any

PRESIDENT: Major W.P. McCLEMONT (A&SH) Headquarters M.D. 2

PROSECUTOR: Captain F.G. FOSTER, Headquarters M.D. 2
Rank Full Name Unit Attachment, if any

DEFENDING OFFICER: Lieutenant C.V. MORIEN, H.W.E. No 20 C.I. (B) T.C. CA
Rank Full Name Unit Attachment, if any

FINDING: GUILTY OF THE CHARGE

SENTENCE: TO UNDERGO DETENTION FOR NINETY DAYS.

Signed at BRANTFORD Ontario this 13th day of March 1945

W. P. McClemont Major
President,
Standing Court-Martial

M.F.B. 1496
25M-6-44 (4826)
H.Q. 1772-32-2287

Extracts entered as No. 36654 in the Courts Martial kept in the the Judge Advocate-General this 9 day of Apr. 1945

B-2
W. to Mr. Clement
Pres. S.C.M. Major

CHARGE SHEET

The accused No. B.162832 Private Melvin Elmer McDONALD, No 20 Canadian Infantry (Basic) Training Centre, C.A., Brantford, Ontario, a G.S. soldier of the Canadian Army, placed on Active Service is charged with:

CHARGE
SEC 12 (1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S
SERVICE

In That He

At No 20 Canadian Infantry (Basic) Training Centre, C.A., Brantford, Ontario, on the 25th day of August, 1944 absented himself without leave from No 20 Canadian Infantry (Basic) Training Centre, Brantford, Ontario, from 2145 hours on the 25th day of August, 1944 whilst a defaulter until apprehended by No 31 Company, Canadian Provost Corps, C.A., at Toronto, Ontario at 1600 hours on the 2nd day of February, 1945, dressed in civilian clothes, the cost of apprehension and return to his Corps being $7.23.

(R. Y. CRAY) Lieut. Col.,
Officer Commanding,
No 20 C.I.B.T.C., C.A.,
BRANTFORD, Ontario.

10 March 1945
Brantford, Ontario.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~ ..... as interpreter?

Answer: .....

Question to the accused. Do you object to W11059 S/Sgt I.C. GOBSON CWAC No 2 Det CMSC as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter~~ is ~~are~~ duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or a General Court-Martial~~ ?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. .....

~~(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

Proceedings on Plea of Not Guilty

Question to accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

Lieutenant B.W. BRYAN, H.W.B. No 20 Canadian Infantry Basic Training Centre, C.A.,

being duly sworn, is examined by the Prosecutor.

Question

Q. What is your position in this Centre ?

A I am Assistant Adjutant, sir.

Q What are your duties ?

A I assist in the custody of the regimental books and documents here.

Q Do you know the accused ?

A I do, sir.

Q What is his name ?

A Private McDonald.

Q Have you any evidence to produce to the Court relevant to the charge against the accused ?

A Yes, sir, I produce M.F.B. 375, being a Certified True Copy, signed by George Reive, Captain and Adjutant, No 20 C.I. (B) T.C. CA, being the Record of the Declaration of a Court of Inquiry, assembled at Brantford Ontario, on the 19th of September, 1944. This document refers to the accused Private McDonald, sir.

Q Will you present that to the Court please .

Q ---PRESIDENT (To Defending Officer) Any objection Mr. Morden ?

A No, sir.

(PERTINENT PARTS ARE READ TO THE ACCUSED, DOCUMENT IS MARKED EXHIBIT "Y" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS)

---WITNESS: I also produce M.F.B. 216 being a Certificate of Apprehension, signed by F.N. McMahon, Major, Officer Commanding No 31 Company, Canadian Provost Corps. This document refers to the accused Private McDonald.

---PROSECUTOR: Will you present that document to theCourt please.

Q ---PRESIDENT: (To Defending Officer) Any objection ?

A No, sir.

(PERTINENT PARTS ARE READ TO THE ACCUSED DOCUMENT IS MARKED EXHIBIT "G" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS)

---WITNESS: I produce M.P.B. 1481 being a Certificate of Costs of Transportation totalling $1.23, signed by E.H. Stevenson, Major, Officer Commanding No 30 Company, Canadian Provost Corps, London Ontario. This document refers to the accused, sir.

---PROSECUTOR: Present that document to the Court, please ?

Q ---PRESIDENT: (To Defending Officer) Any objection ?

A Yes, sir, I have an objection to the evidence. I think that document is not in conjunction with the others that have been presented.

---PRESIDENT: Mr. Morden, the document appears regular on the face of it; in other words, it appears to be prima facie proof of certain transportation costs rightly chargeable against the accused. It may be of course they are not chargeable against him at all. Have you any objection it its going in as an exhibit subject to any defence which you may raise later on.

Q ---DEFENDING OFFICER: In other words, sir, that can be contested later ?

A ---PRESIDENT: Oh, yes, that can be contested any time by the accused, but on the face of it, it appears to be a proper document. On the face of it it is prima facie proof of what it says. Obviously if the accused is found not guilty, he should not have to pay any costs of transportation.

---DEFENDING OFFICER: If, subsequently, he were proved guilty I still have an objection to it.

---PRESIDENT: Alright, you can raise that later.

(PERTINENT PARTS OF THE DOCUMENT ARE READ TO THE ACCUSED, DOCUMENT IS MARKED EXHIBIT "H" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS)

---WITNESS: I produce M.F.B. 1481, Certificate of Costs of Transportation totalling $2.26 signed by O.M. Newby, Lieutenant, Issuing Officer for D.S. & T.O. M.D. No 1. This document refers to the accused, Private McDonald, sir.

---PROSECUTOR: Present that document to theCourt, please.

Q ---PRESIDENT: This document, Mr. Morden, appears regular on the face of it. I take it the same objection may apply to it as applied to the other document?

A Yes, sir.

---PRESIDENT: So you have no objection to its going in in the meantime ?

A No, sir.

(PERTINENT PARTS ARE READ TO THE ACCUSED DOCUMENT IS MARKED EXHIBIT "H" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS)

---WITNESS: I produce M.F.B. 1481 being a Certificate of Costs of Transportation totalling $3.72 signed by George Reive, Captain and Adjutant, No 20 Canadian Infantry Basic training Centre, C.A. This document refers to the accused Private McDonald, sir.

---PROSECUTOR: Present that document to the Court, please.

Q ---PRESIDENT: (To Defending Officer) You have no objection to this going in as an Exhibit, have you ?

A No, sir.

(PERTINENT PARTS ARE READ TO THE ACCUSED DOCUMENT IS MARKED EXHIBIT "I" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS)

Q ---PROSECUTOR: (To Witness) Have you any further evidence ?

A No, sir.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE

THE WITNESS WITHDRAWS.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath.

Question to the accused. Do you intend to call any witness in your defence?

Answer. I have none.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

1st Witness FOR DEFENCE

The accused B 162832 Private Melvin Elmer McDONALD No 20 Canadian Infantry (Basic) Training Centre, C.A., being duly sworn is examined by the Defending Officer:-

Q Private McDonald, are you married ?

A Yes, sir.

Q Is your wife in good health ?

A No, sir, she is not.

Q What is the nature of her trouble ?

A Hernia Rupture, of the left side.

Q Have you any trouble at home ?

A I got a boy who is nine years old and the condition my wife is in she can't look after him.

Q When you were here in the Army, did you go home very often ?

A Yes, sir, I went home every time I got the chance.

Q Why ?

A I got worried about it.

Q How did that help things at home ?

A Not a lot as far as home was concerned. I had to see for myself how things were going.

Q You say you had trouble with that nine year old child of yours. What effect did your visit have on the child ? Were you able to influence him ?

A As far as influence goes, yes, sir. When I was home he was alright. He behaved himself .

Q He behaved himself when you were at home ?

A Yes, sir.

Q You felt a lot better when you came back ?

A Yes, sir.

Q When you were absent from the Army what did you propose to do ?

A Well, sir, I intended to go out - I figured being close to home, even if I didn't live at home I might be able to help the boy. I figured I might pick up enough work to get money for her , for the operation .

Q And what did you propose to do after that ?

A If I could have done that, then my intention was to come back to the Army when the spring came; when the snow left the ground.

Q What did you do with your uniform when you were absent ?

A I took it off; wrapped it up and put it in moth balls and put it away.

Q Did you inform the Provost ?

A The Provost Corps in Toronto asked me where the uniform was and told me to go and get it.

Q Were you able to do so ?

A Yes, sir.

Q Did you find it ?

A Yes, sir.

Q When you were subsequently taken up in Police Court, I understand you didn't have the fine that was imposed upon you. What did you do about that ? Did you make any attempt to get the money ?

A When I first went in there to serve the time, I thought I would serve my time out. My mother soon got the money; I couldn't get the cash myself, not until my mother came on Saturday. I asked if she could get the money and pay the fine if she could. On the following Monday the money was paid.

Q Why did you ask your mother for the money ?

A Well, sir, I had the balance of forty-two or forty-three days to go which I figured was possible to come back and put that time in here in the Army rather than put it in in Guelph.

Q You wanted to come back to the Army ?

A Yes, sir.

Q Have you had any complaints about your health ?

A Just my back.

Q What has been done about it ?

A Nothing at all. I was sent to Hamilton for X-Rays. My X-Rays came back and showed negative . He called me in the office and told me to go out and soldier that there was nothing else wrong with me.

Q Previous to that did you not have an examination in Toronto when you first came into the Army ?

A Yes, sir, I was called up in front of one doctor, maybe more. I told him about my back. He didn't let on he even heard me. About a week or so later, I complained about it, so they sent me to Chorley Park Military Hospital.

Q What was done ?

A They took blood tests and so forth, and said I would have to take treatment, not naming the treatment. Two or three days later they said I was to take an injection in the back, an injection of stuff in the bowels. I refused to take the needle. I didn't actually refuse to take treatment. I had another operation at Saint Michael's, a spinal operation and it wasn't a success. As far as the operation goes, it was a success itself, but I took a needle then and it wasn't so good.

Q Did they offer you any other type of treatment ?

A No, sir, they didn't.

Q They sent you back to your unit ?

A Yes, sir, they did.

Q When you were in Guelph, did your back bother you ?

A All the time.

Q Were you able to do the work they asked you to do up there ?

A The first day I was in Guelph they put me in the bull gang shovelling; but that night after we were brought in they were going to put me in the office cleaning up in Sergeant Fox's office. I couldn't do their work on the bull gang, so they kept me there one day. That's where I worked in there one day until I was sent out.

Q In other words, your back bothered you and you attempted to do the work they allotted to you and they put you on a lighter job, is that correct ?

A Yes, sir, that is correct.

Q Is your back still bothering you ?

A Yes, sir.

THE PROSECUTOR CROSS-EXAMINES.

Q You admit leaving this Centre on the 25th of August 1944 ?

A I do, sir.

Q You admit leaving at 2145 hours ?

A Yes, sir.

Q And you remained away until you were apprehended at 1600 hours on the 2nd of February, 1945 ?

A Yes, sir.

Q And when you were apprehended you were dressed in civilian clothes ?

A Yes, sir.

Q Why did you stay away so long ?

A As I say, I figured staying away for a while and see if I could help to influence my boy at home and get enough money to get the wife on operation

Q Did you get a job ?

A Yes, sir.

Q Under what name ?

A Under my own name.

Q You mentioned being in Guelph ?

A Yes, sir, I was.

Q What for ?

A False Registration.

Q You had a false registration card ?

A Yes, sir.

Q Did you use that in getting a job ?

A No, sir, I never was asked to show it and I never showed it.

Q You had it in case you needed it ?

A Yes, sir.

Q How much of the sentence did you serve in Guelph ?

A From Saturday the 3rd of February, until Monday the 5th of February.

Q When you were away did you work steady ?

A No, sir, I didn't. I worked two or three days a week.

Q What type of work did you do ?

A I was driving a light truck .

Q Driving truck ?

A Yes, sir.

Q Did that bother your back at all ?

A Once in a while it did, bouncing around on the truck.

Q Your back isn't sufficiently serious that you couldn't drive a truck around .

A I could drive a truck, sir.

Q You never wore your uniform while you were away ?

A No, sir.

Q Where did you spend all the time you were away from the Centre ?

A I spent it in Toronto.

Q Did you live at home ?

A No, sir, I didn't.

Q How near your home did you live ?

A Within a block or less.

Q Why didn't you live at home ?

A Because I wanted a chance to see what I could do with my lad.

Q Did your lad live at home ?

A Yes, sir.

Q Wouldn't you have been more influence on him living at home ?

A Well, sir, I figured they would come and get me in a week or two and that would be no good.

Q In other words you didn't stay at home because you didn't want to be picked up ?

A No, sir, that isn't right.

Q You knew that if you stayed at home the Provost would come and get you ?

A I figured if I stayed at home for a week and got caught that wouldn't be any good. Two or three days wouldn't be any good to me.

Q That's why I say you didn't live at home, because you didn't want to be picked up .

A Not in that short a time.

Q You went away in August and you stayed away until you were apprehended by the Civilian Authorities in February ?

A Yes, sir.

Q That is quite a while, isn't it ?

A It is, sir.

Q How is your boy at the present time ?

A Lately, I don't know.

Q How was he went you were at home ?

A Alright, sir.

Q How is your wife ?

A As far as her health goes, she is no better.

Q I take it you didn't make sufficient money during your absence to help your wife very much ?

A I didn't, though I tried.

Q How much money did you earn a week ?

A Anywhere from twelve to eighteen dollars a week.

Q How much did you give your wife ?

A Five dollars, seven dollars a week. Whatever I had left outside my room rent and my eats.

Q She would have been better off if you had remained in the Army ?

A I have often thought that since.

Q You didn't do your wife a favour ?

A No, sir.

Q What is your category ?

A I don't know.

Q Would you be surprised if it was one across the board.

A I don't know, sir.

Q How much training have you had ?

A Just about six weeks here in Camp. Six or seven weeks and two weeks in Exhibition in Toronto.

Q And your date of enlistment ?

A I don't know that, sir.

Q Do you know when you joined ?

A I don't know.

Q You have been in a year, or how long ?

A About a year

Q How old are you ?

A 31 past.

Q When would you have returned if you hadn't been picked up ?

A I had no intention of returning to camp until after the snow was off the ground.

--THE DEFENDING OFFICER DECLINES TO RE EXAMINE

Q ---QUESTIONED BY THE PRESIDENT: During the time that you were away did you consult any doctor about your wife's hernia ?

A I didn't consult anybody. I knew what she had, sir.

Q So that in that period of four or five months, nothing was done about it ?

A No, sir.

---THE ACCUSED RESUMES HIS SEAT

THE PROSECUTOR MAKES A CLOSING ADDRESS (See document marked "K")

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS (See document marked "L")

"L"

W. P. McClement
Major
President, D.C.M.

CLOSING ADDRESS BY THE DEFENDING OFFICER:

The intention to desert the Army must be proved beyond a reasonable doubt in order that a man may be found guilty of desertion; and according to the Army Act if a man has the intention at any time during his period of absence to return, then he may not be found guilty. I don't know if that is correct, sir, but I think if a man has any intention at any time during this period of absence to return, it is evidence he did intend to return at some time.

Private McDonald has stated he took very good care of his uniform; packed it away in moth balls and wanted to have it in readiness to put on when he did return to the Army; and when he was in Guelph in civil custody, he took steps to get the necessary money so he would be able to return to the Army. We have a letter here from the Guelph Reformatory.

---PRESIDENT: It has not been produced in evidence Mr Morden, and strictly speaking it should not be referred to.

---DEFENDING OFFICER: If necessary the letter could be produced.

---PRESIDENT (To Prosecutor) Have you any objection, Mr. Foster ?

---PROSECUTOR: No, sir.

---PRESIDENT:(To Defending Officer) Just show him the letter; ask him what it is; whom it is signed by; whom it is addressed to; if he knows.

---DEFENDING OFFICER: (To accused) Take a look at this letter.

---PRESIDENT: Ask him whom it is signed by and to whom it is addressed.

---ACCUSED: It is addressed to Mrs. Beth McDonald, 344 Parliament Street Toronto.

---DEFENDING OFFICER: That is your mother ?

---ACCUSED: That is right, sir.

---DEFENDING OFFICER: Who is it from ?

---ACCUSED: The Ontario Reformatory, Guelph Ontario.

---DEFENDING OFFICER: Who is it signed by ?

---ACCUSED: J.D. Heaslip. It is typed here, M.D. Superintendent

---DEFENDING OFFICER: The letter says: Dear Madam. Re B 162832 Private Melvin Elmer McDonald. I wish to acknowledge receipt of money order for fifty dollars for payment of the fine in relation to the above named inmate. The Deputy Assistant Provost Marshal of this district has been sent a copy of this letter so that he will be fully aware of the fact that your son requested this fine be paid so that he may return to the Army. We cannot of course influence the Army in their decision as to what punishment should be meted out to Melvin, because of his desertion, but perhaps the knowledge that he paid the fine to return to the Army might lessen the punishment when he appears for Court-Martial. If he is sentenced, we regret that we have no influence in requesting his return to this institution. Yours very truly. J.D. Heaslip, Superintendent.

---PRESIDENT: (To Prosecutor) Have you any questions based on this letter, Captain Foster ? Any cross-examination ?

---PROSECUTOR: No, sir.

---PRESIDENT: Proceed with your address please, Mr. Morden.

---DEFENDING OFFICER: I think sir, that these facts definitely establish the fact that McDonald had every intention of returning to the Army, therefore I believe that he should be found not guilty of desertion.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir, I have no statement whatsoever.

Question to the accused. Do you wish to address the Court?

Answer. I wish my Defending Officer would speak for me.

(See following page)

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

ADDRESS BY THE DEFENDING OFFICER IN MITIGATION OF PUNISHMENT:

Sir, Private McDonald is an active service soldier, and he has told me he wishes to complete his training and proceed overseas.

Army medical treatment though it is of the best, it is not always administered as diplomatically as it could be.

He has seen the error of his ways. He has committed an offence against Army regulations and he realizes that. He tells me now he is more than ready to submit to any medical treatment the Army might prescribe for him; come back here and complete his training and go overseas.

I would like to suggest to the Court if I may, that McDonald's condition be thoroughly checked before he undergoes any sentence that the Court may impose upon him; that this condition be not only investigated thoroughly, but any treatment that may be prescribed be administered before he has to undergo his sentence.

I would like the Court if they would, to consider these things: His active service, His willingness to proceed overseas; his willingness to do anything the Court may decide.

Sir, on the question of these costs of apprehension. Referring to the costs of apprehension I mentioned. McDonald was under duress at the time. He was first of all apprehended in Toronto, and then on a civilian charge was taken to Guelph. He is charged with costs of transportation from Guelph to Kitchener, from Kitchener to London and so on, from London to Brantford. I maintain his costs should be only from where he was originally apprehended, that is Toronto.

"F"
W. McClement
Maj. S.C.M. Maj.

RECORD of the Declaration of a Court of Inquiry assembled at Brantford, Ontario the 19th day of September 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.162832 Pte. McDONALD, M.E., No 20 C.I.(B)T.C., C.A.

DECLARATION

The Court declare that No. B.162832 Pte. McDONALD, M.E., "B" Coy No 20 C.I.(B)T.C., C.A., Brantford, Ontario.

illegally absented himself without leave from No 20 C.I.(B)T.C., C.A., Brantford, Ontario at 2145 hours on the 25th day of August 1944, that he is still so absent, and that on the 19 September 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
1 Blouse Battle Dress Serge	6	50			
1 Caps Field Service		70			
1 pr Drawers Cotton Short		42			
1 pr Puttees, drab		97			
1 Shirts under cotton		43			
1 Shirts Khaki Cotton	1	54			
1 pr Shoes Leather black	4	84			
2 pr Trousers Battle Dress Serge	13	10			
1 pr Braces		28			
1 Neckties, Black		19			
1 Pins collar		06			
1 pr Socks Black		28			
1 Badges Cap		09			
1 Knives, Table		18			
Full Vocabulary Value	29	58			
Less 25% expired value	7	40			
	$22	18			

(Signed) R. S. Culver, Lieut. President
No 20 C.I.(B)T.C., C.A.

Signed at Brantford, Ont. ..... Member

this 21st day of Sept. 1944. ..... Member

Signature of Commanding Officer (R. Y. CORY) Lieut. Col. (Signed)
No 20 C.I.(B)T.C., C.A.,
Brantford, Ontario.

Certified true copy Copy
Signature of Officer having custody of original record
#20 CI(B)TC-CA.

M.F.B. 275
A.F.B. 116
100M—4-43 (4337)
H.Q. 5772-20-257

"6"

W.H. McClement
Pres. & C.M. Major

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major F.E. McMahon, No.31 Coy., Cdn. Provost Corps, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that B.162832 Pte. McDONALD, M.E.
(Number) (Rank) (Name in full)

of the #20 C.I. (B) T.C. Brantfrod, Ontario.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~SURRENDERED~~) B.97704 L/Cpl. BROWN, M.B.
(Number) (Rank)

B.163525 L/Cpl. JARVIS, F.R. No.31 Coy., C. Pro. C.
(Name) (Unit or appointment)

at Sackville and Dundas Sts., Toronto, Ontario. (Place) at 1600 hrs. (Hour)

on the 2nd day of February 1945

Strike out words not applicable } as a ~~DESERTER~~ absentee without leave), and that at the time of his arrest he was ~~WEARING~~ (dressed in civilian clothes).

Dated at 339 George St., Toronto, Ontario. this 3rd day of February 1945
(SOLDIER OF TJE ACTIVE ARMY)

F E McMahon
(F. E. McMahon) Major.
(Signature, Number, Rank, Unit or appointment)

Officer Commanding, No.31 Coy., C. Pro. C.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1773-39-1936

13

M.F.B. 1481
12[illegible]-10-43 (2206)
H[illegible]772-39-1851

"H"
W. H. McClement
Pro. S.C. Mr Major

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, E.H.Stevenson, Major, O.C.No.30 Coy.C.Pro.C.London,Ont.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I ~~[illegible]~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Kitchener, Ont (Place) to Guelph, Ont (Place)
and return to Kitchener, Ont (Place) for the purpose of escorting

Full description of soldier being escorted — B-162832 (Number) Pte (Rank) McDONALD, Melvin, Elymer. (Name in full)
No.20 B.T.C. (Unit) Brantford, Ont. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the ~~transport warrants issued~~) (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	Use of D.N.D.Vehicle No.52-617 Jeep. From Kitchener to Guelph,Ont.and Return. Mileage leaving Kitchener,Ont.....38217 Mileage on return to Kitchener....38256 Mileage total.....41 41miles 03¢ per mile.....$1.23¢ The above cost of transportation is recoverable from:B.162832 Pte.McDonald,M.E. No.20.B.T.C. Brantford,Ont.	
	TOTAL	$ 1.23¢

Dated at London,Ont. this 7 day of March A.D. 1945

E.H.Stevenson
(E.H.Stevenson) Major.
O.C.No.30 Coy.C.Pro.C.
London,Ont.

Signature, rank, unit attachment (if any) and appointment of officer ~~issuing transportation~~ (authorizing transportation)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

"# 7"
W. M. Clement
Pres. S.C. Mr. Mgr.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. V.M.Newby, Issuing Officer for D.S.&.T.O. M.D. No.1
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transportation for escort

Complete — to proceed from Kitchener, Ontario (Place) to London, Ontario (Place)

and return to Kitchener, Ontario (Place) for the purpose of escorting

Full description of soldier being escorted — B-162832 Pte. McDonald, Melvin, E.,
(Number) (Rank) (Name in full)

20 B.T.C., Brantford, Ontario
(Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(the transportation required)~~ and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
To cost of Transportation Warrant No. 866289 d/6 Mar 45 Causing the following transportation:	
½ cost	
One second class-return-Kitchener to London (escort)	1.14
One second class-single-Kitchener to London (being escorted)	1.14
The above cost of transportation is recoverable from:	
B-162832 Pte. McDonald, Melvin, E., # 30 B.T.C., Brantford, Ontario	
TOTAL	$ 2.28

Dated at Kitchener, Ontario this 6th day of March A.D. 1945

Issuing Officer for D.S.&.T.O. M.D. No.1.

V.M. Newby Lieut. (V.M.Newby) Lieut.
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing transportation~~)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
135m—30-42 (9452)
H.Q. 1773-39-1861

J

W. W. McClement Maj. Pay. P.C.M.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Captain Geo. REIVE (Rank) (Name) No 20 C.I.(B)T.C., C.A. (Unit)

Strike out word not applicable — hereby certify that I (~~[illegible]~~ Ex) (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Brantford, Ontario (Place) to London, Ontario (Place)

and return to Brantford, Ontario (Place) for the purpose of escorting

Full description of soldier being escorted — B.162832 (Number) Private McDONALD, M.E. (Rank) (Name in full)

No 20 C.I.(B)T.C., C.A., Brantford, Ontario (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or ~~absentee~~ without leave, the facts, date and particulars of (~~the~~ ~~[illegible]~~) (the transportation required) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
Transportation by D.N.D. vehicle Brantford, Ont. to London, Ont & return	
(Proportionate charge, one way) 62 miles @ .06¢ per mile)	3.72
TOTAL	$ 3.72

Dated at Brantford, Ont. this 8th day of March A.D. 1945

Geo Reive Capt. & Adjt.

Signature, rank, unit, attachment (if any) and appointment of officer (~~issuing transport warrants~~) (authorizing transportation)

Strike out description not applicable. #20 C.I.(B)T.C., C.A.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
12lm—10-42 (3462)
H.Q. 1279-26-1051

"E"

W. P. McClement
Major,
President, S.C.M.

CLOSING ADDRESS BY THE PROSECUTOR:-

Sir, I submit there is sufficient evidence here to show that the accused had the intention of deserting. He was away and was picked up by the Civilian Authorities dressed in civilian clothes. At the time, he had in his possession a false registration card, which he admits he would have used if necessary. He didn't live at home where naturally, the Provost would look for him. He lived away from home with the intention of avoiding the Provost.

He admits he had no intention whatever of returning to Camp until after the snow was off the ground; so that he had during that period that he was away, he had the intention of not returning to this Camp. Later on he may have had the intention of returning; certain other things may have happened.

He only worked two or three days a week.

I submit that the evidence shows this accused intended to desert during the time he was away; and that had he not been apprehended by Civilian Authorities, he had no intention of coming back.

Y

W. P. McClement
Paus. S.C.M. Major

M.F.B. 355
5M-10-39 (2492)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.162832	Private	Melvin Elmer McDONALD	#20 C.I.(B)T.C. C.A.

1. The following is a fair and true summary of the entries in the ~~Regimental and Squadron, Battery~~ Service and General Field Conduct sheets ~~of Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For A.W.L.	1 times		A.W.L.	1 times
For Failing to appear at	times		Failing to appear at	times
For place of parade	1 times		place of parade	1 times
For Losing by neglect	1 times		Losing by neglect	1 times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ ~~A.F.A. 73~~ Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for XXXX

Y

W. P. McClement
Pres. S.C.M. Major

M.F.B. 355
5M-10-39 (2492)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.162832	Private	Melvin Elmer McDONALD	#20 C.I.(B)T.C. C.A.

1. The following is a fair and true summary of the entries in the ~~Regimental and Squadron, Battery~~ Service and General ~~or Company Conduct sheets~~ Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment	
For A.W.L.	1 times	A.W.L.	1 times
For Failing to appear at	times	Failing to appear at	times
For place of parade	1 times	place of parade	1 times
For Losing by neglect	1 times	Losing by neglect	1 times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted.~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ ~~A.F.A. 73~~ Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for XXXX

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

~~NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, that paragraph must be struck through.~~

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank.....

Name Melvin Elmer McDONALD of #20 C.I.(B)T.C., C.A. Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
City Police Court	Toronto, Ont. 3 Feb. 45	Being in possession of false National Registration Certificate	Fine of $50.00 or 3 months in gaol	57 days as fine paid on 8 Mar 45

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of March 1945 Capt.&Adjt. #20 C.I.(B)T.C., C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

40-3 B.162832 McDONALD Melvin Elmer #2 DD (AF) C.INF.C. (RIFLES) R WING #2 Coy Btrd "Y"

No. | Name | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

3 Jul 44

CERTIFIED TRUE COPY | Date of last entry in Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. one | Signature O.C. Company, etc. (sgd) Lt.

M.F.M. 6 (A.F.B. 152) Sec(M)—5-39 (75M) H.Q. 1072-9-18

#20 Cl(B) I.C.

	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Brantford Ont.	12-8-44			AWL from 2245 hrs. 12-8-44 until apprehn. at Toronto at 2220 hrs. 23-8-44 dressed in uniform Abs. 10 days 23 hrs. 35 mins. A.A.Sec. 15(1) Placed in Close Arrest at 2220 hrs. 23-8-44 Cost of apprehension and return to #20 $3.00	L/Cpl.Clarke Pte.Farrow Documentary Evidence	14 dys C.B. cost of apprehension $3.00	24-8-44 (Sgd)	MajorN.C. Buckham	11 dys pay FR&I
	12-8-44			FAILING TO REMAIN AT THE PLACE OF PARADE APPOINTED BY HIS COMMANDING OFFICER failed to remain on Fire Piquet from 2245 hrs. 12-8-44 to 0600 hrs. 13-8-44 A.A. Sec. 15(2)	L/Cpl.Clarke	(Sgd)	N.C. Buckham, Major		

(P.T.O.)

Z

Cl(B) I.C.
Pte. S.C. Mc

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
BrantfordOnt.	2FEB 45	Pte.		An offence under BREACH OF NATIONAL REGISTRATION REGULATIONS FINE NOT PAID Civil Arrest from 1600 hrs. 2 FEB 45 to 1000 hrs. 3 FEB 45 (18 hrs.)	Documentary	3 months in OUT.REFORMATORY OR FINE OF $50.00 (Sgd) G.Reive Capt.	3 FEB 45	CIVIL CONVICTION	1 dys pay FRI 149(1)(c) 89 dys pay FRI 149(1)(a)
Brantford Ont.	9 Mar 45	Pte.		LOSING BY NEGLECT CLOTHING EQUIPMENT & REGIMENTAL NECESSARIES A.A. Sec. 24(2)	ROMS WATSON	(Sgd) G.Reive Capt.	12 Mar45	Lt.Col. R.Y.Cory	Stop of pay $11.41

MEDICAL OFFICER'S REPORT

I certify that No. B-162832 Pte McDONALD, Melvin Elmer of #20 CI(B)TC, CA is in a good state of health, and fit to undergo Trial by Court martial.

J. Masson Capt., R.C.A.M.C.
Medical Officer
Att'd., No. 20 CI(B)TC, CA
BRANTFORD, Ontario.

Station Brantford, Ontario

Date 13 March 1945

M. F. B. 246
25M—6-43 (4744)
H.Q. 1773-20 600

W. H. McClement
Pres. S.C.M. Major

H.Q.C.55-M-1640 (JAG/D-3)
Your T.20-M-18629

9 Apr 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

STANDING COURT-MARTIAL

B.162832 Pte. Melvin Elmer McDonald,
No. 20 C.I.(B)T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde), Brigadier
Judge Advocate-General.

EMC/MM

THIS COPY FOR H.Q. C.55-M-1640
M.D. T.20-M-18628

G.S.

MEMORANDUM - STANDING ~~DISTRICT~~ COURT-MARTIAL

No. B.162832 Name McDONALD. Melvin Elmer

Rank Pte Unit No. 20 C.I. (B) T.C. CA

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 25-8-44

Date of Arrest 2-2-45 Charge Signed 10-3-45

Orders for D.C.M.

Place and Date of Trial No. 20 CI (B) TC CA Brantford Ont 13-3-45

Sentence Det 90 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36654

Date 9-4-45

MEMO

M.D. 2 - No. 20 CI(B)TC CA

Absent	Sentence
5½ mos	Det. 90 days

for Judge Advocate General

10M-1-45(M-4628)

IN REPLY PLEASE QUOTE No. T-20-M-18629 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No.2,
158 Bay Street, Toronto, Ontario,
4th April 1945.

CONFIDENTIAL

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C. 55-M-1640

STANDING COURT-MARTIAL

B-162832, Pte. Melvin Elmer McDONALD,
No. 20 C.I. (B) T.C., C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the personally-named soldier, in accordance with C.A.R.O. 4585, Section 11 (a).

W.P. McClemont

(W.P. McClemont) Major
President
Standing Court-Martial.

3665A

NAT. DEF. B. 440
250MM 4-44 (6102)
H.Q. 1174-39-787

H.Q.C. 55-M-1641

CONFIDENTIAL

M.F.R. 5079
HM—4-45 (9684)
H.Q. 301-1-87

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MITCHELL. NORMAN WESLEY B.166702 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 10 1945					NEW FILE	C.R.	APR 6 - 1945
					With Papers C.R. APR 20 1945		
APR 24 1945	25 4/45	Pa	DS	2 CM	To note, ab	mm	23-4-45

CONFIDENTIAL
H.Q.C. 55-M-1641

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC.55-M-1641 (JAG/D)

23 Apr 45

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

Standing Court-Martial
B.166702, Pte. Norman Wesley MITCHELL
No. 26 CI(B)TC, CM.

Receipt is acknowledged of your T-20-M-20126 (AJAG) dated 19th April, 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E. A. M. Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

/AB

Noted
L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
APR 25 1945

IN REPLY PLEASE QUOTE No. T-20-M-20126(AJAG)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
19th April, 1945.

308228

CENTRAL REGISTRY Army
CONF. SEC.
APR 20 1945
File C 55-M-1641
Cngd. to
Referred to J.A.G.

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
E-166702, Pte. Norman Wesley MITCHELL,
No. 26 C.I. (B) T;C. C.A.

Reference H.Q.C. 55-M-1641 (JAG/D-3) dated 9th April, 1945.

2. Herewith returned proceedings of the marginally-noted Standing Court-Martial, pursuant to C.A.R.O. 4567(7)(C)(e).

3. Reference HQ 55-1-41 FD 74 (Admin) dated 16th January 1945. It is considered that no administrative action is necessary in this case.

(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

NAT. DEF. B. 440
(2000M-2-44 (4320)
H.Q. 1772-39-787

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No 26 Canadian Infantry (Basic) Training Centre, ORILLIA, Ontario.

on the 5th day of March 1945 at 1330 hours,

for the trial of: B166702 Private Norman Wesley MITCHELL
Number Rank Full Name

No 26 Canadian Infantry (Basic) Training Centre, C.A.
Unit Attachment, if any

PRESIDENT: Major R.D. EVANS, (Lorne Scots Regt) Headquarters M.D. 2

PROSECUTOR: Captain F.C. FOSTER, Headquarters M.D. 2
Rank Full Name Unit Attachment, if any

COUNSEL
DEFENDING OFFICER: Lieutenant S.W. GILLINGS, H.W.E. 26 C.I. (B) T.C.
Rank Full Name Unit Attachment, if any

FINDING: GUILTY OF BOTH THE CHARGES

SENTENCE: TO UNDERGO DETENTION FOR NINETY (90) DAYS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF $8.34 IN RESPECT OF THE COST OF APPREHENSION AND RETURN TO HIS UNIT AND UNTIL HE HAS MADE GOOD THE SUM OF $40.00 IN RESPECT OF THE VALUE OF DEFICIENCIES IN HIS CLOTHING EQUIPMENT AND REGIMENTAL NECESSARIES.

Signed at ORILLIA, Ontario this 5th day of March 1945

R.D. Evans Major,
President,
Standing Court-Martial.

M.F.R. 1686
25M-6-44 (4828)
H.Q. 1772-39-2396

Particulars entered as No. 36653 in the Register of Courts Martial kept in the Office of the Judge Advocate General this 9th day of Apr. 1945

B2 [illegible] Major
[illegible] S.C.M.

CHARGE SHEET

The accused, No. B.166702 Pte. Norman Wesley MITCHELL, No. 26 Canadian Infantry (Basic) Training Centre, C.A., a G.S. soldier of the Canadian Army placed on Active Service is charged with:-

FIRST CHARGE
Section 15 (1)
The Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at No. 26 Canadian Infantry (Basic) Training Centre, C.A., Orillia, Ontario, on 18th day of December 1944, absented himself without leave from No. 26 Canadian Infantry (Basic) Training Centre, C.A. at 0600 hours on the said 18th day of December 1944 until he was apprehended by Service Authorities at Toronto, Ontario, at 1410 hours on the 27th day of February, 1945, dressed in civilian clothes.

Cost of apprehension and return to No. 26 Canadian Infantry (Basic) Training Centre, Orillia, Ontario, being eight dollars and thirty-four cents ($8.34).

SECOND CHARGE
Section 24 (2)
The Army Act.

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT AND REGIMENTAL NECESSARIES

in that he

at No. 26 Canadian Infantry (Basic) Training Centre, C.A., Orillia, Ontario, on the 28th day of February, 1945, was deficient of the following articles:

VOCABULARY			VOCABULARY PRICE UNDER C.A.R.O. 2474	LESS 25% C.A.R.O. 3464
CLO. DIV.				
CLO. DIV. "A".				
	Anklets	1	.74	.56
A.13000	Gloves	1	.66	.50
A.13700	Greatcoats	1	15.54	11.66
A.4800	Caps	1	1.05	.79
CLO. DIV. "B"				
B.10650	Trousers	1	4.33	3.25
B.10200	Trousers	1	6.55	4.91
B.450	Blouses	2	13.00	9.75
B.700	Boots	1	5.82	4.37
B.1800	Caps	1	.70	.53
B.3300	Drawers	2	.84	.63
B.3550	Drawers	2	2.80	2.10
B.6400	Jersey	1	1.65	1.24
B.8700	Shoes	1	2.29	1.72
B.8850	Socks	2	.92	.69
B.8600	Shirts	2	2.40	1.80

CHARGE SHEET (Cont'd)

B.10500	Trousers	1	1.31	.98
	Badges Cap	1	.09	.07
B.5350	Jacket	1	10.80	8.10
B.7950	Shirts	3	4.62	3.47
B.8350	Shirts	2	.86	.65

CLO. DIV. "A-1"

	Belts Waist	1	1.03	.77
	Braces R.	1	.39	.29
	Braces L.	1	.45	.34
	Carriers Cartridge	2	1.54	1.16
	Frogs	1	.21	.16
	Straps, W.S.	2	.34	.26

CLO. DIV. "C"

C.2100	Socks	2	.56	.42
C.150	Bags	1	1.68	1.26
C.650	Braces	1	.28	.21
C.950	Brush	1	.42	.32
C.1000	Brush	1	.09	.07
C.1100	Comb	1	.04	.03
C.1300	Fork	1	.08	.06
C.1350	Holdall	1	.22	.17
C.1500	Knife	1	.18	.14
C.1850	Razor	1	.42	.32
C.2400	Towels	1	.31	.23
C.250	Belts	1	.25	.19
C.1650	Tie	1	.19	.14
C.1700	Pin	1	.06	.05

TOTAL AMOUNT FULL VALUE	$85.71	AMOUNT CHARGED $64.28

(C.R.J. LANCASTER) Lt.Col.,
Commanding Officer,
No. 26 C. I. (B) T. C.

Orillia, Ontario,

5th March, 1945.

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter?~~

Answer:

Question to the accused. Do you object to W11059 S/Sgt I.C. GOBSON CWAC No 2 Det CMSC as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial~~?

Answer: He has not, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Answer: GUILTY SIR

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer. GUILTY SIR

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

The Prosecutor offers the following documents to the Court:-

M.F.B. 375, Certified true copy of Record of Declaration of Court of Inquiry;
M.F.M. 216, Certificate of apprehension;
M.F.B.1481, Certificate of Costs of Apprehension, in the amount $8.34
M.F.C. 800, Certified True Copy

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. Not at this time, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer, sir. (See following page).

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

STATEMENT BY THE DEFENDING OFFICER IN MITIGATION OF PUNISHMENT:

Sir, although the accused has no apparent reason for committing all these crimes, in my guess it is all due to the fact he has family background. I will go into that a little bit and give you the details.

His father, although he has supported both the accused and his mother, he has spent very little of his time at home; being a miner up North; coming home at odd intervals; and during his stays at home his method of punishment was rather severe. For instance, the accused would come home a few minutes late from school, and instead of a small punishment he would get a severe punishment.

At the age of eighteen - on his eighteenth birthday he joined active in the Canadian Army. I think he came in with the wrong feeling. He made a mistake and committed one offence, and got off rather easy.

For some unknown reason when he gets to Toronto on leave with his friends, he does what they tell him and doesn't come back to Camp; and in view of this his friends might have something to do with it. He has even on occasions got as far as the train to come back, but he has been persuaded to do otherwise.

He has no grudge against the Army. He has no grudge against his officers and N.C.O.'s but he has this one feeling.

He is only eighteen years old and I believe if he were sent a little way away from home, he would be a good soldier. He is mislead by his friends and he has this mistaken idea of punishment which I think his father has instilled in him in rather a hard way. That is what makes him commit these offences against the Army Act sir.

Y- [illegible]
President, S.C.M.

M.F.B. 358
50M—9-43 (5902)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or~~ unit)
B.166702	Pte.	Norman Wesley MITCHELL	26 C.I.B.T.C.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	1 times	A.W.L.	1 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act, and dispensations with trial under A.A. 71 Act are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for NO days in civil custody, and 10 days in military ~~Air Force~~ custody, making a total of 10 days in custody, of which NO days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 18 years. 4 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 2 Nov 1944.

7. The service which the accused is allowed to reckon towards discharge is Nil

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to~~): ~~State any air force decoration or reward: military.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ ~~Air Force~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

~~NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.~~

SCHEDULE

~~Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army~~ Air Force Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Unit

Name..... of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of March, 1945.

(J. SCOTT) Lt. & A/Adjt.
26 C.I. (B) T. C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

25-2

No. B-166702 Name Pte MITCHELL.Norman Wesley. Sqn., Battery, or Company No.2. DD. (AF) CIC (Rifles) Brant Y.R. WING. Corps

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment 2nd Nov44 | G.C. Badges | Service or Proficiency Pay | Sheet No. | Signature O.C. Company, etc. | Character

M.F.M. 6 (A.F.B. 122) 500M—11-40 (9033) H.Q. 1772-48-18

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Orillia.	20Nov44	Pte		Sec 15 (1) A.A. ABSENT WITHOUT LEAVE from 0600 hrs 20 Nov 44 to 0720 hrs 9 Dec 44 (19 days,1hr 20 Mins) Close arrest.Cost of Apprehension$5.00 SOS as illegally absent	Cpl Lewis.R.I #21 Coy.C Pro.C. Cpl Temple.T #21 Coy.C Pro.C.	20days pay under Sec 46 (2) (d) A.A. Shortage K&P $64.28	11Dec 44	Lt.Col C.R.J. Lancaster.	Forfts 20 dys pay underFR&I 149 (1) (a)
Orillia	9Jan45	"							

Z. Waterman Capt
President, S.C.M.

CERTIFIED COPY

W.E.Schwenk
Lieut & A/Adjt
O.C. C.O.R.

MEDICAL OFFICER'S REPORT

I certify that No. B166702 Private Norman Wesley Mitchell of No 26 C.I.B.T.C., C.A. is in a good state of health, and fit to undergo Trial by Court martial.

S.Berger Capt.

S.Berger Medical Officer Capt & R.M.O.
R.C.A.M.C. attached to
No 26 C.I.B.T.C.

Station Orillia, Ontario

Date 8th March 1945

M. F. B. 246

28M—2-43 (8525)
H.Q. 1772-26-460

Lieut. Colonel
President S. C.M.

President. S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at Orillia, Ontario. on the 12th day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.166702 Private Norman W. Mitchell, of No. 26 C.I. (B) T.C.

DECLARATION

The Court declare that No. B.166702 Private Norman W. Mitchell, of No. 26 C. I. B. T. C., Orillia, Ontario, illegally absented himself without leave from No. 26 C. I. B. T. C. Orillia Ontario, at 0600 hours on the 18th day of December 1944., that he is still so absent, and that on the 12th January 1945. he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Anklets Web Prs	1	.74	Knives Table	1	.18
Badges Cap	1	.09	Razors Safety	1	.42
Bags Kit Mark 111	1	1.68	Shirts Khaki Cotton	3	4.62
Battle Dress Serge Blouse	2	13.00	Shirts Under Cotton	2	.86
Battle Dress Serge Trousers	1	6.55	Shirts Woollen	2	2.40
Belts Waist Web 1¾"	1	.25	Shoes Canvas, prs.	1	2.29
Boots Ankle Prs	1	5.82	Socks, prs.	1	.92
Braces, Prs.	1	.28	Socks, black, prs.	2	.56
Brushes Shaving	1	.42	Towels, Hand.	1	.31
Brushes, Tooth	1	.09	Trousers Khaki Drill		
Caps Field Service	1	.70	short, prs.	1	1.31
Caps Winter Melton Cloth	1	1.05	Trousers Serge Drab prs	1	4.53
Greatcoats Drab	1	15.54	Necktie Black	1	.19
Combs	1	.04	Pin Collar Safety	1	.06
Drawers cotton shorts prs.	2	.84	Belts Waist	1	1.03
Drawers Woollen prs.	2	2.80	Carriers Cartridge	2	1.54
Forks	1	.08	Frogs Bayonet	1	.21
Straps Web Supporting	2	.34	TOTAL AMOUNT		$85.71
Braces R.	1	.39	AMOUNT CHARGEABLE		
Braces L.		.45	(75% of $85.71)		$64.28
Gloves Woollen Khakiprs	1	.66			
Holdalls	1	.22			
Jackets Serge Drab	1	10.80			
Jackets Sweater	1	1.65			

C. W. MOORE, 2/Lieut., President
C.A.C. Att'd.
No.26 C.I. (B) T.C.,
Orillia, Ontario. Member
AND SOLE MEMBER.

Signed at Orillia, Ontario.

this 12th day of Jan 19 45. Member

Signature of Commanding Officer C.R.J. LANCASTER, Lt.Col.,
No. 26 C.I. (B) T.C., Orillia.

Certified true copy G. Robertson Capt.
Lieut. & A/Adjt.,
No. 26 C.I. (B) T.C., Orillia. Signature of Officer having custody of original record

M.F.D. 375
A.F.B. 115
H.Q. 1172-99-257

[illegible] Major
President, S.C.M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major, F.E. McMAHON, No.31 Coy, CDN PROVOST CORPS, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that B.166702 - Pte. MITCHELL N.W.
(Number) (Rank) (Name in full)

of the No.26 C.I.(B).T.C. ORILLIA, ONTARIO.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~SURRENDERED~~) B.97745 - Cpl. TEMPLE, T.
(Number) (Rank)

B.161905 - L/Cpl. REILLY, J.E. No.31 Coy, C.PRO.C. C.A.
(Name) (Unit or appointment)

at 736, KING St. West, TORONTO, Ont. at 1410 hrs
(Place) (Hour)

on the 27 day of FEB 19 45

Strike out words not applicable } as a ~~SURRENDER~~ absentee without leave), and that at the time of his arrest he was ~~WEARING~~ ~~CIVILIAN CLOTHES~~ (dressed in civilian clothes).

339 George Street,
TORONTO, Ontario.

Dated at this 27 day of FEB 19 45

(SOLDIER OF THE ACTIVE ARMY)

(F.E. McMAHON), Major,
(Signature, Number, Rank, Unit or appointment)
Officer Commanding, No.31 Coy, C.PRO.C. C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3780)
H.Q. 1772-59-1936

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER ~~4099, 1941~~ 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. (Rank) L. G. A. Wilson (Name) M.C. No. 2 Dist Coy (Unit) RCASC CA.

Strike out word not applicable — hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transportation for escort

Complete — to proceed from Orillia, Ontario. (Place) to Toronto, Ontario. (Place)

and return to Orillia, Ontario. for the

Full description of soldier being escorted — purpose of escorting B.166702 Pte. Mitchell, N. W.

Strike out phrase not applicable — alleged to be a deserter or absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(the transportation required)~~ and the cost thereof for said soldier and escort being as follows:—

Particulars		Cost
Transportation issued on S.T. Form No. 254 d/27 Feb 45.		
Escorts		
K.1201 Cpl. Johnson, K. R.		
B.163365 Pte. Sitdel, T.		
Cost of Transportation for escorts Orillia, Ont. to Toronto, Ont.	return	$5.80
Cost of transportation for accused Toronto, Ont. to Orillia, Ont.	single	1.45
	Tax 15%	1.09
		~~$ 8.34~~
	Total	$ 8.34

Dated at Orillia, Ont. this 27 day of Feb' A.D. 1945

(Lieut. L. G. A. Wilson M.C.)
No. 2 Dist Coy RCASC CA.

Lieut.
Signature, rank, unit of officer (issuing transport warrants)

Officer i/c Supplies
R.C.A.S.C. SUPPLY DEPOT
ORILLIA, ONT.

Strike out phrase not applicable

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

M.F.B. 1481
50M—12-41 (2734)
H.Q. 177-30-1881

ARTICLE	QUANTITY					
Badges, shoulder, Canada, drill, prs.						
Blacking, tins	1					
Boot dressing, tins	1					
Bootlaces, prs.	1					
Protectors, ear						
Sponge, pipeclay						
Lanyard, pistol						
Chevron Wet	1					
Badges D.S.	1					
Initials of Soldier	AM	(initialled)				
Initials of QM or Rep.	LL	(initialled)				

3. Items withdrawn from soldier will be marked off by an "X" in ink, over the entry and initialled by the QM or his representative.

[illegible]w issues will be recorded in the next open column. The [illegible]aining entries in old column on page affected will be carried forward into new column. Old column will be ruled out in ink.

5. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on repayment.

6. See instructions re kit inspections on inside of back cover.

INSTRUCTIONS TO QUARTERMASTERS
(CANADA ONLY)

1. This statement must be retained by the Quartermaster and will accompany the regimental documents of an officer or soldier whether he is transferred or struck off strength for any reason whatsoever.

2. Arms, oil bottles and pullthroughs will not be transferred with the soldier unless authorized by N.D.H.Q. or by the D.O.C.

3. When stores other than regular overseas issues are withdrawn from an individual prior to his proceeding overseas, the section of the booklet and instructions applying to Canada only, will be ruled out in ink, by a line extending from the top left hand corner to the bottom right hand corner.

CLOTHING SIZES RECORD

ARTICLE	SIZES
Anklets	
Battle Dress, blouse	7
Battle Dress, trousers	7
Cap or bonnet	7 1/4
Boots, ankle	9 1/2 F
Gloves	
Facepiece, respirator	
Greatcoat	5
Helmet steel, lining	
Overalls, combination	8
Jersey, pullover	
Shirts, Angola, drab	14 1/2
Vest, woollen	
Drawers, cellular	
Drawers, woollen	

B166702 Pte Mitchell, N.

OVERSEAS—Militia Book M. 1 Part III
40/P.& S. 1804 (2570)
CANADA —[illegible] 800
[illegible] 71-43 (2[illegible])
[illegible] 1945
C.P. [illegible]

Pte N.
Pte S.C.M.

CANADIAN ARMY CLOTHING AND EQUIPMENT STATEMENT

Regt'l. No. B166702

Rank Pte.

Name Mitchell, N.

Date of Attestation 3 Nov. 44

Original Unit C.I.C. Station No. 2 D.D.

Certified True Copy. Pell Davies Captain
Quartermaster

Home Address
Reserve Unit
Personnel Only No. 26 C[illegible] T.C.
ORILLIA ONT.

INSTRUCTIONS TO SOLDIER
(OVERSEAS ONLY)

1. You will always carry this book on your person and are responsible for its safe custody. (Officers need not carry this book on their person but will be responsible for its safe custody).

2. You will initial at the bottom of each page to signify that you understand its contents and have received the quantities entered.

3. Do not alter or make entries in this book. Disobedience of this order will be treated as a serious offence and disciplinary action will be taken.

4. You will at once report the loss of this book to your Commanding Officer.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS ONLY)

1. Unit equipment (e.g. compasses, binoculars, special clothing for cooks, m/cyclists, etc.) will not be recorded on this statement.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS AND CANADA)

1. This statement will be used to record articles of personal clothing and equipment issued to each soldier.

2. All entries will be made in ink. Blank spaces in columns will be ruled through. All columns used will be initialled in the space provided by soldier and by the QM, or his representative.

CERTIFICATE TO BE SIGNED BY INSPECTING OFFICER AT EACH KIT INSPECTION

Certified that the record detailed in this statement has been checked with the articles in possession of the soldier and found correct.

SIGNATURE	DATE	SIGNATURE	DATE
B Stafford Capt.		9 Nov 1944.	
		(Seen Fwd at B Stafford Capt.)	

2

ARTICLE	QUANTITY					
Anklets, web, prs.	1	1				
Blouses, Battle-dress	2	2				
Bonnet, tam-o'shanter	2	1				
Boots, ankle, prs.						
Boots, rubber, high, prs.						
Boots, leather, high, prs.						
Bonnet, drab, Irish						
Cap, field service	1	1				
Cap, mechanic						
Cap, tank battalion						
Drawers, Cellular (cotton) short, prs.	2	2				
Drawers, Woollen, prs.	2	2				
Gloves, knitted, drab, prs.	1	1				
Greatcoat, drab	1	1				
Initials of Soldier	HM	HM	(initialed by HM)			
Initials of QM or Rep.	LL	JS	(initialed by LL & JS)			

11

ARTICLE	QUANTITY					
Mitts, pullover, leather, prs.	1	1				
Muffler, khaki	1	1				
Necktie, black	1	1				
Pin, collar, safety						
Puttees, prs.						
Rubbers, prs. O-Shoes	2					
Shirts, khaki, cotton	3	3				
Shirts, undercotton	2	2				
Shoes, leather, black, prs.	1	1				
Socks, black, prs.	2	2				
Trousers, khaki drill, prs.	1	1				
Trousers, khaki drill, short, prs.	1	1				
Trousers, serge, drab, N.P. prs.	HM	HM	(initialed by HM)			
Initials of Soldier	LL	B	(initialed by LL & B)			
Initials of QM or Rep.						

ARTICLE	QUANTITY					
[redacted], or jersey pullover	1	1				
[redacted] combination	1	4				
Overall, blouse, denim						
Overall, trouser, denim						
Shirt, Angola, drill or flannel khaki						
Shoe, canvas, pr.	1	1				
Sock, pr.	4	2				
Trouser, battle-dress, prs.	8	1				
Vest, woollen	2	2				
Badge, cap	1	1				
Badge, arm, drill, crowns						
Badge, arm, drill, crown in wreath						
Badge, arm, Tank Bn.						
Badge, shoulder, "CANADA", prs.	4	3				
Initials of Soldier	NM	NM	(initialed by NM)			
Initials of QM or Rep.	LL	JJ	(initialed by LL & JJ)			

ARTICLE	QUANTITY					
Comb, hair	1					
Dis[redacted]ctity, sets, with cord	1					
Dressing, field	1	8				
Fork, NS Table	1					
Holdall	1					
Housewife, complete	1					
Knife, clasp						
Knife, table	1					
Lanyard, knife						
Razor, safety, with blade	1					
Patches, distinguishing, prs.						
Shorts, gymnasium						
Spoons, NS dessert	2					
Vest, cotton, gym						
Initials of Soldier	NM	(initialed by NM)				
Initials of QM or Rep.	LL	(initialed by LL)				

COUNTER NUMBER 12786

HOUR 1530.

OPERATOR'S INITIALS [illegible]

RELIEVING OPERATOR ____

THE NUMBERED PAGES WHICH ARE
OTHERWISE BLANK IN THE FILES
ON THIS FILM HAVE NOT BEEN
PHOTOGRAPHED.

CENTRAL REGISTRY MICROFILMING UNIT

END

FIRST

SIDE

44.M.15A

44.M.15B

START

SECOND

SIDE

THE NUMBERED PAGES WHICH ARE
OTHERWISE BLANK IN THE FILES
ON THIS FILM HAVE NOT BEEN
PHOTOGRAPHED.

CENTRAL REGISTRY MICROFILMING UNIT

H.Q.C. 55-M-1641

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MITCHELL. NORMAN WESLEY B.166702 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1641

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 10 1945					NEW FILE	C.R.	APR 6 - 1945
					Wait Results C.R. APR 20 1945		
APR 24 1945	25/4/45			2 CM	To note, pls	mm	23 4 45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQS.55-M-1641 (JAG/D)

23 Apr 45

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

Standing Court-Martial
B.166702, Pte. Norman Wesley MITCHELL
No. 26 CI(B)TC, CA.

Receipt is acknowledged of your T-20-M-20126 (AJAG) dated 19th April, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.L.M.
Capt

for (R.J. Orde), Brigadier,
Judge Advocate-General.

/AB

Noted
L.H. CLAYTON
Deputy Lieut.-Colonel,
Inspector of Courts-Martial
APR 25 1945

IN REPLY PLEASE QUOTE No. T-20-M-20126 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
19th April, 1945.

308228

CONFIDENTIAL

CENTRAL REGISTRY Army
CONF. SEC.
APR 20 1945
File C 55-M-1641
Chgd. to
Referred to J.A.G.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-166702, Pte. Norman Wesley MITCHELL,
No. 26 C.I. (B) T;C. C.A.

Reference H.Q.C. 55-M-1641 (JAG/D-3) dated 9th April, 1945.

2. Herewith returned proceedings of the marginally-noted Standing Court-Martial, pursuant to C.A.R.O. 4567(7)(C)(e).

3. Reference HQ 55-1-41 FD 74 (Admin) dated 16th January 1945. It is considered that no administrative action is necessary in this case.

(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

NAT. DEF. B 440
250004-4-44 (4320)
H.Q. 1772-39-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No 26 Canadian Infantry (Basic) Training Centre, ORILLIA, Ontario.

on the 8th day of March 1945 at 1330 hours,

for the trial of: B166702 Private Norman Wesley MITCHELL
Number Rank Full Name

No 26 Canadian Infantry (Basic) Training Centre, C.A.
Unit Attachment, if any

PRESIDENT: Major R.D. EVANS, (Lorne Scots Regt) Headquarters M.D. 2
Rank Full Name Unit Attachment, if any

PROSECUTOR: Captain F.G. FOSTER, Headquarters M.D. 2
Rank Full Name Unit Attachment, if any

~~COUNSEL~~
DEFENDING OFFICER: Lieutenant S.W. GILLINGS, H.W.R. 26 C.I. (B) T.C.
Rank Full Name Unit Attachment, if any

FINDING: GUILTY OF BOTH THE CHARGES

SENTENCE: TO UNDERGO DETENTION FOR NINETY (90) DAYS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF $8.34 IN RESPECT OF THE COST OF APPREHENSION AND RETURN TO HIS UNIT AND UNTIL HE HAS MADE GOOD THE SUM OF $40.00 IN RESPECT OF THE VALUE OF DEFICIENCIES IN HIS CLOTHING EQUIPMENT AND REGIMENTAL NECESSARIES.

Signed at ORILLIA, Ontario this 8th day of March 1945

Major,
President,
Standing Court-Martial.

M.F.B. 1486
25M 6-44 (4626)
H.Q. 1772-99-2298

This is a true copy of the original Court Martial kept in the Office of the Judge Advocate General
this 7 day of Apr 1997

B2 [illegible] Major
[illegible] SCM

CHARGE SHEET

The accused, No. B.166702 Pte. Norman Wesley MITCHELL, No. 26 Canadian Infantry (Basic) Training Centre, C.A., a G.S. soldier of the Canadian Army placed on Active Service is charged with:-

FIRST CHARGE
Section 15 (1)
The Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at No. 26 Canadian Infantry (Basic) Training Centre, C.A., Orillia, Ontario, on 18th day of December 1944, absented himself without leave from No. 26 Canadian Infantry (Basic) Training Centre, C.A. at 0600 hours on the said 18th day of December 1944 until he was apprehended by Service Authorities at Toronto, Ontario, at 1410 hours on the 27th day of February, 1945, dressed in civilian clothes.

Cost of apprehension and return to No. 26 Canadian Infantry (Basic) Training Centre, Orillia, Ontario, being eight dollars and thirty-four cents ($8.34).

SECOND CHARGE
Section 24 (2)
The Army Act.

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT AND REGIMENTAL NECESSARIES

in that he

at No. 26 Canadian Infantry (Basic) Training Centre, C.A., Orillia, Ontario, on the 28th day of February, 1945, was deficient of the following articles:

VOCABULARY CLO. DIV.			VOCABULARY PRICE UNDER C.A.R.O. 2474	LESS 25% C.A.R.O. 3464
CLO. DIV. "A".				
	Anklets	1	.74	.56
A.13000	Gloves	1	.66	.50
A.13700	Greatcoats	1	15.54	11.66
A.4800	Caps	1	1.05	.79
CLO. DIV. "B"				
B.10650	Trousers	1	4.33	3.25
B.10200	Trousers	1	6.55	4.91
B.450	Blouses	2	13.00	9.75
B.700	Boots	1	5.82	4.37
B.1800	Caps	1	.70	.53
B.3300	Drawers	2	.84	.63
B.3550	Drawers	2	2.80	2.10
B.6400	Jersey	1	1.65	1.24
B.8700	Shoes	1	2.29	1.72
B.8850	Socks	2	.92	.69
B.8600	Shirts	2	2.40	1.80

CHARGE SHEET (Cont'd)

B.10500	Trousers	1	1.31	.98
	Badges Cap	1	.09	.07
B.5350	Jacket	1	10.80	8.10
B.7950	Shirts	3	4.62	3.47
B.8350	Shirts	2	.86	.65

CLO. DIV. "A-1"

Belts Waist	1	1.03	.77
Braces R.	1	.39	.29
Braces L.	1	.45	.34
Carriers Cartridge	2	1.54	1.16
Frogs	1	.21	.16
Straps, W.S.	2	.34	.26

CLO. DIV. "C"

C.2100	Socks	2	.56	.42
C.150	Bags	1	1.68	1.26
C.650	Braces	1	.28	.21
C.950	Brush	1	.42	.32
C.1000	Brush	1	.09	.07
C.1100	Comb	1	.04	.03
C.1300	Fork	1	.08	.06
C.1350	Holdall	1	.22	.17
C.1500	Knife	1	.18	.14
C.1850	Razor	1	.42	.32
C.2400	Towels	1	.31	.23
C.250	Belts	1	.25	.19
C.1650	Tie	1	.19	.14
C.1700	Pin	1	.06	.05

TOTAL AMOUNT FULL VALUE $85.71

AMOUNT CHARGED $64.28

(G.R.J. LANCASTER) Lt.Col.,
Commanding Officer,
No. 26 C. I. (B) T. C.

Orillia, Ontario,

5th March, 1945.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to ..... as interpreter ?~~

Answer: .....

Question to the accused. Do you object to W11059 S/Sgt I.G. GORSON CWAC No 2 Det CMSC as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any)~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or by a General Court-Martial ?~~

Answer: He has not, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: GUILTY SIR

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. GUILTY SIR

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~

Answer. .....

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

Answer. .....

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge(s) is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

The Prosecutor offers the following documents to the Court:-

M.F.B. 375, Certified true copy of Record of Declaration of Court of Inquiry;
M.F.M. 216, Certificate of apprehension;
M.F.B.1481, Certificate of Costs of Apprehension, in the amount $8.34
M.F.C. 500, Certified True Copy

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. Not at this time, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer, sir. (See following page).

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

STATEMENT BY THE DEFENDING OFFICER IN MITIGATION OF PUNISHMENT:

Sir, although the accused has no apparent reason for committing all these crimes, in my guess it is all due to the fact he has family background. I will go into that a little bit and give you the details.

His father, although he has supported both the accused and his mother, he has spent very little of his time at home; being a miner up North; coming home at odd intervals; and during his stays at home his method of punishment was rather severe. For instance, the accused would come home a few minutes late from school, and instead of a small punishment he would get a severe punishment.

At the age of eighteen - on his eighteenth birthday he joined active in the Canadian Army. I think he came in with the wrong feeling. He made a mistake and committed one offence, and got off rather easy.

For some unknown reason when he gets to Toronto on leave with his friends, he does what they tell him and doesn't come back to Camp; and in view of this his friends might have something to do with it. He has even on occasions got as far as the train to come back, but he has been persuaded to do otherwise.

He has no grudge against the Army. He has no grudge against his officers and N.C.O.'s but he has this one feeling.

He is only eighteen years old and I believe if he were sent a little way away from home, he would be a good soldier. He is mislead by his friends and he has this mistaken idea of punishment which I think his father has instilled in him in rather a hard way. That is what makes him commit these offences against the Army Act sir.

1 - Attention boys
President, S.C.M.

M.F.R. 357
MM—6-43 (1932)
H.Q. 1773-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or~~ unit)
B.166702	Pte.	Norman Wesley MITCHELL	26 C.I.B.T.C.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ and of cases in which trial has been dispensed of summary awards under Section 47 of the Army Act with.

	Within last 12 months		Since enlistment or appointment	
For A.W.L.	1 times		A.W.L.	1 times
For	times			times
For	times			times
For	times			times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act, and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and 10 days in ~~Air Force~~ military custody, making a total of 10 days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 18 years. 4 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 2 Nov 1944.

7. The service which the accused is allowed to reckon towards discharge is Nil

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to~~): ~~State any air force decoration or reward military.~~

10. ~~(If the accused is a warrant officer) – The accused before he was under a warrant officer (Air Force) last held the regimental rank of –~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the ~~paragraph must be struck through.~~

SCHEDULE

~~Of convictions by a court-martial or civil court, of summary awards under Section 47 of the~~ Air Force Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Unit

Name..... of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of March, 1945.

(J. SCOTT) Lt. & A/Adjt
26 C.I. (B) T. C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No 26 Canadian Infantry (Basic) Training Centre, ORILLIA, Ontario.

on the 8th day of March 1945 at 1330 hours,

for the trial of: B166702 Private Norman Wesley MITCHELL
Number Rank Full Name

No 26 Canadian Infantry (Basic) Training Centre, C.A.
Unit Attachment, if any

PRESIDENT: Major R.D. EVANS, (Lorne Scots Regt) Headquarters M.D. 2

PROSECUTOR: Captain F.G. FOSTER, Headquarters M.D. 2
Rank Full Name Unit Attachment, if any

~~COUNSEL~~
DEFENDING OFFICER: Lieutenant S.W. GILLINGS, H.W.R. 26 C.I. (B) T.C.
Rank Full Name Unit Attachment, if any

FINDING: GUILTY OF BOTH THE CHARGES

SENTENCE: TO UNDERGO DETENTION FOR NINETY (90) DAYS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF $8.34 IN RESPECT OF THE COST OF APPREHENSION AND RETURN TO HIS UNIT AND UNTIL HE HAS MADE GOOD THE SUM OF $40.00 IN RESPECT OF THE VALUE OF DEFICIENCIES IN HIS CLOTHING EQUIPMENT AND REGIMENTAL NECESSARIES.

Signed at ORILLIA, Ontario this 8th day of March 1945

Major,
President,
Standing Court-Martial.

M.F.B. 1484
25M-6-44 (4826)
H.Q. 1772-99-3296

Entered as No 36653 in the Register of Courts Martial kept in the Office of the Judge Advocate-General this 7 day of Apr 1945

CERTIFIED COPY

W. Robertson Lieut & A/Adj't
C. O. R. C. ORILLIA, ONT.
C. 1. (B)

24-2

No. B-166702 Name Pte MITCHELL.Norman Wesley. Sqn., Battery, or Company No.2. DD. (AF) CIC (Rifles) Corps Brant Y.R. WING. Date of enlistment 2nd Nov44 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

M.F.M. 6 (A.F.B. 122) 200M—11-43 (5235) H.Q. 1772-43-13

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Orillia.	20Nov44	Pte		Sec 15 (1) A.A. ABSENT WITHOUT LEAVE from 0600 hrs 20 Nov 44 to 0720 hrs 9 Dec 44 (19 days,1hr 20 Mins) Close arrest.Cost of Apprehension$5.00	Cpl Lewis.R.E Cpl Temple.T #31 Coy.C Pro.C)	20days pay under Sec 46 (2) (d) A.A.	11Dec 44	Lt.Col C.R.J. Lancaster.	Forfts 20 dys pay under FR&I 149 (1) (a)
Orillia	9Jan45	"		SOS as illegally absent	Shortage K&P	$64.28			

Z. Robertson Major
Adjutant O.C.R.C.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. B166702 Private Norman Wesley Mitchell of No 26 C.I.B.T.C., C.A. is in a good state of health, and fit to undergo Trial by Court martial.

S.Berger Capt.

S.Berger Medical Officer Capt & R.M.O.
R.C.A.M.C. attached to
No 26 C.I.B.T.C.

Station Orillia, Ontario

Date 8th March 1945

M. F. B. 246
35M—2-43 (A53b)
H.Q. 1773-39-460

President S. C.M.

Returned to Inquiry
President, S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at Orillia, Ontario, on the 12th day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.166702 Private Norman W. Mitchell, of No. 26 C.I. (B) T.C.

DECLARATION

The Court declare that No. B.166702 Private Norman W. Mitchell, of No. 26 C. I. B. T. C., Orillia, Ontario, illegally absented himself without leave from No. 26 C. I. B. T. C. Orillia Ontario, at 0600 hours on the 18th day of December 1944, that he is still so absent, and that on the 12th January 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Anklets Web Prs	1	.74	Knives Table	1	.18
Badges Cap	1	.09	Razors Safety	1	.42
Bags Kit Mark 111	1	1.68	Shirts Khaki Cotton	3	4.62
Battle Dress Serge Blouse	2	13.00	Shirts Under Cotton	2	.86
Battle Dress Serge Trousers	1	6.55	Shirts Woollen	2	2.40
Belts Waist Web 1½"	1	.25	Shoes Canvas, prs.	1	2.29
Boots Ankle Prs	1	5.82	Socks, prs.	1	.92
Braces, Prs.	1	.28	Socks, black, prs.	2	.56
Brushes Shaving	1	.42	Towels, Hand.	1	.31
Brushes, Tooth	1	.09	Trousers Khaki Drill short, prs.	1	1.31
Caps Field Service	1	.70	Trousers Serge Drab prs	1	4.33
Caps Winter Melton Cloth	1	1.05	Necktie Black	1	.19
Greatcoats Drab	1	15.54	Pin Collar Safety	1	.06
Combs	1	.04	Belts Waist	1	1.03
Drawers cotton shorts prs.	2	.84	Carriers Cartridge	2	1.54
Drawers Woollen prs.	2	2.80	Frogs Bayonet	1	.21
Forks	1	.08	TOTAL AMOUNT		$85.71
Straps Web Supporting	2	.34	AMOUNT CHARGEABLE		
Braces R.	1	.39	(75% of $85.71)		$64.28
Braces L.		.45			
Gloves Woollen Khakiprs	1	.66			
Holdalls	1	.22			
Jackets Serge Drab	1	10.80			
Jackets Sweater	1	1.65			

C. W. MOORE, 2/Lieut., President
C.A.O. Att'd.
No.26 C.I. (B) T.C.,
Orillia, Ontario. Member
AND SOLE MEMBER.

Member

Signed at Orillia, Ontario.

this 12th day of Jan 19 45.

Signature of Commanding Officer G.R.J. LANCASTER, Lt.Col.,
No. 26 C.I. (B) T.C., Orillia.

Certified true copy G. Robertson Lieut. & A/Adjt.,
No. 26 C.I. (B) T.C., Orillia. Signature of Officer having custody of original record

M.F.B. 175
A.F.B. 115
100M—4-42 (4337)
H.Q. 1171-99-237

Return to Registr.
President, S.C.M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major, F.E. McMAHON, No.31 Coy, CDN PROVOST CORPS, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that B.166702 - Pte. MITCHELL, N.W.
(Number) (Rank) (Name in full)

of the No.26 C.I.(B).T.C. ORILLIA, ONTARIO.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~XXXXXXXXXX~~ B.97745 - Cpl. TEMPLE, T.
(Number) (Rank)

B.161905 - L/Cpl. REILLY, J.E. No.31 Coy, C.PRO.C. C.A.
(Name) (Unit or appointment)

at 736, KING St. West, TORONTO, Ont. at 1410 hrs
(Place) (Hour)

on the 27 day of FEB 19 45

Strike out words not applicable } as a ~~XXXXXX~~ absentee without leave), and that at the time of his arrest he was ~~XXXX~~ ~~XXXXXXXXXXXXXXXX~~ (dressed in civilian clothes).

339 George Street,
TORONTO, Ontario.

Dated at ..... this 27 day of FEB 19 45

(SOLDIER OF THE ACTIVE ARMY)

F.E. McMahon
(F.E. McMAHON), Major,
(Signature, Number, Rank, Unit or appointment)
Officer Commanding, No.31 Coy, C.PRO.C. C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3738)
H.Q. 1772-59-1936

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER ~~4099, 1941~~ 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description

Strike out word not applicable

Complete

Full description of soldier being escorted

Strike out phrase not applicable

I, Lieut. L. G. A. Wilson M.C. (Rank) (Name) No. 2 Dist Coy RCASC CA. (Unit) hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transport for escort to proceed from Orillia, Ontario. (Place) to Toronto, Ontario. (Place) and return to Orillia, Ontario. for the purpose of escorting B.166702 Pte. Mitchell, N. W. alleged to be a deserter or absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(the transport required)~~ and the cost thereof for said soldier and escort being as follows:—

Particulars		Cost
Transporation issued on S.T. Form No. 254 d/27 Feb 45.		
Escorts		
K.1201 Cpl. Johnson, K. R.		
B.163365 Pte. Sitdel, T.		
Cost of Transportation for escorts Orillia, Ont. to Toronto, Ont.	return	$5.80
Cost of transportation for accused Toronto, Ont. to Orillia, Ont.	single	1.45
	Tax 15%	1.09
		~~$ 8.34~~
	Total	$ 8.34

Dated at Orillia, Ont. this 27 day of Feb. A.D. 1945

Lieut.
Signature, rank, unit of officer issuing transport warrants
Strike out if not applicable

(Lieut. L. G. A. Wilson M.C.)
No. 2 Dist Coy RCASC CA.

Officer i/c Supplies
R.C.A.S.C. SUPPLY DEPOT
ORILLIA, ONT.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

M.F.B. 1481
2051—12-41 (2756)
H.Q. 1712-20-1481

CLOTHING SIZES RECORD

ARTICLE	SIZES
Anklets	
Battle Dress, blouse	7
Battle Dress, trousers	7
Cap or bonnet	7 1/4
Boots, ankle	9½ F
Gloves	
Facepiece, respirator	
Greatcoat	5
Helmet steel, lining	
Overalls, combination	8
Jersey, pullover	
Shirts, Angola, drab	14½
Vest, woollen	
Drawers, cellular	
Drawers, woollen	

B166702 Pte. Mitchell, N.

OVERSEAS—Militia Book M. 1 Part III
40/12/6 [illegible] (1939)
CANADA [illegible]

[illegible] Maj. N.
[illegible] S.C.M.

CANADIAN ARMY
CLOTHING AND EQUIPMENT
STATEMENT

Regt'l. No. B166702

Rank Pte.

Name Mitchell, N

Date of Attestation 3 Nov. 44

Original Unit C.I.C. Station No. 2 DD

Certified P.H. Davies Captain
Quartermaster

Home Address
Reserve Unit
(Personnel Only) No. 26 G. [illegible] T.C.
ORILLIA ONT.

True Copy.

INSTRUCTIONS TO SOLDIER
(OVERSEAS ONLY)

1. You will always carry this book on your person and are responsible for its safe custody. (Officers need not carry this book on their person but will be respo[illegible] for its safe custody).

2. You will initial at the bottom of each page to signify that you understand its contents and have received the quantities entered.

3. Do not alter or make entries in this book. Disobedience of this order will be treated as a serious offence and disciplinary action will be taken.

4. You will at once report the loss of this book to your Commanding Officer.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS ONLY)

1. Unit equipment (e.g. compasses, binoculars, special clothing for cooks, m/cyclists, etc.) will not be recorded on this statement.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS AND CANADA)

1. This statement will be used to record articles of personal clothing and equipment issued to each soldier.

2. All entries will be made in ink. Blank spaces in columns will be ruled through. All columns used will be initialled in the space provided by soldier and by the QM, or his representative.

CERTIFICATE TO BE SIGNED BY INSPECTING OFFICER AT EACH KIT INSPECTION

Certified that the record detailed in this statement has been checked with the articles in possession of the sold[illegible]d found correct.

SIGNATURE	DATE	SIGNATURE	DATE
B Stafford Capt.		9 Nov 1944	
		(Sgd. [illegible] B STAFFORD CAPT.)	

ARTICLE	QUANTITY						
Badges, shoulder, Canada, drill, prs.							
Blacking, tins	3						
Boot dressing, tins	3						
Bootlaces, prs.	1						
Protectors, ear							
Sponge, pipeclay							
Lanyard, pistol							
Chevron Web	1						
Badges G.S.	3						
Initials of Soldier	MM	(initialed by MM)					
Initials of QM or Rep.	LL	(initialed by LL)					

3. Items withdrawn from soldier will be marked off by an "X" in ink, over the entry and initialled by the QM or his representative.

4. New issues will be recorded in the next open column. The remaining entries in old column on page affected will be carried forward into new column. Old column will be ruled out in ink.

5. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on repayment.

6. See instructions re kit inspections on inside of back cover.

INSTRUCTIONS TO QUARTERMASTERS
(CANADA ONLY)

1. This statement must be retained by the Quartermaster and will accompany the regimental documents of an officer or soldier whether he is transferred or struck off strength for any reason whatsoever.

2. Arms, oil bottles and pullthroughs will not be transferred with the soldier unless authorized by N.D.H.Q. or by the D.O.C.

3. When stores other than regular overseas issues are withdrawn from an individual prior to his proceeding overseas, the section of the booklet and instructions applying to Canada only, will be ruled out in ink, by a line extending from the top left hand corner to the bottom right hand corner.

ARTICLE	QUANTITY					
Anklets, web, prs.	1	1				
Blouses, Battle-dress	2	2				
Bonnet, tam-o'shanter						
Boots, ankle, prs.	2	1				
Boots, rubber, high, prs.						
Boots, leather, high, prs.						
Bonnet, drab, Irish						
Cap, field service	1	1				
Cap, mechanic						
Cap, tank battalion						
Drawers, Cellular (cotton) short, prs.	2	2				
Drawers, Woollen, prs.	2	2				
Gloves, knitted, drab, prs.	1	1				
Greatcoat, drab	1	1				
Initials of Soldier	NM	NM	(initialed by NM)			
Initials of QM or Rep.	LL	JS	(initialed by LL & JS)			

ARTICLE	QUANTITY					
Mitts, pullover, leather, prs.		1				
Muffler, khaki		1				
Necktie, black	1	1				
Pin, collar, safety	1	1				
Puttees, prs.						
Rubbers, prs.						
O-Shoes		1				
Shirts, khaki, cotton	3	3				
Shirts, undercotton	2	2				
Shoes, leather, black, prs.	1	1				
Socks, black, prs.	2	2				
Trousers, khaki drill, prs.						
Trousers, khaki drill, short, prs.	1	1				
Trousers, serge, drab, N.P. prs.	1	1				
Initials of Soldier	NM	NM	(initialed by NM)			
Initials of QM or Rep.	LL	B	(initialed by LL & B)			

ARTICLE	QUANTITY					
Badges, arm, drab, Royal Arms						
Badges, arm, drab, Royal Arms in Wreath						
Bags, kit, universal	1					
Braces	1					
Brass, cleaning	2					
Brush, button, brass	1					
Brush, clothes	1					
Brush, hair	1					
Brush, shaving	1					
Brush, shoe, blacking	1					
Brush, shoe, polishing	2					
Brush, tooth						
Cap, comforter	1					
Chevrons						
Initials of Soldier	WM (initialed by WM)					
Initials of QM or Rep.	LL (initialed by LL)					

ARTICLE	QUANTITY					
Rifle No. (Reg'd No.) (.....)	1					
Bayonet No. ..... w/scabbard	1					
Bottles, oil	1					
Pullthroughs, single	1					
Rods, cleaning, pistol						
Carbine, Mach. (Reg'd No.) (.....)						
Magazines, Carbine						
Pistol Revolver (Reg'd No.) No. (.....)						
Ctges, SA, revolver .380 in						
Ctges, SA, .303 in Mk VII						
Initials of Soldier	WM (initialed by WM)					
Initials of QM or Rep.	WR (initialed by WR)					

ADDITIONAL ISSUES — CANADA ONLY

ARTICLE	QUANTITY					
Belts, waist, leather, brown or web 1½"	1	1				
Boots ankle, felt, prs.						
Boots, insoles, prs.						
Boots, lumberman's rubber prs.						
Buttons, G.S., large						
Buttons, G.S., small						
Cap, winter, melton cloth		1				
Coat waterproof	1	[illegible]				
Helmet, sun						
Jackets, Khaki drill						
Jackets, serge, drab, O.C.	1	1				
Initials of Soldier	HM	HM	(initialed by HM)			
Initials of QM or Rep.	LL	HM	"			LL & LWR

ARTICLE	QUANTITY					
[illegible], or jersey pullover	1	1				
Overall, combination	1	1				
Overalls, blouses, denim						
Overalls, trousers, denim						
Shirts, Angola, drab or flannel khaki						
Shoes, canvas, prs.	1	1				
Socks, prs.	1	2				
Trousers, battle-dress, prs.	2	1				
Vests, woollen	2	2				
Badges, cap	1	1				
Badges, arm, drab, crowns						
Badges, arm, drab, crown in wreath						
Badges, arm, Tank Bn.						
Badges, shoulder, "CANADA", prs.	1	3				
Initials of Soldier	HM	HM	(initialed by HM)			
Initials of QM or Rep.	LL	JS	(initialed by LL & JS)			

ARTICLE	QUANTITY					
Veil, face, camouflage						
Yoke						
Capes, A/G						
Respirators, A/G, complete with haversack	1	X				
Outfits, A/D	1	X				
Ointment, A/G		X				
Eyeshields, A/G, pk of 6	1	X				
Detectors, Individual prs						
Wallet, A/G						
Blanket						
Mug, drinking						
Sheet, ground	1	X				
Initials of Soldier	NM	NM	(initialed by NM)			
Initials of QM or Rep	LL	B	(initialed by LL & B			

ARTICLE	QUANTITY					
Comb, hair	1					
Dis[illegible]ntity, sets, with cord	1					
Dressing, field	1	X				
Fork, NS Table	1					
Holdall	1					
Housewife, complete	X					
Knife, clasp						
Knife, table	1					
Lanyard, knife						
Razor, safety, with blade	1					
Patches, distinguishing, prs						
Shorts, gymnasium						
Spoons, NS dessert	X					
Vest, cotton, gym						
Initials of Soldier	NM	(initialed by NM)				
Initials of QM or Rep	LL	(initialed by LL)				

ARTICLE	QUANTITY					
Towels, hand	1	2	2	1		
Unit or Corps titles, prs.						
Attachments, brace						
Bag, ration	1	1	1			
Belts, waist		1	1	1		
Bottles, water		1	1			
Braces, WE (Right)		1	1	1		
(Left)		1	1	1		
Carriers, cartridge			2	2		
Carriers, waterbottle		1	1			
Cases, binoculars						
Cases, pistol						
Covers, breech, rifle			1			
Initials of Soldier	WH	WH	WH	(initialed by WH)		
Initials of QM or Rep.	LL	WH	JS	(initialed by LL-WH JS)		

ARTICLE	QUANTITY					
Cover, mess tin						
Frog, web, bayonet	1	1				
Haversack	1	1				
Helmet, steel	1	1				
~~Net camouflage helmet~~						
Packs	1	1				
Pockets Compass						
Pouches, amm, pistol						
Pouches, basic	1					
Pouches, utility { Front / Rear						
Slings, rifle, web		1				
Straps, shoulder, haversack { left	2	1				
Straps, shoulder, haversack { right	2	2				
Straps, web, supporting						
Tins, mess, TP	1	1				
Initials of Soldier	WH	WH	WH	(initialed by WH)		
Initials of QM or Rep	LL	WH		(initialed by LL WH)		

H.Q.C.55-M-1641 (JAG/D-3)
Your T.20-M-20126

9 Apr 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

STANDING COURT-MARTIAL

B.166702 Pte. Norman Wesley Mitchell,
No. 25 C.A.(B) T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde), Brigadier
Judge Advocate-General.

EMC/MM

803

THIS COPY FOR H.Q. C.55-M-1641
M.D. T.20-M-20126

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B.166702 Name MITCHELL, Norman Wesley

Rank Pte Unit No. 26 C.I. (B) T.C. CA

Charge (1st) A.A. 15 (1) - A.W.L.

(2nd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 18-12-44; (2) 28-2-45

Date of Arrest (1) 27-2-45 Charge Signed 5-3-45

Orders for D.C.M.

Place and Date of Trial No. 26 C.I. (B) T.C. CA Orillia Ont 8-3-45

Sentence Det 90 days; stoppages ~~$8x24~~ $48.34

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36653

Date 9-4-45

MEMO

M.D. 2 - No. 26 C.I. (B) T.C. CA

Absent	Sentence
2½ mos	Det. 90 days

for Judge Advocate-General

10M-1-45 (M-4629)

9 Aout 1941

Pour - se conformer à cette

IN REPLY PLEASE QUOTE Please quote No. T-20-M-20126
(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
3rd April, 1945.

CONFIDENTIAL

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.55-M-1641

STANDING COURT-MARTIAL

B-166702 - Pte.Norman Wesley MITCHELL,
No. 26 C.I. (B) T.C., C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

R.D. Evans Major

(R. D. Evans)
Major
Permanent President
Standing Court-Martial

36653

NAT. DEF. 8. 445
(FORM A 44-4720)
H.Q. 1701-58-767

H.Q.C. 55-M-1642 CONFIDENTIAL.

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MCMANN. STANLEY GARFIELD B.161031 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1642

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 1 2 1945				J.A.G.	NEW FILE	C.R.	APR 7 - 1945
MAY 2 - 1945				J.A.G.	With Papers C.R. APR 27 1945		
MAY 7 - 1945				D.C.M.	To note, pl.	mm	30-4-45
MAY 18 1945				J.C.M.	PER B.F. MAY 19 1945		
MAY 29 1945	24/5/45	P.A.		J.C.M.	With Papers C.R. MAY 29 1945		
JUL 25 1945	JUL 24 1945	P.A.		J.C.M.			

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

DEPARTMENT OF NATIONAL DEFENCE
- Army -

EQC 55-M-1642 (ICM)

MDHQ Ottawa, Ont

24 Jul45 1945

CONFIDENTIAL
C.M.

District Officer Commanding,
Military District No.1.
London, Ontario

B.161031 Pte MCMANN? S.G.

Ref L.28-M-1277 (DAPM)

2. Enclosed herewith:-

(a) MFM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford)
Major-General
Adjutant-General

IN REPLY PLEASE QUOTE
L.23-M-1277(DAPM)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

HQ MD 1 London, Ontario, 26 May, 1945

Secretary,
N.D.H.Q.,
OTTAWA, Canada.

317695

CENTRAL REGISTRY Army
CONF. SEC.
MAY 29 1945
File 233-M-1642
Chgd. to
Referred to S C M

B.151031--Pte. S.G. McMANN.

Ref. H.Q.C. 55-M-1642 dated 18 May, 45, herewith I.C.M.-B completed for the m/n soldier.

Encl.--1.

W. S. P. Gow. Mjr
for (P. Earnshaw) Brigadier
D.O.C., M.D. No. 1.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1642 (ICM)
OTTAWA, 18th. May, 1945

Your File - L.28-M-1277

District Officer Commanding,
Military District # 1,
LONDON, Ontario.

B-161031, Pte. S.G. Mc.MANN.

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in # 60 LONDON Military Detention Barrack, under your command, a sentence of (6) Months detention awarded by a Standing Court-Martial on the 4th. day of April 1945

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC/IL

5M-2-45(M-4516)

H.Q.C.55-M-1642 (JAG/D)

30 Apr 45

The District Officer Commanding,
Military District No. 1, London, Ont.

Standing Court-Martial
B.161031 Pte. Stanley Garfield McMann,
A-29 C.I.C.T.C., C.A.

Receipt is acknowledged of your L.28-M-1277 (AJAG) dated 26 Apr 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M.288.

E. L. M.
Capt.
for (R.J.Orde), Brigadier
Judge Advocate-General.

MM

Noted
Lt Col L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
MAY 2 1945

2M-5-44 (M-4177)

I.C.M. - L 42176

REVIEW OF SENTENCE

DATE MAY 1 - 1945

H.Q.C. File: 55-M-1642

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES AWOL from 16 month 45, AWOL another 25 month 45 - 10 days.

8. PREVIOUS CONDUCT ENLISTED ~~ENROLLED~~ 2 4 ~~year~~ 44 AGE 24
AWOL - 5 times Pulhems 21 - 1111111
Con. to duty. 1

9. STATEMENT OF ACCUSED Out of detention, heard uncle home from O/S after 5 years. Asked for pass refused. Thought I'd see him as he had met brother & wanted to see nephew. Left when got home uncle gone few week. end so stayed until he got back. Partly given for him apprehended.

10. RECOMMENDATION

309766

IN REPLY PLEASE QUOTE
No. L.28-M-1277 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

H.Q. MD 1 London, Ont., 26 April 45

CENTRAL REGISTRY AND COURT REC.
APR 27 1945
File 55-M-1642
Chgd. to
Referred to

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada.

STANDING COURT-MARTIAL
B.161031 Pte. Stanley Garfield McMANN
A.29 C.I.C.T.C., C.A.

Reference H.Q.C. 55-M-1642 (JAG/D-7) d/12 Apr 45.

2. The proceedings of the m/n Standing Court-Martial are returned herewith for custody as directed. Enclosed also is M.F.M. 288 relating to the m/n soldier.

(P. Earnshaw), Brigadier
D. O. C. M.D. 1

N.D. 23
5000M—10-44 (5769)
H.Q. 4772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at A.29 C.I.C.T.C., C.A.

on the 4th day of April 19 45 at 1100 hours,

for the trial of: B-161031 (Number) Fte. (Rank) Stanley Garfield McMann (Full Name)

A-29 C.I.C.T.C., C.A. (Unit) (Attachment, if any)

PRESIDENT: Lt-Col. H.C. Cameron, M.V., President S.C.M., M.D. No. 1

PROSECUTOR: Major D.R. Nairn, E.D., Permanent Prosecutor, M.D. No. 1 (Rank) (Full Name) (Unit) (Attachment, if any)

~~COUNSEL~~ OR DEFENDING OFFICER: Capt. (Rank) R.E. Whitelaw (Full Name) A.29 C.I.C.T.C., C.A. (Unit) (Attachment, if any)

FINDING: Guilty of the charge

SENTENCE: To undergo detention for 6 months and to be placed under stoppages of pay until he has made good the sum of $11.56 in respect of the cost of apprehension and return to his corps.

Extracts entered as No. 36696 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 9 day of April 1945

Signed at Camp Ipperwash Ont this 4th day of April 194 5

(H.C. Cameron) Lieut-Colonel, President, Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
'Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~ ~~as interpreter ?~~

Answer:

Question to the accused. Do you object to A-99636, CSM Payne, R.H., Class No MD 1 as shorthand writer ?

Answer: No, Sir

The shorthand writer ~~and interpreter (if any) are~~ duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, Sir

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Guilty, Sir

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B2.

Chas R.C.M.P.

CHARGE SHEET

The accused, B.161031, Private Stanley Garfield McMann, A.29 C.I.C.T.C., C.A., Camp Ipperwash, Ontario, a General Service soldier of the Canadian Army, placed on Active Service, is charged with:-

CHARGE:
Section 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

At Camp Ipperwash, Ontario, at 2200 hours, on the 16th day of March, 1945, absented himself without leave from A.29 C.I.C.T.C., C.A., until apprehended by Military Authorities, at Hamilton, Ontario, at 0115 hours, on the 25th day of March, 1945. The cost of apprehension and return to his Corps being $11.56.

H. Ballantyne.
(H. Ballantyne) Colonel
Commandant
A.29 Cdn. Inf. Corps Trg. Centre

Camp Ipperwash, Ontario,
30th March 1945.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[~~s~~].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, Sir

~~(Statement of the accused to be recorded on a separate page.)~~

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. Yes, Sir

(Statement of the accused to be recorded on a separate page.)

(See page C.C. 3)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, Sir

Question to the accused. Do you wish to call any witness as to character?

Answer. No, Sir

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

STATEMENT BY THE ACCUSED

Sir, when I came back from detention on March 12th, I was in No. 3 Coy. and I thought I might have the privilege of going home for a week-end on a pass. I had news from home that my uncle was home from overseas after five years and he met my brother and I was anxious to see him. I was told to report to the orderly room at eleven o'clock and nothing had expired, or I would have been granted a pass.

I went there at 11.15 and I was transferred to No. 1 Coy. and it was not their week-end. I went before Major Gerson of No. 1 Coy. and asked for permission to go home and it was not granted. I did go home only my uncle had left for a week-end, he was down to Detroit on business and I waited until he came back which was on a Friday and we held a party for him on the Saturday at which time I was apprehended.

QUESTIONED BY THE PRESIDENT :

Q. What was the date when you asked Major Gerson for permission to go home?

A. March 16th.

Q. What day of the week was that?

A. Friday.

Q. You did go home on that day, sometime that day?

A. Yes, Sir.

Q. When you got there you found your uncle was not home?

A. Yes, Sir.

Q. How long was it before he came back?

A. I was led to believe he would be in any day, I waited until Friday.

Q. The next Friday?

A. Yes, Sir.

Q. The next Friday would be the 23rd would it?

A. Yes, Sir.

Q. Your uncle did come back on the 23rd?

A. There was a party for him on that day, Saturday.

Q. And you were apprehended on Sunday?

A. Yes, Sir, Sunday morning.

Q. Where did you get the information about your uncle?

A. I got word from my sister while in detention.

Q. Did you say you had some information he was going to be there ~~any Sunday~~ only briefly?

A. Yes, Sir.

Q. You found that was not correct when you went home?

A. No, Sir.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. ~~Have you any statement to make concerning the documents which have just been read to you?~~

Answer. PROSECUTOR : I would like to file with the court certified true extract from A.29 CICTC CA Daily Order Part I, No. 39, dated 15 Feb. 45.

CERTIFIED TRUE EXTRACT FROM A.29 CICTC CA DAILY ORDER PART I NO. 39 DATED 15 FEB 45 PRODUCED, READ, MARKED DOCUMENT "Q" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

Question to the accused : Have you any statement to make concerning the documents which have just been read to you? A. No, Sir.

Question to the accused. Do you wish to address the Court ?

Answer. My Defending Officer will speak for me.

(See document marked "H" attached)

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

" "

Y [illegible] Chas. S.C.M.

M.F.B. 355
50M—5-42 (1942)
H.Q. 1772-39-630
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.161031	Private	STANLEY GARFIELD McMANN	A.29 CICTC, CA

1. The following is a fair and true summary of the entries in the Field Service and General Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	5 times	A.W.L.	5 times
For	Conduct to the Prej.	1 times	Conduct to the Prej.	1 times
For	NIL	times	NIL	times
For	NIL	times	NIL	times

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is ~~23~~ 24 years, ~~11 months~~ "Aut"

6. The date of his attestation specified in his attestation paper 24th April 1944

9. The accused is in possession of or entitled to no military decoration, or military reward

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank~~ Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date;—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of Apr 45

(A.W. Legg) Lieut.
Legal Officer
Off'r. ic Orig. Docs, A.29 CICTC

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

22-25

R-161031 Gnr. McMANN, Stanley Garfield #2 DD (AF) R.C.A. (MOBILE) R WING #1 Coy. Group "Y"

No. Name Sqn., Battery, or Company Corps R.C.A. Date of enlistment 24 Apr 4.4.44 G.C. Badges Tradesmen's Rates of Pay $1.30

No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. One Signature O.C. Company, etc. "G.I.Tunnis, Lt." Character

P.F.M. 6 (A.F.B. 122) 500M—11-41 (2498) H.Q. 1772-39-1942

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Toronto	7May44	Gnr		A.W.L. from 0830 hours 7 May 44 until 2250 hours 17 May 44 (10 days 14 hours 20 min)(11 days Sect 15 (1) A.A.	Sgt. Carter	Forfeits 5 days pay "Sydney H.B.	18 May44	Grasett)Lt. Col (SHB Grasett)	Forfeits 11 days pay Art.149FR&I
Petawawa	19Jul 44	Gnr		A.W.L. from 0600 hrs 19 Jul 44 to 0600 hrs 17 Aug 44. A.A. Sec 15 (1)	Document.	14 days CB	19 Aug 44	Lt.-Col. A.H.Turner, "AHT"	Lt.Col. 29 daysFR&I
Petawawa	25Aug 1944	Gnr		Conduct etc. i.e. on 25 Aug 44. did appear on defaulters parade with dirty web.	Sgt.Yeldon S.C.	2 days C.B.	26 Aug 1944	Major J.G. ROGAN "J.G.R."	

(P.T.O.)

Place	Date of offence 1944	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
C.Ipperwash	9 Oct	Pte		AWL from 1330 hrs 9 Oct 44 until apprehd at 1000 hrs 22 Oct 44 (12 days ~~day~~, 20 hrs ~~Oct~~ 30 mins.) A A 15 (1)	Doctr'y	28 days Detention	25-10-44	A.Garrod Lt.Col.	FOP 13 dys. "AG" FR&I 149 1 (A) Cost of apprehd: $8.85.
C.Ipperwash	27Nov 44	Pte		A A 15 (1) A W L from 1330 hrs 27 Nov 44 until apprehd. at 2100 hrs 3 Dec 44 (6 dys, 8 hrs. 30 mins.)	Doctr'y	Admonished	24-1-45	A.Garrod Lt.Col.	FOP 7 days FR&I 149 (1)A "AG" Cost of Apprehd. $19.45
C.Ipperwash	29Jan 45	Pte		A A 15 (1) AWL from 1330 hrs 29 Jan 45 until apprehd at 0420 hrs 14 Feb 45 (15 dys, 14 hrs. 50 mins)	Doctr'y	28 Days Detention	16-2-45	A.Garrod Lt.Col.	FOP 15 dys FR&I 149(1)A "AG" Cost of apprehd. $15.50

CERTIFIED TRUE COPY:

A.W. Legg Lieut

.....

(A. W. Legg) Lieut.
Legal Officer
Officer i/c Original Documents
A.29 C.I.C.T.C., C.A.

"G"

PART I ORDERS
by
COLONEL H. BALLANTYNE, E. D.
Commandant
A.29 CANADIAN INFANTRY CORPS TRAINING CENTRE

Camp Ipperwash,
Ontario.

15 Feb 45
Number 39

---

9. ABSENCE WITHOUT LEAVE

It is brought to notice that A.W.L. has become a prevalent crime at A.29 C.I.C.T.C. Under these circumstances, the Commandant will ensure that adequate disciplinary measures are taken in all cases of A.W.L.

(Signed) W. S. Thompson

for Commandant
rfj

(W.S. THOMPSON) Capt & Adjt
A.29 Cdn Inf Corps Trg Centre

CERTIFIED TRUE EXTRACT FROM A.29 C.I.C.T.C., C.A., DAILY ORDER PART I, NO. 39, PARA. 9, DATED 15 FEB 45.

.....
(A. W. Legg) Lieut.
Legal Officer
A.29 Cdn Inf Corps Trg Centre

DOCUMENT "H"

Lt. Commander [illegible]
Judge Adv. G.C.M.

ADDRESS BY THE DEFENDING OFFICER IN MITIGATION OF SENTENCE

SIR, I would like to present to the court this case sheet N.P.B. 1478 of Pte. Schann and I suggest that this man is very unstable. This case sheet in connection with this soldier shows the result of an examination by Capt. Southcott. So far no psychiatrist has made an examination. There are also reports on the form from Major W.A.S. MacDonald, C.O. No. 3 Coy. , and Capt. Howard Small

N.P.B. 1478 CASE SHEET SPECIALIST REPORT PRODUCED, READ, MARKED DOCUMENT "I" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

I think the report speaks for itself, the man is obviously unfit for the army due to emotional instability, something that has followed him through his career in the air force and now in the army. He states he is absolutely helpless against going A.W.L., he just cannot help it. I think this is a case, more psychiatric than criminal.

"D" Pres. D.S.O.
Pres. D.S.M.

DOMINION OF CANADA—MEDICAL SERVICES

CASE SHEET (SPECIALIST REPORT)

Referred by: A.M.Bell. Maj. M.O. A-29 Date 11 Jan. 45

No. B-161031 Rank Pte. Name McMann S.G.

Address Camp Ipperwash. Age 23

Unit or Ship # 3 Coy. C I C T C. Trade

Referred to: Psychiatrist. Profile

	Class or Category							
	YOB	P	U	L	H	E	M	S
Army	21	1	1	1	1	1	1	1
Air								

History and Physical Findings (to be filled out by M.O. i/c. case)

This man gives a peculiar story of civilian mix up in Hamilton and A.W.L. in army. He does believe that A.W.L. is perfectly alright to suit his own end. He was discharged from the air force because of misconduct. So far he has been of no use to the army,- having been 5 months in advanced training and completed only one week. He worries constantly about his sister and sister-in-law at home. His mother and father did not get along and had been separated 8yrs. before his mothers death. He is very nervous during interview;pulse is fast, hands moist. Sleepsvery well at night. I think this man is emotionally unstable and of no use to the army.

SUGGESTED PULHEMS

YOB	P	U	L	H	E	M	S	DOE
21	1	1	1	1	1	1	5	24 Apr 44

Opinion Requested Re: Opinion.

Type of Case—Ambulatory, Wheelchair, Stretcher, Bed M.O. Signature F.H.Southcott. Capt.

CONSULTANT'S REPORT

Hospital

Report No.

X-Ray No.

APPROVED PULHEMS

YOB	P	U	L	H	E	M	S	DOE
DISABILITY								CODE

Diagnosis

Is this man fit for his duty?

Recommendation

Date (Specialist's or Consultant's Signature)

F. & R. 117A
R.C.A.F. M 54
Militia M.F.B. 1478—500M—12-43 (3149) H.Q. 1772-29-1837
R.C.N. M. 2004

USE REVERSE SIDE IF ADDITIONAL SPACE IS REQUIRED

B-161031 Pte. McMANN, S.G.

Have had him under observation for only a short time. He is very nervous, and excitable, given at times to long rambling discourses from which one cannot make any sense at other times very hold and clear, does not appear to be able to distinguish right from wrong. No training A.W.L. and in civil custody, at the present time trying to get a shooting affray in Hamilton cleared up. Personal habits and hygiene not of the best.

.....Major
(D.A.M. MacDonald) Major
O.C. B Coy

B.161031 Pte. McMANN, S.G.
"W" Score - 155 Subtests - 19-17-14-24-22-14-13-32 Subtotals - 50-46-59

Grade X completed at 16. Work history shows labouring jobs of 9 months, 9 months and 20 months duration. Enlisted in R.C.A.F. 7 Dec. 42, discharged 30 Mar. 44. Enlisted in the Army 23 Apr. 44.

McMann enlisted in the Army in Apr. 44 on receipt of call-up notice. He had been discharged from the Air Force a month before apparently for misconduct and states he was A.W.L. a number of times. Since his enlistment in the Army, 8 months ago, he has completed Basic training and one week of Advanced. His training has been interrupted by A.W.L's, detention and civil custody. A while ago he was held in civil custody in Hamilton, he says as a material witness in a shooting and was for a time out on $2,000.00 bail. The bail has been reduced now to $400.00, but he will still have to appear as a witness in the Spring. Apparently at the moment he is under open arrest on a charge of being A.W.L. Frankly his story is very confused and, although he denies any previous civil convictions, this story is doubtful.

His mother died about 3 years ago, but prior to her death his parents had been separated for about 6 years. There is one adopted sister and four brothers, all of whom are in the service. He claims a history of rhuematic fever 7 or 8 years ago, but he says the only effects are that his right leg bothers him occasionally. He was very restless during the interview, picked his finger nails and wrung his hands. He does not appear to have been any asset to the Air Force and it is doubtful if he will complete training in the Army.

A.29, C.I.C.T.C., Camp Ipperwash 18 Jan. 45

Capt.
(Howard Small) Army Examiner.

MEDICAL OFFICER'S REPORT

I certify that No. B.161031 Pte. STANLEY GARFIELD McMANN

of A.29 C.I.C.T.C. is in a good state of health,

and fit to undergo Trial by Court martial.

W. K. Cannon Capt.
Medical Officer

R.C.A.M.C., Attached A.29 C.I.C.T.C., C.A.

Station Camp Ipperwash, Ontario

Date 4th April 1945.

M. F. B. 246
50M—5-43 (254)
H.Q. 1772-39-499

PRECIS OF EVIDENCE

No. B.161031, Private Stanley Garfield McMann, A.29 C.I.C.T.C., C.A., Camp Ipperwash, Ontario, a General Service soldier of the Canadian Army, placed on Active Service.

CHARGE: ABSENTING HIMSELF WITHOUT LEAVE
Section 15 (1) Army Act

To prove this Charge, the following documentary evidence is available:-

(i) Certified true extract from A.29 C.I.C.T.C., C.A., Daily Orders Part II, No. 75, Para. 13, dated 19 March 1945.

(ii) M.F.M. 216

(iii) M.F.B. 1481 ($11.56)

(A. W. Begg) Lieut.
Legal Officer
A.29 Cdn. Inf. Corps Trg. Centre

Camp Ipperwash, Ontario,
30th March 1945.

DAILY ORDERS PART II
by
COLONEL H. BALLANTYNE, E. D.
Commanding
A.29 CANADIAN INFANTRY CORPS TRAINING CENTRE

ORDER No 75
19 MAR 45
Ipperwash,
Ontario.

(Last Order issued No. 74 d/17 Mar 45)

HOLDING ESTABLISHMENT

"B" - OTHER RANKS

13. ABSENT WITHOUT LEAVE

(a) AWL from hour and dates shown:

First Entry			AWL From
B.161031	Pte McMANN, S.G.	(1)	2200 hrs 16 MAR 45
A.165256	Pte BRANCATI, S.	(3)	1800 hrs 16 MAR 45
A.111536	Pte RITCHIE, T.	(3)	2200 hrs 18 MAR 45

(Signed) W. S. Thompson

for Commandant
wgp

(W.S. Thompson) Capt & Adjt.
A.29 Canadian Infantry Corps T.C.

CERTIFIED TRUE EXTRACT FROM A.29 C.I.C.T.C., C.A., DAILY ORDERS PART II, NO. 75, PARA. 13, DATED 19 MARCH 1945.

.....
(A. W. Legg) Lieut.
Legal Officer
Officer i/c Original Documents
A.29 C.I.C.T.C., C. A.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, B-99752 (Number) Sgt. (Rank) Robertson, W. (Name) of No. 2 Det. 31 Coy. C.PRO.C. Hamilton, Ont. (Unit),

hereby certify that B-161031 (Number) Private (Rank) McMANN, (Stanley, Garfield) (Name in full)

of the No. 1 Coy. A-29 C.I.C.T.C. Camp Ipperwash, Ontario, (Unit and attachment, if any)

Strike out words not applicable } was apprehended by ([redacted]) B-139419 (Number) I/cpl. (Rank) Iftody G. and

B-118210 (Name) I/cpl. Baker, I. of No. 2 Det. 31 Coy. C.PRO.C. Hamilton, Ont. (Unit or appointment),

at 173 Britannia Avenue, HAMILTON, Ontario, (Place) at 0115 Hours, (Hour)

on the 25th day of March 19 45

Strike out words not applicable } as a [redacted] absentee without leave), and that at the time of his arrest he was wearing military ([redacted]) uniform ([redacted])

Dated at Hamilton, Ontario this 25th day of March 19 45

"A SOLDIER OF THE ACTIVE ARMY (CA)"

B-99752 W. F. Robertson Sgt.,
(Signature, Number, Rank, Unit or appointment)
W.F. ROBERTSON

NCO i/c No. 2 Det. 31 Coy. C.PRO.C. Hamilton, Ontario.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 115
150M—2-44 (3730)
H.Q. 1772-39-1936

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. (Rank) P.F. Thompson (Name), Issuing Officer for D.S. & T.O. (Unit) MD 1

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from Thedford Ontario (Place) to Hamilton Ontario (Place)

and return to Thedford Ontario via Sarnia (Place) for the purpose of escorting

Full description of soldier being escorted — B-161031 (Number) Pte (Rank) McMann S.G. (Name in full)

A-29 C.I.C.T.C. (Unit) Camp Ipperwash, Ontario (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation required~~) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
T.W. C-866724 Thedford Ont to Hamilton Ontand return via Sarnia Ont--One (1) Return	$ 5.69
Meal Tickets- One (1) @ .75¢ One (1) @ 1.00	.75 1.00
(For One Escort)	
T.W. C-866725 Hamilton Ont to Thedford Ont via Sarnia Ont--One (1) Single	3.37
Meal Tickets- One (1) @ .75¢	.75
(For one Prisoner)	
Above Costs Recoverable From :- B-161031 Pte. McMann S.G. A-29 C.I.C.T.C. Camp Ipperwash, Ontario	
TOTAL	$ 11.56

Dated at Camp Ipperwash this 26th day of March A.D. 1945

Thompson (P.F. Thompson) Lieut.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing transportation~~)

Issuing Officer for D.S. & T.O. MD 1 — Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

M.F.B. 1481
(22m—10-42 1083)
H.Q. 1772-99-150

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482

H.Q.C.55-M-1642(JAG/D-7)
Your File No. L.28-M-1277

12 Apr 45

District Officer Commanding,
Military District No. 1,
London, Ontario.

STANDING COURT-MARTIAL

B.161031, Pte. Stanley Garfield McMann
A-29 C.I.C.T.C.(CA)

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

LJR/MR

(R.J.Orde), Brigadier,
Judge Advocate-General.

THIS COPY FOR H.Q. C.55-M-1642
M.D. L.28-M-1277

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B.161031 Name McMANN, Stanley Garfield

Rank Pte Unit A 29 C.I.C.T.C. CA

Charge A.A. 15 (1) - A.W.L.

Date of Crime 16-3-45

Date of Arrest 25-3-45 Charge Signed 30-3-45

Orders for D.C.M.

Place and Date of Trial A 29 C.I.C.T.C. CA 4-4-45

Sentence Det 6 mos; stoppages $11.56

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36696

Date 9-4-45

MEMO

M.D. 1 - A 29 CICTC CA

Absent	Sentence
10 days	Det. 6 mos

for Judge Advocate-General

10M-1-45 (M-4629)

As noted in other files from this District

1) It was in order for President to question accused on unsworn statement after plea of "Guilty"

2) 1481 and 1482 should not be completed by "Cl. Thompson for T.S. and T.O., N.D. One" but we have held that where Cl. Thompson did issue it and did sign his own name, this is valid.

3) We have written about Pers. discussing delay x

R J Thompson
Cl
17 Apr 45

IN REPLY PLEASE QUOTE No. L.28-M-1277

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

HQ MD 1, London, Ont., 5 Apr 45.

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada.

6.55-M-1642

STANDING COURT-MARTIAL
B.161031, Pte. Stanley Garfield McMANN
A-29 C.I.C.T.C. (CA)

Enclosed herewith are the proceedings of the m/n Standing Court-Martial, which took place at Camp Ipperwash, 4 Apr 45.

2. It was noted that the accused was held in custody for ten days.

3. He was apprehended at Hamilton, Ontario, 25 Mar 45. He was returned to Camp Ipperwash 27 Mar 45. It was found impossible to have his case ready for trial at the next sittings of the Standing Court, 28 Mar 45, and he was tried the following week.

H.C. Cameron, Lt-Col.
(H.C. Cameron) Lt-Col.,
Pres. Standing Court-Martial, M.D. 1

36696

NAT. DEF. B. AR.
ISSUE 4-44-1500
H.Q. 1172-29-167

H.Q.C. 55-M-1644

CONFIDENTIAL

M.F.R. 678
HM—I.G. (MAY)
H.Q. 80-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MILNE. DOUGLAS FREDERICK B.159211 PTE.

CONFIDENTIAL
H.Q.C.55-M-1644

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 13 1945				J.A.G.	NEW FILE C.R.		APR 9 - 1945
				J.A.G.	Papers C.R. APR 26 1945		
APR 28 1945				S.C.M.	To note + pass to admin	E.C.M.	27/4/45
APR 30 1945							APR 30 1945
MAY 2 - 1945				J.A.G.	Papers C.R. MAY 16 1945		
MAY 17 1945				J.M.	To note	J.M.	17.5.45
MAY 18 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. T-20-M-18608 (AJAG)
Your H.Q.C.55-M-1644

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

14th May, 1945,
Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
MAY 16 1945
File C55-M-1644
Rec'd to
Referred to AAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Remission of Sentence
B-159211 - Pte. Douglas Frederick MILNE, **314537**
No. 25 C.I.(B)T.C., C.A.

Herewith Army Form under the provisions of C.A.R.O. 3974 being a remission of the sentence of detention awarded the marginally-named soldier, effective the 30th April, 1945, together with particulars of promulgation and Part II Orders.

(A. E. Potts)
Major-General

D.O.C. M.D. 2.

L.H. CLAYTON
Lieut.-Colonel
Director of Civilian Training
MAY 18 1945

N.D. 21
3000M—10-44 (5769)
H.Q. 1772-101-25

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

N.D.H.Q. File No.: H.Q.C.55-M-1644
District File No.: T-20-M-18608

PART I

No. B-159211 Rank Private Name Douglas Frederick MILNE,
Unit No. 25 C.I.B.T.C. C.A.

PART II

Date of Trial 2nd April, 1945
Charge(x) Desertion
Finding: Guilty A.W.L.
Sentence Detention 60 days, Stoppages $6.05
Date of Sentence 2nd April, 1945.
Confirmation - (a) Authority : N.A. (D.O.M.)
(b) Date : ---

PART III

REMISSION

I, the undersigned, being the competent military authority under section 57(2) of the Army Act, do hereby remit ~~(commutation) (mitigation)~~ the balance of the sentence of detention awarded the above-named soldier, such remission to be effective the 30th day of April, 1945.

SIGNED at Toronto, Ontario,
this 20th day of April,
194 5.

Arthur E. Potts
(A.E. Potts)
Major-General
D.O.C. M.D. 2.

PART IV

PROMULGATION

Remission ~~(commutation)~~ ~~(mitigation)~~ (x) promulgated and extracts taken at No. 25 CIBTC, Simcoe, Ontario this 30 day of APRIL 1945

E.S. Frost, Capt.
(E.S. Frost), Capt. A.Adjt.,
Officer i/c Documents.

(i) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. B.159211 Rank Pte. Name MILNE, Douglas Frederick
The sentence of 60 dys det'n and $6.05 Stoppages
awarded by Standing Court-Martial on the 2 APRIL 1945, has been
remitted balance of 60 days det'n awarded by S.C.M. (31 dys)
on the 30 APRIL 45 194 by District Officer Commanding M.D.
No. 2 under Sec. 57(2) A.A.

UNIT No. 25 CIBTC, Simcoe, Ontario

Certified true Extract of Daily Orders Part II of
No. 96 Place Simcoe, Ont. Date 30 APR 45

E.S. Frost, Capt.
(E.S. Frost), Capt.
Adjutant, No. 25 CIBTC,
Simcoe, Ontario.

x Strike out and initial words not applicable.

H.Q.C.55-M-1644 (JAG/D-1)

27 Apr 45.

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

Standing Court-Martial
B-159211, Pte. Douglas Frederick MILNE
No. 25 C.I. (B) T.C., C.A.

Receipt is acknowledged of your T-20-M-18628 (AJAG) dated April 24th, 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial. together with M.F.M.288.

EFM
Capt
for Judge Advocate General.
(R.J. Orde) Brigadier

Notes
J.F. Doyle
L.H. CLAYTON
Lieut.-Colonel
Deputy Director of Court Martials
APR 30 1945
/ET
Notified Cattley

IN REPLY PLEASE QUOTE No. T-20-M-18608 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

309519

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
24th April, 1945.

CENTRAL REGISTRY Army
CONF. SEC.
APR 26 1945
File 55-M-1644
Chgd. to
Referred to

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-159211, Pte. Douglas Frederick MILNE,
No. 25 C.I. (B) T.C., C.A.

Reference H.Q.C. 55-M-1644 (JAG/D-1) dated 12th April, 1945.

2. Returned herewith Proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O. 4567(7)(C)(e), together with M.F.M. 288, duly completed.

3. Pursuant to H.Q. 55-1-41 FD 74 (Admin) dated 16th January, 1945, it is advised that the Officer Commanding the marginally-named soldier submitted to this Headquarters a strong recommendation for discharge from the Army to rejoin the Merchant Marine in view of five months' service therein previous to enlisting in the Army and his service therein in Mediterranean and Indian waters during most of this recent absence. The Unit has been advised that application must be made in accordance with the provisions of C.A.R.O. 1029(5d).

4. It is further advised that remission effective 30th April, 1945, has been granted in accordance with the further recommendation of the Officer Commanding, and that the Army Form under the provisions of C.A.R.O. 3974 will be forwarded as soon as returned to this Headquarters after promulgation.

(A.T. Potts)
Major-General
D.O.C. M.D. 2.

NAT. DEF. B. 440
250M 4-44 (4325)
H.Q. 1772-39-767

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of B.159211 Pte. Douglas Frederick MILNE
(Number, Rank, Name in full)

No. 25 CIBTC, CA, Simcoe, Ontario.
(Unit, Attachment (if any))

Sentenced to Sixty (60) days Detention

on 2 APR 45 at Simcoe, Ontario

being served at No. 61 Military Det'n Bks., Brampton, Ontario.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 17 yrs 7 months 17 FEB 44

Medical grade or category 26 - 1111111

FIRST TRIAL—PART II

To The Adjutant-General
(Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be (~~suspended) (put into execution) (reviewed on~~ See Part X) for reasons given in paragraph X.
(date)

Place Toronto, Ontario,

Date 20th April, 1945.

Arthur E Potts
(Confirming Authority)
(A.E.Potts) Major-General
D.O.C. M.D.2.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ..... or ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 288
(Army Form A-2104)
10M—5-45 (320)
H.Q. 1772-30-2013

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

.....
Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Charge Sec. 12(1)(a) Army Act. WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE Signature of officer making entry	9 AUG 44	2 APR 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	——	Signature
18 APR 45	It is recommended that a remission of sentence be granted in this case.	(W.D.Anderson)Lt.-Col. Commanding Officer No. 25 CIBTC,CA

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	——	Signature
20 Apr 45	Remission effective 30th April, 1945.	Arthur E Potts (A.E.Potts)Maj-Gen D.O.C. M.D.2.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No. 25 C.I. (B) T.C., C.A., Simcoe, Ontario,

on the 2nd day of April, 1945, at 1030 hours,

for the trial of: B.159211, Pte. Douglas Frederick MILNE,
Number Rank Full Name

No. 25 C.I. (B) T.C., C.A.
Unit Attachment, if any

PRESIDENT: Major W. P. McClemont, E.D., (A&SH) H.Q., M.D.2.

PROSECUTOR: Capt. J. L. Downey, H.Q., M.D.2, att'd S-8, CATS, CA.
Rank Full Name Unit Attachment, if any

~~PROSECUTOR~~ DEFENDING OFFICER: Lieut. A. Beck, H.W.E., att'd No. 25 CI(B)TC, CA.
Rank Full Name Unit Attachment, if any

FINDING: Not guilty of desertion, but guilty of absence without leave.

SENTENCE:
To undergo detention for 60 days, and to be put under stoppages of pay in the sum of $6.05 in respect of the cost of apprehension and return to his corps.

Signed at Simcoe, Ontario, this 2nd day of April, 1945.

W. P. McClemont (Major)
President,
Standing Court-Martial.

Extracts entered as No. 36709 in the Register of Courts Martial kept in the Office of the Judge Advocate-General this 10 day of Apr 1945

M.F.B. 1486
25M-6-44 (4820)
H.Q. 177139-2296

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to be tried by the Prosecutor?~~

Answer:

Question to the accused. Do you object to M.36367, SM R. Gostick, No. 2 Det., CMSC, CA, HQ, MD 2, acting as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. ~~Has the accused elected to be tried by a Standing Court-Martial or by the Court Martial?~~

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B-2
W.P.M. Clement
Pres. S.C.M. Major

CHARGE SHEET

The accused, No. B.159211 Private Douglas Frederick MILNE, No. 25 Canadian Infantry Basic Training Centre, CA, Simcoe, Ontario, a G.S. Soldier of the Canadian Army placed on Active Service is charged with:-

CHARGE
SECTION 12(1)(a) ARMY ACT

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at No. 25 Canadian Infantry Basic Training Centre, CA, Simcoe, Ontario, at 2330 hours on the 9th day of August, 1944, absented himself without leave from the said No. 25 Canadian Infantry Basic Training Centre, CA, Simcoe, Ontario, until he surrendered to Military Authorities at 1405 hours on the 22nd day of March, 1945, at Toronto, Ontario, dressed in Civilian Clothes: the costs of apprehension and return to his Unit being $6.05.

27th day of March, 1945
SIMCOE, Ontario

J.M. Hunter
(J.M. Hunter) Major
Officer Commanding
No. 25 C.I.B.T.C., CA,
SIMCOE, Ontario.

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

Capt. E. S. FROST, H.W.E., No. 25 C.I.(B)T.C., C.A.,

being duly sworn, is examined by the Prosecutor.

Question

Q Capt. Frost, what is your unit in the Canadian Army? What unit do you belong to?

A The Home War Establishment of No. 25 C.I.(B)T.C., C.A., Simcoe, Ontario.

Q How are you employed in No. 25 C.I.(B)T.C., C.A.?

A I am the Adjutant of this centre.

Q As Adjutant, have you any duties that might especially pertain to courts-martial cases?

A Yes; I am charged with the custody of the regimental books and documents.

Q Do you know the accused?

A I do.

Q What is his name?

A Pte. Milne.

Q What unit does he belong to?

A He belongs to No. 25 C.I.(B)T.C.

Q Have you any documents to produce to the Court?

A I have.

Q Will you produce them, please, one at a time, telling us, firstly, what they are; secondly, by whom they are signed; and, thirdly, to whom they refer?

A First is the M.F.B. 375, being a court of inquiry; and it relates to the accused; and it is signed as a certified true copy by myself.

THE PROSECUTOR: Will you hand that document to the President of the Court, please, and offer it as an exhibit.

THE PRESIDENT: (To Def. Off.) Any objection?

THE DEFENDING OFFICER: No, sir.

(Certified true copy of MFB 375 sgnd at Simcoe, Ont., 31 Aug 44, is marked Exhibit "F," sgnd by the Pres., read, and att'd to the proceedings.)

Q Carry on, please?

A I have also an M.F.M. 216, being a certificate of surrender to service authorities, and it applies to the accused, and is signed by Col. Hollinrake, the O.C. of No. 2 District Depot, and L/Cpl. A. S. King.

Q How does L/Cpl. King sign it -- in what capacity? He just signs it beside Col. Hollinrake's signature?

A The Depot Regimental Police, No. 2 District Depot

THE PROSECUTOR: Will you hand that to the President of the Court, please, and tender it as an exhibit.

THE PRESIDENT: (To Def. Off.) Any objection?

THE DEFENDING OFFICER: No objection.

(MFM 216 dated at Toronto, 22 Mar 45, is marked Exhibit "G," sgnd by the Pres., read, and att'd to the proceedings.)

THE PROSECUTOR: Sir, may I say, I think possibly the fact that L/Cpl. King signed it does not affect the validity of the document. It is just an addition to Col. Hollinrake.

Q Something else, Capt. Frost?

A Also M.F.B. 1481, being a certificate for transportation issued in the amount of $4.14, being transportation for the accused and his escort. And this document was signed by myself, authorizing the transportation.

THE PROSECUTOR: Will you hand that to the Court, please, and offer it as an exhibit.

THE PRESIDENT: (To Def. Off.) Any objection?

THE DEFENDING OFFICER: No objection, sir.

(MFB 1481 dated at Simcoe, Ont., 24 Mar 45, is marked Exhibit "H," sgnd by the Pres., read, and att'd to the proceedings.)

Q All right, Capt. Frost; carry on, please?

A Also M.F.B. 1482, being a certificate of incidental expenses incurred on behalf of the accused, in the amount of $1.91; and this document was signed by L/Cpl. Wood, of No. 25 C.I. (B) T.C., C.A., Regimental Police.

THE PROSECUTOR: Will you hand it into the Court, please, and offer it as an exhibit.

THE PRESIDENT: (To Def. Off.) Any objection?

THE DEFENDING OFFICER: No objection, sir.

(MFB 1482 dated at Simcoe, Ont., 24 Mar 45, is marked Exhibit "I," sgnd by the Pres., read, and att'd to the proceedings.)

Q Have you anything else, Capt. Frost?

A No; I have nothing, sir.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE.

THE WITNESS WITHDRAWS.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

First Witness for the Defence

The Accused, No. B.159211, Pte. Douglas Frederick MILNE, No. 25 C. I. (B) T. C., C.A., Simcoe, Ont., being duly sworn, is examined by the Defending Officer:

Q Pte. Milne, what is your age?

A Eighteen, sir.

Q What age were you when you enlisted in the Army?

A 17½, sir.

Q The charge against you is one of desertion. I wish to ask you a question, realizing that you are under oath. During the time of your absence, did you, at any time, decide you were not coming back to the Army?

THE PRESIDENT: Just a moment.

Q I will word that differently.

THE PRESIDENT: No, no. What do you say, Capt. Downey?

THE PROSECUTOR: Well, it is rather a leading question; but, I suppose, under the circumstances -- I am not going to make any objection to it. I am going to cross-examine him, anyway. (Question read back by reporter.)

EXAMINATION-IN-CHIEF CONTINUED

Q Would you answer that question?

A I never did decide I was not coming back.

Q Would you tell the Court, Pte. Milne, in your own words, what caused you, on the 9th of August, to go absent from this unit? Just start from that date, and tell, in your own words, just what happened?

A Well, sir, we were up here on a special platoon, and we had been promised a week-end. We were leaving on draft.

And I went home, intending to return in time to catch the draft. I had every intention of doing so, and was also expecting a phone-call, warning me of when the draft would leave.

Q At the time that you left, did you go alone?

A No, sir.

Q You mentioned that you were expecting a telephone-call. Will you tell the Court just the circumstances about that telephone-call?

A Well, sir, I believe there was seven left the same time; and one fellow had prearranged for one of his mates to telephone him in Toronto and warn him when the draft was leaving, and we could come back, in case we had previously missed it. But, as it was, the fellow was not home when the phone-call came, and his mother answered the phone; and when he phoned me the draft was gone. So, I figured I was in trouble myself; and went back out to sea.

Q What did you do then?

A I went back out to sea, sir.

Q Just where did you go; what part of the country?

A I left Toronto, sir, and went down in America; and from the States I went to Sicily; and from Sicily to Italy; and from Italy to Egypt; and from Egypt to Arabia; and from Arabia to Iran; and from Iran to India.

Q Just what kind of work were you doing at this time?

A Working on deck, sir.

Q Pardon?

A Working on deck.

Q You were onboard ship during all this time?

A Yes, sir.

Q What type of boat was that? I mean, was it a naval boat; a civilian boat? What kind of seamanship do you call it?

A A Norwegian tanker, sir, transporting war goods, I presume. It was a tanker carrying gasoline and benzine.

Q In other words, it was Norwegian Merchant Marine; is that it?

A Yes, sir.

Q And it was carrying -- you think it was a tanker. What would it be carrying -- gasoline, oil, or something like that?

A Yes, sir; octane, gasoline and benzine.

Q Octane, gasoline and benzine?

A Yes, sir.

Q Would that be important to the war effort?

A Yes, sir. It was also carrying aeroplane crates on deck.

Q Will you just tell the Court why you did this; why you went to sea?

A Well, sir, I figured I was in trouble when I found I had missed the draft; and I had been to sea before; and when I got out to sea I figured I would return when I got back.

Q Had you at any time been close to a fighting front?

A Yes, sir.

Q How close?

A Approximately forty miles, sir.

Q Whereabouts would that be?

A In the northern part of Italy, in Leghorn.

Q If you had have stayed in the Army at that time, and not gone to sea, do you think you would have been overseas?

A No, sir.

Q Why not?

A I am not of age, sir.

Q The charge against you states that you surrendered to the military authorities on the 22nd of March, dressed in civilian clothes. Why were you in civilian clothes?

A Well, it was winter, sir, and I left with summer uniform. I had Army boots on when I turned myself in.

Q The time you went away was in August. Just what were you wearing at that time? What articles of clothing, just roughly?

A Boots, puttees, short pants, shirt, wedge hat.

Q You were wearing summer shorts with puttees?

A Yes, sir.

Q And when you came back it was the 22nd of March. You couldn't wear those clothes, naturally, and you came back in civilian clothes; is that what you say?

A Yes, sir.

Q Have you any proof of your statement that you were in the Norwegian Merchant Marine, any documents of any kind?

A Yes, sir.

THE PROSECUTOR: I have documents here, sir. I would like to just submit them to the Court for what they are worth, rather than have them submitted as exhibits, because they are personal property the accused would like to keep.

THE PRESIDENT: Well, I think the best plan would be to have the accused identify them, and then read any excerpts from them.

THE PROSECUTOR: They are in Norwegian, by the way, and I think he can tell you just what they are, although he can't read them.

THE PRESIDENT: (To Pros.) Have you any objection, Capt. Downey?

THE PROSECUTOR: No; I haven't any objection. I would like to see them, though, sir.

THE DEFENDING OFFICER: I have quite a few here, and he wants to keep them himself. They are documents he would not want to part with.

THE PRESIDENT: Show them to him, and ask him what they are.

EXAMINATION-IN-CHIEF CONTINUED

Q Can you identify that document here?

A Pay Book on the Ship Belinda.

Q And who does it refer to?

A It refers to myself.

Q And can you tell the Court what dates that -- it is a Pay Book?

A Yes, sir.

Q Tell the Court the dates it refers to?

A In the beginning it states here I signed on; and the dates I signed on; the length of time I signed on.

Q What is the date?

A The date I signed on the Belinda was October 20, 1944, as an Ordinary Seaman, in New York City.

Q What date did you sign off? Does it show in that book?

A Yes, sir. On the 26th day of February, 1945.

Q And would you identify this one just the same way?

A In the beginning it states that I signed on---

Q Just a minute. What is this document?

A A Pay Book, sir.

Q What ship?

A Johunfjel.

Q And who does that document refer to?

A Myself.

Q And the date that you signed on?

A I signed on the 2nd day of September, 1944.

Q And the date that you signed off?

A The 2nd day of October, 1944.

Q Those dates show in here, do they?

A Yes, sir; you will find the dates, approximately on Page 32, sir, where I signed off.

Q Will you identify this document?

A Yes, sir; this is my overtime book.

Q Overtime book. For what ship?

A The Belinda, sir.

Q And who does it refer to?

A Myself.

Q Would you tell the Court what this document is?

A Yes, sir. This is a permission from the Immigration Inspector from Baltimore, Maryland, giving me permission to sign off on the ship in that State.

Q What date was that?

A Received permission on September 30th; but was not paid off until the 2nd of October.

BY THE PRESIDENT

Q Forty----

A 1944, sir.

EXAMINATION-IN-CHIEF CONTINUED

Q And will you identify this card?

A This is the ship's card belonging to myself, from the M.S. Johunfjel.

Q And the date on it?

A The 2nd of the 9th month, '44.

Q This card?

A This is another ship card belonging to myself, on the M.S.

Belinda, I received on the 20th day, the 10th month, 1944.

Q This card?

A This is from the Norwegian Consul, stating that I signed on the M.S. Belinda on Friday, October 20, 1944.

Q This one?

A This is shore leave permit, issued to me on the 26th day of February, 1945, the M.S. Belinda.

Q This one?

A This is pass to myself in Taranto, Italy -- shore leave.

Q And what is the date?

A The 16-11-44 -- the 16th of November. This is permission to carry my suit-case and personal belongings on the M.S. Belinda, on the 26th day of February, '45. This is permission sheet from the United States Department of Justice, Immigration and Naturalization, giving me permission to remain ashore in Baltimore, Maryland.

Q The date on there?

A The date is the 9th month, 7th day, 1944.

THE PROSECUTOR: And, to save the Court time, sir, I have personally jotted down the dates that are covered there, sir; and they cover from the 2nd of September to the 2nd of October -- one month there. They cover from the 7th of October, which is only a five-day difference, 7th of October to the 31st of October. From the 1st of November to the 30th of November. That is, like, the whole month of November. All the month of December; the whole month of January; and all of February up to the 26th -- in other words, a period of a little over 5½ months. It is practically the entire time that he was absent, sir. There are just short periods in between.

Q Pte. Milne, the date -- there are some dates -- difference in dates there, of the odd day, in these documents. Could you tell the Court what you would be doing on those odd days?

A Yes, sir. When I first left from New York, when the first odd date come in, was when I was waiting in the Norwegian Seaman Pool in Brookline for a ship to sign on.

Q In other words, you can't just go down there and sign on a ship. You have to wait until you are called?

A If there is a boat in there, if you are qualified for the job, you receive it.

Q And these odd dates for a few days -- they are not very long, any of them -- you were waiting for a ship; is that what you are saying?

A Yes, sir; the first part. Except when I signed off in Baltimore when my cousin, he broke his ribs on the ship, and he was convalescing for a few days; and then we went to the State of New York and resigned on the M.S. Belinda.

Q Did you, Pte. Milne, at any time on your travels -- you said you came close to a fighting front. Was your ship in any action at all, enemy action, of any kind?

A No, sir. We were warned for submarines twice; but we never seen action.

Q Did you, at any time, have any warning of mines, or anything like that?

A Yes, sir. In the Arabian Ocean we received 14 SOS's from a sinking ship approximately 200 miles from us.

Q Were you in enemy waters at any time?

A Well, I believe the Arabian Ocean and Indian Ocean, the Japanese submarines are in the vicinity, I believe, sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q What did you do from the time you went absent without leave from this camp on the 9th of August, until you signed on in New York on October 20, 1944?

A Well, sir, I was in Toronto from the 9th of August until the 19th of August; and that day I left Canada for America, and was attending the Seamen's Pool in Brookline, N.Y.

Q How did you get across the border to the United States?

A Before being in the Army, I was previously in the Merchant Navy, sir, and still retained my passport and "I" card.

Q You didn't indicate to any person you were in the Army?

A No, sir.

Q And you were dressed in civilian clothes?

A Yes, sir.

Q Did you dispose of any Army identification card you might have had?

A No, sir.

Q Where was it?

A With my belongings, sir.

Q Where?

A In my home.

Q You didn't take it with you?

A No, sir.

Q Why didn't you take it with you?

A I didn't figure I would have any use for it at the time, sir.

Q Were you afraid you might be caught with it and be sent back?

A No, sir.

Q Are you sure of that?

A Yes, sir.

Q That is not the reason -- you are under oath --

A I don't quite understand the question, sir.

Q Did you fail to take your Army identification card with you on your trip to the United States because you didn't want to take it, knowing that if anyone saw you with it, you might be found out that you were a deserter from the Army, or an absentee?

A I had my card, sir -- I understood you meant the clothing.

Q You had your Army card, did you?

A Yes, sir.

Q Were you, in the first place, called up? or did you join active service?

A I joined active service, sir.

Q Now, is there any question about the fact that you were absent without leave, as charged in the charge sheet? In other words, did you, in fact, absent yourself without leave or overstay your pass from this training centre from 2330 hours on the 9th of August, 1944?

A Yes, sir.

Q That is true, is it?

A Yes, sir.

Q And were you continuously absent from this camp until -- or from any Canadian Army, Navy or Air Force unit,-until you surrendered yourself to the military authorities at District Depot in Toronto?

A Yes, sir.

Q And did you surrender yourself at 1405 hours on the 22nd of March, 1945, in Toronto?

A Yes, sir.

Q Did you return in civilian clothes?

A Yes, sir.

Q Who do you consider was your employer while you were on these Norwegian boats? Was it the Norwegian Shipping and Trade Mission?

A Well, sir, when I first joined the Merchant Marine I believe they had some kind of a contract between the Canadian Government and Norwegian Government, allowing Canadian boys to join the Norwegian ships.

Q You mean Canadian civilian boys?

A Yes, sir.

Q Not Army boys?

A Yes, sir.

Q And was the name of the people you worked for -- was it Norwegian Shipping and Trade Mission?

A Yes, sir.

Q Established by authority of the Royal Norwegian Government; is that right?

A Yes, sir.

Q That is not part of His Majesty's Service; is it?

A Allied Service.

Q Answer my question. Is that part of His Majesty's Service?

A I am not positive of that, sir.

Q All right. I am suggesting to you that His Majesty's Service is Army, Air Force and Navy of either Great Brittain or any part of the British Empire. What do you say as to that?

A No, sir.

Q So, therefore, you agree that the Norwegian, whatever it is you were in, the Norwegian Trade Mission, is not part of His Majesty's Service. Do you agree on that?

A Yes, sir.

Q You say -- you told the Defending Officer that, "I never did decide I was not coming back." But, answer the question a different way -- did you ever decide that you were coming back prior to the time that you did voluntarily surrender?

A Yes, sir.

Q When did you make that decision?

A When I was on the ship, sir.

Q Why did you make that decision?

A I figured I was creating trouble for my people, myself and the government.

Q You told the Defending Officer that you went absent from this camp after having been warned for draft; didn't you?

A Yes, sir.

Q Where was this draft going?

A As far as I know, sir, it was Ipperwash.

Q And then where do drafts go from Ipperwash; do you know?

A I am not certain on that point.

Q Do they go overseas?

A I am not certain on that point, sir.

Q Was that a step to advanced training from here?

A Yes, sir.

Q So, you didn't get the draft that left here from basic training to advanced training; did you?

A No, sir.

Q And you deliberately stayed home in Toronto after your pass had expired, depending upon a phone-call?

A Yes, sir.

Q And why didn't you come back when your pass expired?

A I didn't have a pass, sir.

Q You just went absent; did you?

A I was out from 600 hours, pardon me, sir, from 1800 hours to 2200.

Q So you didn't have a pass; you just went absent from the camp; did you?

A Yes, sir.

Q What did you intend to do when you went absent from the camp?

A To have some fun with the boys, sir.

Q Where?

A In Toronto, sir.

Q Did you ask for a pass?

A We had been promised one previously, and had it cancelled.

Q You didn't get your pass?

A No, sir.

Q So you just deliberately went absent; did you?

A Yes, sir.

Q When did you intend to come back?

A Promptly, as soon as I received the warning the draft was leaving -- get here in time to pick the draft up.

Q Weren't you told when the draft was leaving?

A No, sir.

Q Had you any idea when the draft was leaving?

A No, sir.

Q Didn't you realize it was kind of a dangerous thing to rely on some soldier to phone Toronto? It turned out to be; didn't it?

A Yes, sir.

Q So, you did find out that the draft had left, didn't you, before you came back?

A Yes, sir.

Q How did you find out?

A The fellow who was previously supposed to phone, he phoned myself, and I found out that I had missed the draft.

Q Why didn't you immediately come back to this camp and give yourself up?

A Well, I figured I was in trouble, and I just figured I might as well get right in, and go out to sea, sir.

Q You were afraid; is that it? Were you afraid to?

A Yes, sir.

Q Aren't you in worse trouble now than you would have been had you come back at that time?

A Yes, sir.

Q When you left Toronto and went to New York and got in the Seamen's Pool, what did you intend to do?

A I intended to sign on a ship, sir.

Q For how long?

A I can't say that, sir.

Q Just an indefinite length of time?

A Yes, sir.

Q All right. When you signed on the ship, the first one was the Johunfjel; was it?

A Yes, sir.

Q When you signed on the Johunfjel, I am suggesting to you that you had no definite intention of returning to this training centre at that time. What do you say? You are under oath.

A Well -- no, sir.

Q You had no definite intention of returning at that time?

A Not at that time, sir; no.

Q So, what you told the Defending Officer isn't true; is it?

A Pardon?

Q What you told your Defending Officer isn't true? You told your Defending Officer that you never did decide that you were not coming back.

A I never did, sir.

Q Now you have just told me that you had no intention of coming back when you signed on the Johunfjel. Which is right?

A You asked me if I definitely, sir?

Q Definitely. I want definitely your intention?

A I didn't definitely intend not to come back.

Q Did you have definite intention either way?

A Yes, sir.

Q What was your definite intention?

A At the time I couldn't state definitely my intentions, sir. I was on the verge of a doubt.

Q You were on the verge of a doubt?

A Yes, sir.

Q After getting signed off the Johunfjel, whatever you call it, why didn't you come back then?

A Well, at the time, sir, my cousin broke his ribs, and I figured that maybe it would go easier with myself if I stayed down there with him and waited until he got better, and signed on another ship.

Q Where was your cousin? Was he with you?

A Yes, sir.

Q What was your intention when you signed on the Belinda on October 20, 1944? You had no intention of coming back then; did you?

A Yes, sir.

Q Why did you sign on the Belinda?

A It was after I signed on the Belinda that I changed my mind.

Q I am talking about the very day you signed on. What were your intentions on that day?

A I don't think I could recollect that far back, sir.

Q All right. When did you then decide that you had done the wrong thing, and wanted to come back?

A When I was out to sea, sir.

Q How far out of New York?

A Several days, sir.

Q So you changed your mind then; is that right?

A Yes, sir.

Q You tell us you changed your mind. If you changed your mind, your mind must have been different at the time. In other words, you couldn't change your mind unless you thought differently about coming back; isn't that right

A Well, I say I changed my mind, sir -- I more or less made up my mind.

Q But you did say "changed;" didn't you?

A Yes, sir.

Q Now, when did you come back to Toronto?

A The beginning of March; I am not quite positive of the date.

Q Did you go and surrender yourself to the military authorities yourself? or did you do it because someone else persuaded you to do so?

A I come down myself, sir.

Q Did your father talk to you about it?

A My brother wrote from Belgium and said it was best for me to come back; and my father thought it was best for me to go back.

Q Your father is a veteran of the last war; isn't he?

A Yes, sir.

Q Did he tell you it would be better for you to go back?

A He thought it would be better for me, sir.

Q Then, summing it up, Pte. Milne -- you were absent without leave; weren't you?

A Yes, sir.

Q And you have told us that you did change your mind when you were on the Belinda; is that right?

A Made up my mind, sir.

Q But you did say "change;" didn't you?

A I did at the time, sir; I made a mistake, sir.

Q Do you agree that you made a mistake this time?

A I do, sir.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE.

BY THE PRESIDENT

Q How many cargoes did this tanker have?

A It carried on deck, sir, when we first left America -- I am not sure whether it was whole aeroplanes -- there was crated aeroplane parts for India. And we carried fuel in the tank.

Q And where was the fuel delivered?

A The fuel was delivered to Taranto, Italy, sir.

Q And where were the crated aircraft parts delivered?

A They were delivered in Karachi in India, sir. There was fuel was delivered there, sir. We picked up fuel in Iran.

Q And then delivered that to Karachi?

A Yes, sir. We first left from Taranto; then went down through Port Said in the Red Sea, Arabia, and then around the Gulf of Persia to Iran, and refueled the ship there, and took fuel back down to Karachi.

THE WITNESS RESUMES HIS SEAT.

THE PROSECUTOR AND DEFENDING OFFICER MAKE CLOSING ADDRESSES WHICH ARE RECORDED BUT NOT TRANSCRIBED.

WPR

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer (See following pages).

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE DEFENDING OFFICER:

Sir, as I mentioned before, a very immature lad who doesn't have a mature viewpoint, outlook. Things that look very serious to an adult, are not always serious to a person who is not an adult, I mean, is not a grown man, and things don't always look as bad to him as they do to us.

The heinous crime that he is charged with there on his M.F.M. 6 is, smoking after lights out. It is a terrible crime in the Army. His A.W.L. is one of 20 minutes. So, I would say that he has a good crime sheet in the Army.

I have a letter here. I don't know what it is worth. It is just in mitigation of punishment. If I may be allowed to identify it and read it?

THE PRESIDENT: Yes; just read it. Who is it from?

THE DEFENDING OFFICER: (To Accused) Would you tell the Court who this is from?

THE ACCUSED: It is from my aunt, sir.

THE DEFENDING OFFICER: Mrs. John Napier, the accused's aunt. This was to the Officer in charge Custody Barracks, and was referred to the Adjutant, I believe.

(Letter dated March 28, 1945, 10 Price St., Toronto, signed by Mrs. John Napier, is marked Exhibit "J" and is att'd to this document, having been read by the Def. Off.)

This letter was just merely to show that his relatives think that he is a good boy, and worthyof some consideration.

And I think the Court will take into consideration his age and the fact of what he was doing while he was A.W.L., and the fact that he has a reasonably clean crime sheet, and the 12 days that he has already spent in custody. I would ask that leniency be shown in this particular case.

requesting that he be brought
back to Canada.
for further military training
until he was of military age
for overseas service.
The reply I received was that
he could not be brought back.
I with the excuse that he
must have misstated his age
when enlisting
Still the fact remains that it
was their duty to have his age
& documents checked before
proceeding overseas.
I have heard of many under
aged cases just like my son.
But I have yet to hear of
any high official being court
marshalled for the offences
committed. my son has been
overseas three years this coming
may

Mar 28th 1945
10 Price st
Toronto

Dear Sir
I am writing this letter in reference
to my nephew Pte Douglas Milne,
who is being held a prisoner
in detention on a charge of
absence without leave.
& who I understand has to be
court marshalled saturday morning
I would appreciate if you as his
comanding officer in charge
would take a fatherly interest
in seeing that this young boy
gets a fair & just trial.
He is a very intelligent boy &
well liked.
His parents are scotch

His father was all through the war & was held a prisoner in germany for three years. His brother Cpl John milne is in Belgium. His sister nan was in the army but received a honorable discharge through a injury to her knee received in camp. & for which she is still receiving medical care for.
His mothers health is not good.
& has recently been under the Dr.s care. All worrys concerned is not helping her regain her health.
I realize that the offence my nephew has commited should be dealt with discipline. but we must not forget that a high school boy who voluntarily enlists at the age of seventeen years & a half & who takes an oath, we surely cant expect him at his age to realize the seriousness of breaking that oath.
I have discovered through my own experience that the much older & higher officals in Ottawa made blunders to.
I am referring to my own son, A62219 Pte John Wapies. now in Belgium He enlisted on his seventeenth birthday & was sent overseas four months later I felt any boy at that age with four months training was not in my opinion able to withstand the more frigad training in England.
So I wrote a letter to the minister of national defence enclosing my sons Birth certificate

I just celebrated his twentyth
birthday in Jan this year.
I am British I feel proud of
my young son fighting for his
country. but I also believe
in fair play where youth
is concerned.
I my only reason for stating
my sons case is just to draw
your attention to the fact
that it isnt only the young
who make mistakes.
I with the hope that my
nephew will benefit through
the attention drawn.
May God Bless you
I good Luck
Yours sincerely
yrs John Napier.

J.
W. F. R. Clement
Pres. S.C.R. Major

W. F. McClement
Pte. S.C.R. Major

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RECORD of the Declaration of a Court of Inquiry assembled at Simcoe, Ontario on the 31 day of August 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.159211 Pte. MILNE, D.F. "B" Coy.

DECLARATION

The Court declare that No. B.159211 (Reg'l No.) Pte. (Rank) MILNE, D.F. "B" Coy., (Full Name) No. 25 C.I.B.T.C., CA., Simcoe, Ontario (Unit) illegally absented himself without leave from No. 25 C.I.B.T.C., CA, at Simcoe, Ontario (Place) at 2330 hours on the 9 day of August, 1944 that he is still so absent, and that on the 15 August, 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
Voc. Sec "B"			Knife, Table .18		14
Blouse, battledress, serge 6.50	4	88	Pin, Collar, Safety .06		05
Boots, ankle, prs 5.82-2-11.64	8	73	Socks, black, prs .28		21
Caps, F.S. M.P. .70		53	Spoons .08		06
Drawers, u/cotton prs .42		32	Voc. Sec. "D"		
Puttees, D.S. prs 1 .97		73	Badge, cap .09		07
Shirt, u/Woollen 1.40	1	05	Total	$17	88
Trousers, Kh. drill shts 1.31		99			
Voc. Sec. "C"					
Brasses, button .04		03			
Comb, hair .04		03			
Fork, Table .08		06			

(E.Bark) Capt.HWE,No.25 CIBTC,CA President
(Name) (Rank) (Unit)

(A.Bianco) Lieut.,No.25 CIBTC,CA Member
(Name) (Rank) (Unit)

(H.Rotenberg)Lieut. Att'd No. 25CIBTC,CA Member
(Name) (Rank) (Unit)

Signed at Simcoe, Ontario

this 31 day of Aug 1944

Signature of Commanding Officer (J.M. Hunter) Major, No. 25 CIBTC,CA
(Name) (Rank) (Unit)

Certified true copy (E.S. Froet) Capt. & Adjt., No. 25 CIBTC,CA
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
150M—10-42 (6550)
H.Q. 1772-39-257

"C"
W. McClement
Pte. S.C.M. Regt

61

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Col. O.S. Hollinrake, (Number) (Rank) O. C. No. 2 District Depot C.A.(A). (Name) (Unit)

hereby certify that B-159211 (Number) Pte. (Rank) Milne, D.F. (Name in full)

of the C.I. (B) T.C. #25, Simcoe, Ontario. (Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) B-139754 (Number) L/Cpl. (Rank)

King A.S. (Name) Depot Regimental Police No. 2 D.D.C.A.(A). (Unit or appointment)

at Dufferin Gate Exhibition Bks. (Place) at 1405 hrs. (Hour)

on the 22 day of March 1945

Strike out words not applicable } as a deserter (or absentee without leave), and that at the time of his arrest he was wearing ~~military uniform~~ (dressed in civilian clothes).

Dated at Toronto, Ont. this 22 day of March 1945

A.S. King
(B-139754 L/Cpl. King, A.S.)

O.S. Hollinrake
(Signature, Number, Rank, Unit or appointment)

O. S. HOLLINRAKE, COL.
O.C. No. 2 DISTRICT DEPOT

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

3 63

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Captain (Rank) E.S. Frost (Name) No. 25 C.I.B.T.C., CA, (Unit)

Strike out word not applicable — hereby certify that I (~~[illegible]~~ authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Simcoe, Ontario (Place) to Toronto, Ontario (Place) for the purpose of escorting and return to Simcoe, Ontario (Place)

Full description of soldier being escorted — B.159211 (Number) Pte. (Rank) MILNE, Douglas Frederick (Name in full) No. 25 C.I.B.T.C., CA (Unit), Simcoe, Ontario (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (~~[illegible]~~ ~~transport warrants issued~~) (the transportation required) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
1 Return ticket from Simcoe to Toronto (Escort)	2.76
1 Single ticket from Toronto to Simcoe (Prisoner) via C.P.R. 23 MAR 45	1.38
TOTAL	$4.14

Dated at Simcoe, Ont., this 24th day of MARCH A.D. 1945

E.S. Frost Capt.
(E.S. Frost) Capt. & Adjt., No. 25 C.I.B.T.C., CA
Signature, rank, unit, ~~attachment if any~~ and appointment of officer Simcoe, Ont.
~~issuing transport warrants~~ (authorizing transportation)

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
(Rev. 16-42 (500))
H.Q. 175-10-181

W. P. McClement
Pres. S. C. M. Maj

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ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER ~~1099, 1941~~ 1877, 1942

(INCIDENTAL EXPENSES)

Complete description — I, B.127867 Pte. (L/Cpl.) WOOD, J.A., No. 25 CIBTC, CA
(No.) (Rank) (Name) (Unit)

Strike out words not applicable — as (escort) (~~[illegible]~~ Joint) consisting of myself

Members of escort — .....

detailed to proceed from Simcoe, Ontario to Toronto, Ontario
(Place) (Place)

Name and description of soldier escorted — to return B.159211 Pte. MILNE, D.F., No. 25 CIBTC, CA
(Rank) (Name) (Unit)

alleged to be a deserter or absentee without leave, to Simcoe, Ontario
(Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
One meal @ .75¢ 23 MAR 45 (Escort)	.75
Two collect telephone calls from No. 2 Custody Barracks Toronto, Ontario, 22 MAR 45 and 23 MAR 45 @ .58¢ each	1.16
Total	$ 1.91

Dated at Simcoe, Ont. this 24th day of MARCH A.D. 19 45

J.A. Wood L/Cpl.
B.127867 Pte. (L/Cpl.) WOOD, J.A. No. 25 CIBTC, CA
(Rank) (Name) (Unit)
~~(Signature of officer)~~ (escort) Simcoe, Ont.
Joint
Strike out description not applicable

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of all incidental expenses properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1402
7551—2-43 (A500)
H.Q. 1775-99-100

Y

W. McClement
Pres. S.C.M. Major

67

M.F.B. 355
20M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.159211	Private	MILNE, Douglas Frederick,	No. 25 CIBTC, CA Simcoe, Ontario

1. The following is a fair and true summary of the entries in the field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For Neglecting to obey standing orders	1 times	1 times
For A.W.L.	1 times	1 times
For	times	times
Number of instances of gallantry or distinguished conduct	NIL	times

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 12 days in military custody, making a total of 12 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his attestation paper is 18 8/12 years

6. The date of his attestation specified in his attestation paper 17 FEB 44

7.

8.

9. The accused is in possession of or entitled to no military decoration, or military reward

10.

68

11. In the case of an enlisted man of the accused held by the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2nd day of APRIL, 1945 Gross Capt. & Adjt.,
(R.S. Front) Capt. & Adjt.,
No. 25 C.I.B.A.D., A.,
Simcoe
Ontario

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

16-18 B-159211 Pte. MILNE, Douglas Frederick #2 DD (AF) YOUNG SOLDIER R WING # 3 Coy.

No. | Name | Sqn., Battery, or Company | Corps | Date of enlistment 17 FEB 44 | G.C. Badges | Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 500M—11-40 (8525) H.Q. 1772-43-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. one | Signature O.C. Company, etc. E.J. Hainsworth, Capt (Sgd) | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Section 11 A.A.					
Toronto	12 April 44			Neglecting to obey Standing Orders. Open arrest	Sgt. Eagleson	14 days C.B.	12 Apr. 44	W.A.Kyle Major	WA Kyle
Simcoe, Ont	2 Aug 44	Pte		A.W.L. from 2330 hrs. 2 Aug 44 until 0050 hrs. 3 Aug 44. (1 hr. 20 min) A.A. Sec. 15 (1)	L/Cpl Primok Documentary	3 dys C.B.	3 Aug 44	Capt. E. Bark	EB

CERTIFIED TRUE COPY

Attest Capt Adjt.

(E.S. FROST) CAPT & ADJT.
#25 CIBTC, CA, Simcoe, Ontario.

(P.T.O.)

Z

E.P. McClement
Pte
O.C. major

MEDICAL OFFICER'S REPORT

I certify that No. B.159211 Pte. Douglas Frederick MILNE

of No. 25 CIBTC, CA is in a Good state of health,

and Fit to undergo Trial by Court martial.

A S Tauber Capt

Medical Officer
(A.S. Tauber) Capt., RCAMC, CA,
Att'd. No. 25 CIBTC, CA, Simcoe, Ont.

Station Simcoe, Ontario

Date 2 APR 45

M. F. B. 246
25M—6-43 (4744)
H.Q. 1773-30 600

W.P. McClement
Pres. S.C.M. Major

H.Q.C.55-M-1644(JAG/D-1)
Your File No. T.WO-M-18608(AJAG)

12 Apr 45

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

STANDING COURT-MARTIAL

B-159211 Pte. Douglas Frederick Milne
No. 25 Canadian Infantry (Basic) Training Centre, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde), Brigadier,
Judge Advocate-General.

ALT/MR

This copy from H.Q. C.55-M-1644
M.D. T.20-M-18608

G.S.

MEMORANDUM - STANDING ~~DISTRICT~~ COURT-MARTIAL

No. B.159211 Name MILNE, Douglas Frederick

Rank Pte Unit No. 25 C.I. (B) T.C. CA

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 9-8-44

Date of Arrest 22-3-45 Charge Signed 27-3-45

Orders for D.C.M.

Place and Date of Trial No. 25 C.I. (B) T.C. CA Simcoe Ont 2-4-45

Sentence Det 60 days; stoppages $6.05

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36709

Date 10-4-45

Balance of sentence remitted by Conf. Auth. 20-4-45

MEMO Guilty A.W.L.

M.D. 2 - No. 25 CI(B)TC CA

Absent	Sentence
7½ mos	Det. 60 days

A.C. Taylor Capt
for Judge Advocate-General

10M-1-45(M-4629)

No irregularities noted 12 Apr 45 [illegible]

IN REPLY PLEASE QUOTE No. T-20-M-18608 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No.2,
150 Bay Street, Toronto, Ontario,
6th April 1945.

CENTRAL REGISTRY AHQ
CONF. SEC.
APR 9 1945
File 64
Chgd. to
Referred to

CONFIDENTIAL

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL

B-159211, Pte. Douglas Frederick MILNE,
No. 25 Canadian Infantry (Basic) Training Centre, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

W.P. McClemont

(W.P. McClemont) Major
President
Standing Court-Martial.

36701

NAT. DEF. B. AAG
2500M-6-44 (4320)
H.Q. 1772-99-767

H.Q.C. 55-M-1645

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MUNDY. DANIEL JAMES A.111928 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				J. A. G.	NEW FILE	C.R.	APR 9 - 1945
				J.A.G.	With Papers C.R. APR 28 1945		
MAY 2 1945				D.C.M.	To note, pls.		1-5-45

CONFIDENTIAL
H.Q.C. 55-M-1645

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1645 (JAG/D-7)

30 Apr 45.

District Officer Commanding,
Military District No. 1,
London, Ontario.

Standing.....Court-Martial

A.111928 Pte. Daniel James MUNDY
No. 12 C.I. (B) T.C.

Receipt is acknowledged of your L.28-M-1154 (AJAG) dated 26th April, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

Note & file copy.

L. H. CLAYTON
Lieut.-Colonel
Inspector of Courts-Martial
MAY 2 1945

/ET

E.K.M. Capt
for (R.J.Orde) Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE
No. L.28-M-1154 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

309968

H.Q. MD 1 London, Ont., 26 Apr 1945

CENTRAL REGISTRY Army
COMF. S.C.
APR 28 1945
File 655-M-1645
Chgd. to
Referred to JAG

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada.

STANDING COURT-MARTIAL
A.111928 Pte. Daniel James MUNDY
No. 12 C.I. (B) T.C.

Reference H.Q.C. 55-M-1645 (JAG/D-7) d/10 Apr 45.

2. The proceedings of the m/n Standing Court-Martial are returned herewith for custody as directed.

for (P. Earnshaw), Brigadier
D. O. C. M.D. 1

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No.12 C.I.(B) T.C., CA Chatham, Ont.

on the 6th day of April 19 45 at 1000 hours,

for the trial of: A.111928 Pte Daniel James MUNDY
Number Rank Full Name

No.12 C.I.(B)T.C., CA
Unit Attachment, if any

PRESIDENT: Lt-Col H.C.Cameron, M.C., President Courts-Martial MD 1

PROSECUTOR: Major D.R.Nairn, E.D., Permanent Prosecutor MD 1
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ ~~OR~~ DEFENDING OFFICER: Lieut D.F.Preston, No.12 C.I.(B)T.C., CA
Rank Full Name Unit Attachment, if any

FINDING: Guilty.

SENTENCE: To undergo detention for a period of ninety (90) days.

Extracts entered as No. 36710 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 10 day of April 194 5

Signed at Chatham, Ontario this 6th day of April 194 5

(H.C. Cameron) Lt-Col
President, Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No,Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do ~~you object to~~ ~~as interpreter ?~~

Answer:

Question to the accused. Do you object to A.99632 SM(WO I)Hagen,G.B.,CSMC HQ MD 1 as shorthand writer ?

Answer: No,Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, Sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Guilty, Sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

D2.
Cameron
Pres. S.C.M.

CHARGE SHEET

The accused, A.111928 Pte. Daniel James MUNDY, C.J.C., No. 12 Canadian Infantry (Basic) Training Centre, Chatham, Ontario, a G.S. soldier of the Canadian Army, placed on Active Service, is charged with:

CHARGE
Sec. 15(1) A.A.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Chatham, Ontario, on the 17th day of December, 1944, absented himself without leave from No. 12 Canadian Infantry (Basic) Training Centre, Chatham, Ontario, from 2359 hrs. on the said 17th day of December, 1944, until surrendering himself at No. 12 Canadian Infantry (Basic) Training Centre, Chatham, Ontario, at 1245 hrs. 3 Apr 45, dressed in military uniform.

Chatham, Ontario.
4 Apr 45.

(E.M.Ansell) Lt.Col.,
Officer Commanding,
No. 12 C.I.(B) T.C.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge. VA-DRD

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No,Sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No,Sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, Sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No,Sir.

R.P. 37 (d). *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No,Sir.

Question to the accused. Do you wish to address the Court?

Answer. I have nothing to say, Sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Y [illegible] Pres. S.G.M

M.F.R. 189
TSM—5-41 (1941)
H.Q. 1773-99-630
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A.111628	Pte.	MUNDY, Daniel James	C.I.C. No. 12 C.I.(B) T.C.

1. The following is a fair and true summary of the entries in the Field ~~Service Conduct Sheet~~ ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L. - 1	times	A.W.L. - 1	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charges for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.A. 73 A.A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and [illegible] days in military custody, making a total of [illegible] days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 27 yrs. 5 mos.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 20 Nov 44

7. ~~The service which the accused is allowed to reckon towards discharge is .....~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to). State any air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the ~~air force~~ military rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of Apr 45 J.E.Simpson
(J.E.Simpson) Lt.,Ass't Adjt.,
No.12 CI(B)TC Chatham Ontario.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

M.F.M. 6

Date of Birth

Date of enlistment or enrolment 20 Nov 44

Sheet No. 1 of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Reg. No. A.111528 Name MUD DY, Daniel James Corps CIC

Signature O.C. Company, etc. P.E.Renn, Capt.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
#1 R.D. London, Ont.	2 Dec 44	Pte.		AWL from 2350 hrs. 2 Dec 44 until 1150 hrs. 4 Dec 44 (Total absence 1 day, 11 hrs. 52 mins) Sec.15(1)A.A.	Cpl.Shears,J.J.	Admonished	5 Dec 44	Capt. H. Dorrington	Forfeits 2 days pay 149(1)(a) FR&I
				CERTIFIED TRUE COPY J.E.Simpson (J.E.Simpson) Lt., Ass't Adjt., No.12 CI(B)TC Chatham, Ontario.					

(P.T.O.)

M.F.M. 6—500M—9-44 (5398)
H.Q. 1212-29-1632

Allegation SOBC
Sec. 30 M.

MEDICAL OFFICER'S REPORT

I certify that No. A111928 - Pte. MUNDY, Daniel James

of #12 C.I.(B)T.C., is in a Good state of health,

and f it to undergo Trial by Court martial.

Capt.
Medical Officer
No. 12 C.I.(B)T.C.,

Station Chatham, Ontario.

Date 6 Apr 45.

M. F. B. 246
50M—12-42 (3222)
H.Q. 1773-99-400

PRECIS OF EVIDENCE

in the case of

A.111928 Pte. Daniel James MUNDY, C.I.C., No. 12 Canadian Infantry (Basic) Training Centre, Chatham, Ontario, a G.S. soldier of the Canadian Army placed on Active Service.

CHARGE ABSENCE WITHOUT LEAVE

To prove the charge, the following evidence is available:-

Documentary Evidence: - M.F.B. 375
M.F.M. 216

A.111928 Pte. Daniel James MUNDY, C.I.C., the accused, will be present for trial by the Standing Court-Martial at No. 12 C.I.(B) T.C., Chatham, Ontario, when advised.

Chatham, Ontario.
4 Apr 45.

(E.M.Ansell) Lt.Col.,
Officer Commanding,
No. 12 C.I.(B) T.C.

No. 12 C.I.(B) T.C.

RECORD of the Declaration of a Court of Inquiry assembled at Chatham, Ontario

on the 10th day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A.111928 Pte. MUNDY, Daniel James, C.I.C., No. 12 C.I.(B) T.C.

DECLARATION

The Court declare that No. A.111928 (Regt'l No.) Pte. (Rank) MUNDY, Daniel James (Full Name) C.I.C. No. 12 C.I.(B) T.C. (Unit) illegally absented himself without leave from No. 12 C.I.(B) T.C. at Chatham, Ontario (Place) at 2359 hours on the 17th day of December 1944 that he is still so absent, and that on the 15 Jan 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Blouses Battle Dress	(1)	$6	50	Neckties Black	(1)		19
Boots Ankle prs.	(1)	5	82	Pins Collar Safety	(1)		06
Drawers Woollen prs.	(1)	1	40	Shirts Khaki Cotton	(1)	1	54
Gloves Woollen Crosswise prs	(1)		66				
Greatcoats Drab 1939 Patt.	(1)	15	54				
Jersey Pullover	(1)	1	65		TOTAL	$43.	09
Trousers Battle Dress prs.	(1)	6	55				
Shirts Woollen	(1)	1	20				
Badges Cap	(1)		09				
Braces prs.	(1)		28				
Dressings First Field Mk.III	(1)		21				
Housewives	(1)		35				
Caps Winter Melton Cloth	(1)	1	05				

(sgd) E.A. Daly, Capt., No.12 CI(B)TC President
(Name) (Rank) (Unit)

Signed at Chatham, Ontario ..... Member
(Name) (Rank) (Unit)

this 15th day of January 1945 ..... Member
(Name) (Rank) (Unit)

Signature of Commanding Officer (sgd) E.N.Ansell, Lt.Col., No. 12 C.I.(B) T.C.
(Name) (Rank) (Unit)

Certified true copy J.E.Simpson Lt., Asst Adjt., No. 12 C.I.(B) T.C.
(Name) (Rank) (Unit)
(J.E.Simpson) (Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
1501M—10-43 (8530)
H.Q. 1772-39-267

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, LT.COL. E. M. ANSELL, M.C., V.D. (Number) (Rank) # 12 C.I.(R) T.C., Chatham, Ontario (Name) (Unit)

hereby certify that A.111928 Pte. MURDY, Daniel James (Number) (Rank) (Name in full)

of the # 12 C.I.(R) T.C., Chatham, Ontario (Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended~~ by (surrendered to) A.56046 Sgt. ALLEN, R.T. (Number) (Rank)

12 C.I.(R) T.C., Chatham, Ontario Regt. Police (Name) (Unit or appointment)

at Chatham, Ontario (Place) at 1245 hrs (Hour)

on the 3rd day of April 19 45

Strike out words not applicable } as a deserter (~~absent without leave~~), and that at the time of his arrest he was wearing military (~~air force~~) uniform (~~dress or civilian clothes~~).

Dated at Chatham, Ontario this 3rd day of April 19 45

E M Ansell

(Signature, Number, Rank, Unit or appointment)
(E.M.Ansell) Lt.Col., Officer Commanding,
No. 12 C.I.(R) T.C., Chatham, Ontario

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (8900)
H.Q. 1772-39-1936

H.Q.C.55-M-1645 (JAG/D-7)
Your File - L.28-M-1154

10 Apr 45.

District Officer Commanding,
Military District No.1,
London, Ontario.

STANDING COURT-MARTIAL
A.111928 Pte. Daniel James MUNDY
No. 12 C.I. (B) T.C.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LJR/ET

4

THIS COPY FOR: H.Q. C.55-M-1645
M.D. L.28-M-1154

G.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. A.111928 Name MUNDY. Daniel James

Rank Pte Unit C.I.C. No. 12C.I. (B) T.C. CA

Charge A.A. 15 (1) - A.W.L.

Date of Crime 17-12-44

Date of Arrest 3-4-45 Charge Signed 4-4-45

Orders for D.C.M.

Place and Date of Trial No. 12 C.I. (B) T.C. CA Chatham Ont 6-4-45

Sentence Det 90 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36710

Date 10-4-45

MEMO

M.D. 1 - No. 12 CI(B)TC CA

Absent	Sentence
4½ mos	Det. 90 days

D. Gregan Capt
for Judge Advocate-General

10M-1-45 (M-4629)

No serious irregularities observed

R.J. Ryan Co

10 aps 45°

IN REPLY PLEASE QUOTE

No. L.28-M-1154

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CENTRAL REGISTRY Army
CONF SEC
APR 9 1945
File CJS M-1623
Chgd. to
Referred to

H.Q. MD 1 London, Ont., 6 Apr 1945

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada

STANDING COURT-MARTIAL
A.111928 Pte. Daniel James MUNDY
No. 12 C.I.(B) T.C.

Enclosed herewith are the proceedings of the m/n Standing Court-Martial which took place at Chatham, Ontario, 6 Apr 45.

H. Cameron Lt Col
(H. C. Cameron), Lieut-Col.,
Pres. Standing Courts-Martial
M. D. 1

3610

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

H.Q.C. 55-M-1646 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MITCHELL. CHARLES DANIEL B.626142 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1646

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
APR 13 1945				A.G.	NEW FILE C.R.		APR 9 - 1945
					With Papers C.R. MAY - 2 1945		
MAY 9 1945				J.C.M.			
MAY 11 1945					PER B.F. MAY 12 1945		
MAY 22 1945				J.C.M.	With Papers C.R. MAY 24 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. T-20-M-10163(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

315481

19th May, 1945.

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
MAY 21 1945
File C55-M-1646
Chgd. to
Referred to J.C.M.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Report on Conduct
B-626142, Pte. Charles Daniel MITCHELL,
No. 2 District Depot, C.A.

Reference H.Q.C. 55-M-1646 (ICM) dated 11th May, 1945.

2. Herewith Report on Conduct of the marginally-noted soldier, duly completed.

for Burrell M. Dougan Capt
(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

N.D. 23
3 Mil.—11-43 (2979)
H.Q. 1772-101-23

REPORT ON CONDUCT I.C.M. - B

Department of National Defence,
H. Q. C. 55- M-1646, (ICM)
OTTAWA, 11 MAY 1945.

To:- Commandant
No. 61 Brampton, Military Detention Barracks.

1. Soldier under sentence	B626142 Pte. C.D. MITCHELL,
2. PLEASE STATE:-	
(i) Date of sentence 28-3	28 Mar 45
(ii) Sentence 5 m	5 mths
(iii) Date you received soldier 29-3	29 Mar 45
(iv) (a) Can soldier read and write? Yes	YES
(b) Religion CE	C. OF E
(c) Married, Widower, Single S	SINGLE
(d) What Army trade has soldier? N	NONE
(v) (a) Conduct of soldier Much Improved	MUCH IMPROVED
(b) Industry of soldier Good	GOOD
(c) Remission earned:-	
(i) Number of days actually earned 15	15 days
(ii) Number of days obtainable to date 17	17 days
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	M/N is in a good state of physical and mental health.
(a) Whether detention will seriously aggravate soldier's condition.	NO
(b) Whether further confinement is likely to prove fatal.	NO. G. Slocombe Capt R.C.A.M.C.
(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence? Yes after 4 Jun 45	YES AFTER 4 Jun 45
(b) Moral effect confinement has had? Effective	EFFECTIVE
(c) If returned to Army, is soldier likely to become a good soldier? Yes, slow thinker but a hard worker	SLOW THINKER, BUT A HARD WORKER
(viii) Date term will expire if all remission earned from now on. 4-7	4 Jul 45

(A. E. Walford)
Major-General
Adjutant-General.

Signature A W Lewling Capt.
Commandant.
Date of Report: 17 May 45

5M-1-45(M-4525)
LHC:WS.

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1646,(ICM)
OTTAWA, 11 MAY 1945.

Your File - T.20-M-10163

District Officer Commanding,

Military District No. 2,

TORONTO, Ontario.

B62614.2 Pte. C.D. MITCHELL,

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in No. 61 Brampton, Military Detention Barrack, under your command, a sentence of 5 months' detention awarded by a Standing, Court-Martial on the 28 day of MAR 1945.

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LRC:WS.

5M-2-45(M-4516)

H.Q.C.55-M-1646 (JAG/D-3)

5 May 45

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

Standing Court-Martial

B-626142, Pte. Charles Daniel MITCHELL
No. 2 District Depot, C.A.

Receipt is acknowledged of your dated 1 May 194 , under cover T-80-M-1016(JAG) returned to this office for custody the proceedings of the marginally noted Standing Court-Martial. together with M.F.M.288.

Noted
L. M. CLAYTON
Lieut-Colonel
MAY 8 1945

EKM
Capt
for (Major-General) Judge Advocate General.

5M-3-45(M-4664) I.C.W. - L 4314

REVIEW OF SENTENCE

DATE MAY 7 - 1945

H.Q.C. FILE: 55-19-1646

1. NO. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES AWOL from 6 July 44, arrested 19 March 45 8½ mos.

8. PREVIOUS CONDUCT ~~ENLISTED~~ ENROLLED 5 Oct. 42 AGE 25
Enrolled 20-4-1111-45
8-12-42 AWOL 4½ hrs. 14 days CB on 15-12-42

9. STATEMENT OF ACCUSED Farmer. Applied for farm leave just before furlough. Promised I'd get it. Didn't. So went on leave to pay taxes on the farm & look after crop I'd put in. Intended to return this spring as soon as I'd paid taxes so I wouldn't lose the farm.

10. RECOMMENDATION

IN REPLY PLEASE QUOTE No. T-20-M-10163 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

310543

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
1st May, 1945.

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

MAY 2 1945
File C55-M-1646
Chgd. to
Referred to

Standing Court-Martial
E-626142, Pte. Charles Daniel MITCHELL
No. 2 District Depot, C.A.

Reference H.Q.C. 55-M-1646 (JAG/D-3) dated 12th April, 1945.

2. Herewith returned Proceedings of the marginally-noted Standing Court-Martial, together with M.F.M. 288, pursuant to C.A.R.O. 4567(7)(C)(e).

3. Pursuant to H.Q. 55-1-41 FD 74 (Admin) dated 16th January, 1945, there appears to be no necessary administrative action arising from the Proceedings.

(A.E. Potts)
Major-General
D.O.C. M.D. 2.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of B.626142 (Number) Private (Rank) MITCHELL, Charles Daniel (Name in full)

No. 2 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to Five months detention

on 28th day of March 1945 at Stanley Bks;Toronto,Ontario.

being served at Brampton Military Detention Barracks, Brampton,Ontario. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 years of age; Enlisted 5 Oct. 42

Medical grade or category YOB PULHEMS 20 4 1 1 1 1 4 3 23 Dec. 43

FIRST TRIAL—PART II

To ADJUTANT-GENERAL (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~kept~~ committed to undergo his sentence, which I recommend should ~~not~~ be ~~suspended (put into execution)~~ (reviewed on 15 June 1945 (date)) for reasons given in paragraph X.

Place TORONTO, Ontario,

Date 27th April, 1945

(Confirming Authority)
(A.E.Potts)
Major-General
D.O.C.
M.D.2.

Arthur E Potts

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution)

(and) be reviewed on

Place

Date

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To (Superior Military Authority)

For details of offences see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date

(Confirming Authority)

M.F.M. 288
(Army Form A-2104)
15M—6-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
MAY 22 1945	No Suspension or Remission No further Review	J.J. Eyles Lt Col Adjutant-General for Superior Military Authority	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE Sec.12(1)(a) Army Act. B.626142 - Pte. MITCHELL,C.D. an N.R.M.A.,soldier of the C.A.,placed on Active Service,is charged with; WHEN ON ACTIVE SERVICE,DESERTING HIS MAJESTY'S SERVICE: in that he-absented himself from No.24 C.A.(B) T.C. Brampton,Ont. at 0600 hr. 4 July 44 until he was apprehd. by the Military Police at Hamilton,Ont.,at 1615 hr. 19 March 45. dressed in civilian clothes. J.J. Eyles Capt.Adj., Signature of Officer making entry (J.J.Eyles) No. 2 District Depot,C.A.	4 July 44	28 March 45.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
24 Apr.	The sentence awarded to this soldier was fair. His ability and usefulness as a soldier especially in view of his Pulhems grading, must be considered doubtful. Recommend to serve sentence.	A.S. Hallowsade, Col.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
27 Apr 45	Sentence to be reviewed on 15th June, 1945.	Arthur E. Potts (A.E.Potts) Major-General D.C.G. M.D.2.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

STATE OF TRAINING

This soldier completed his basic training on the 25th of May 1943, but does not appear to have had any advance training.

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, TORONTO, Ontario

on the 26th day of March 19 45 at 1400 hours,

for the trial of: B 62142 Private Charles Daniel MITCHELL
Number Rank Full Name

No 2 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major R.D. EVANS, (Loyne Scots) Headquarters M.D. 2

PROSECUTOR: Major N.M. MENZIES ED, Headquarters M.D. 2
Rank Full Name Unit Attachment, if any

COUNSEL
DEFENDING OFFICER: Lieutenant R.F. WRIGHT, (RCA) No 2 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: NOT GUILTY OF DESERTION BUT GUILTY OF ABSENCE WITHOUT LEAVE ON THE CHARGE

SENTENCE: TO UNDERGO DETENTION FOR FIVE (5) MONTHS

Signed at TORONTO, Ontario this 26th day of March 1945

Extracts entered as No. 36721 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 10 day of Apr. 1945

Major,
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter?~~

Answer:

Question to the accused. Do you object to W11059 S-Sgt I.C. GOBSON C.M.A.C. No. 2 Det C.M.S.C. as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any)~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or Other Court-Martial~~?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

Bl. [illegible] Regd.

President. S.C.M.

CHARGE SHEET

The accused, No. B-626142, Private Charles Daniel MITCHELL, No. 2 District Depot, C.A. an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:-

CHARGE
Sec. 12 (1)(a) Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE:

- in that he -

at Brampton, Ontario, on the 6th day of July, 1944, absented himself from No. 24, C.A.(B)T.C., at 0600 hours, on said 6th day of July, 1944, until he was apprehened by the Military Police, at Hamilton, Ontario, at 1615 hours, on the 19th day of March, 1945, dressed in civilian clothes.

[illegible] Colonel
Officer Commanding,
No. 2 District Depot, C.A.

Toronto, Ontario,
23rd March, 1945.

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. B58203 Pte (L/cpl) R.N. HEWER, Home War Establishment, No 2 District Depot, C.A.,

being duly sworn, is examined by the Prosecutor.

Question

Q What is your position in No 2 District Depot ?

A I am an N.C.O. of the Home War Establishment.

Q Do you know the accused ?

A I recognize Private Mitchell, sir.

Q Have you any information to give the Court regarding the accused ?

A I produce M.F.B. 375 being a Certified True Copy of the Record of the Declaration of a Court of Inquiry assembled at Exhibition Barracks, Toronto Ontario on the 20th of October, 1944; signed by J.J. Eyles, Captain and Adjutant No 2 District Depot, C.A.; officer having custody of the original records.

Q To whom does that document refer ?

A The accused, sir.

Q ---PRESIDENT: (To Defending Officer) Any objection to the admission of this document, Mr. Wright ?

A No objection, sir.

(DOCUMENT IS READ MARKED EXHIBIT "F" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS)

---WITNESS: I further produce M.F.M. 216 being a Certificate of Apprehension signed by Sgt W.F. Robertson, N.C.O. in charge of No 2 Detachment No 31 Company Canadian Provost Corps, Hamilton Ontario.

Q ---PROSECUTOR: To whom does that document refer ?

A The accused, sir.

Q ---PRESIDENT (To Defending Officer) Any objection to this document, Mr. Wright ?

A No, sir.

(DOCUMENT IS MARKED EXHIBIT "G" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS)

---WITNESS: That is all the evidence I have, sir.

THE DEFENDING OFFICER DECLINES TO CROSS EXAMINE.

---PRESIDENT: There are no questions by the Court, Corporal.

---THE WITNESS WITHDRAWS.

---THE PROSECUTOR: The Case for the Prosecution is closed, sir.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

t Witness
FOR DEFENCE

The accused, B 526142 Private Charles Daniel MITCHELL, No 2 District Depot, C.A. being duly sworn is examined by the Defending Officer:/

Q Private Mitchell, are you married or single ?

A Single, sir.

Q What is your civilian occupation ?

A Farmer .

Q Were you farming when you were absent without leave ?

A Yes, sir.

Q Where is your farm and about how many acres have you got ?

A A hundred acres between Hamilton and Guelph.

Q Were you working on the farm long ?

A Yes, sir.

Q Can you tell the Court in your own words what happened prior to your absenting yourself; in other words about your furlough and requesting farm leave .

A I applied for farm leave just before I got my furlough and they promised they would give me my farm leave. So I took my furlough and planted some seed on the farm and figured I'd get my farm ploughed anyway. I didn't get farm leave so I went on the loose for to pay the taxes on the farm.

Q When was your furlough ?

A It was in May, I don't know just when.

Q Last May, 1944 ?

A Last May.

Q What were your reasons for absenting yourself at that time ?

A Mainly to look after the crop I had put in on furlough and to pay my taxes.

Q Did you intend to pay the taxes with the proceeds from the crop you put in on your furlough ?

A Yes, sir.

Q Can you tell the Court - did the Army give you any reasons for not giving you farm leave after having promised it to you ?

A No, I can't

Q They didn't give you any reason ?

A No, sir.

Q Would you lose your farm if the taxes were not paid ?

A Yes, sir.

Q When did you intend to return to the Army ?

A As soon as I had the taxes paid. This spring.

Q Did you expect the proceeds from the crop you planted on your furlough would be sufficient to pay the taxes ?

A Yes, sir.

Q Were they ?

A No, sir.

Q How did you raise the rest of the money ?

A Logging in the bush on the farm.

Q When was that ?

A During the winter.

Q Have you someone looking after the farm at the present time since you were apprehended ?

A Yes, sir.

Q Who is that ?

A I don't know how you would say it. He has been looking after it for a little while. He is just looking after it for the time being.

Q Can he stay indefinitely ?

A No, sir.

Q Have you any stock on the farm ?

A Yes, sir.

Q How much ?

A Four horses; two sheep, I had eight and I sold some, so I can't count anything on that; three pigs; twenty-five ~~hens~~ - hens - hens; two turkeys.

Q ---THE PROSECUTOR CROSS-EXAMINES: Where was your home when you were called up ?

A In Hamilton at the time .

Q When was that ?

A In '42, I believe, sir.

Q In October was it ?

A Yes, sir.

Q Your home was in Hamilton - when did you go to this farm ?

A I had the farm before. I was working a little while in Hamilton.

Q Who was looking after the farm when you were called up ?

A I had a fellow looking after it.

Q At the time you were called up you weren't actually farming, is that right ?

I guess you could say that.

Q What were you doing at the time you were called up in Hamilton.

A I was working in a steel plant.

Q You say you got a furlough in May 1944, wasn't it ?

A Yes, sir.

Q Where were you stationed at that time ?

A In Brampton, sir.

Q Did you return from that furlough ?

A Yes, sir.

Q When were you supposed to get this farm leave ? At the end of this furlough, is that right ?

A Yes, sir, as far as I know.

Q Just about when was that furlough up in May ?

A I don't know just when. I think towards the end of May.

Q Would it be the 21st ?

A Somewhere around that.

Q You say you returned ?

A Yes, sir.

Q Did you ask about farm leave after you returned ?

A Yes, sir.

Q You say nothing was done ?

A Yes, sir.

Q Did you go absent on the 6th of July as charged ?

A Yes, sir.

Q Did you stay away until the 19th of March, 1945 ?

A Yes, sir.

Q And were you dressed in civilian clothes ?

A Yes, sir.

Q You say you have a hundred acres. How many are under cultivation ?

A About forty acres.

Q What is the rest ?

A Bush and pasture.

Q You say the authorities didn't give you any explanation as to why you didn't get your farm leave ?

A Not that I know of.

Q Do you think the reason might be that you weren't farming when you were called up ?

A I don't know, sir.

Q You say you were working in steel plant ?

A Yes, sir.

Q Do you think that might be the reason ?

A I don't know, I am sure.

Q What were conditions when you asked for leave ? Was the man who looked after it going away ?

A I wanted to look after it to pay the taxes I got on it.

Q Had this man who was on it left ?

A Yes, sir.

Q How long after you were called up did he leave ?

A A Year or so.

Q Would that mean the farm would be a year idle ?

A Yes, sir.

Q You say there were taxes on the farm - about how much taxes were against the farm in the summer of 1944 ?

A 1944 ?

Q Yes.

A About a year's taxes.

Q How much in money ?

A More than a year, but I paid that up before.

Q How much money was owing at the time you went absent, what amount, that is what I am trying to get at.

A Thirty dollars, I guess.

Q How much did you get from your crop that you planted while on furlough ?

A I don't know. I didn't keep track of it.

Q You say not enough to pay the taxes, is that right ?

A Yes, sir.

Q You say you worked at logging the rest of the time to pay the taxes, is that right?

A Yes, sir.

Q Were the taxes paid when you were picked up in March of 1945 ?

A No, sir.

Q Your crop that you got from the seed you planted in May during your furlough was not enough to pay the taxes and then you worked in the bush and you say you still didn't have the thirty dollars paid ?

A No, sir, I didn't have it paid in March or the end of February.

Q Not until then, or you didn't have it paid then ?

A Not till then.

Q You had it paid at the end of February and you weren't picked up until the 19th of March.

A I was trying to get someone to look after the place

Q You had paid the taxes and were trying to get someone to look after the place ?

A Yes, sir.

Q When did this man start ?

A Just when I was picked up.

Q Had you arranged for him before, or did you get him then ?

A I just got him that day.

Q You just got him the day you were picked up, is that right?

A Yes, sir.

Q Were you going to come back when you got that man ?

A Yes, sir.

Q When would you have come back if the Provost had not picked you up ?

A The next day.

Q Did you wear civilian clothes when you were picked up ?

A Yes, sir.

Q Did you wear your uniform while you were away ?

A Yes, sir.

Q When, did you wear it all the time ?

A I would wear it sometime.

Q Did you wear it in the daytime ?

A Not to work in.

Q Did you wear it at night and on week ends when you went out ?

A Yes, sir, sometime

Q ---THE DEFENDING OFFICER RE-EXAMINES : Whattime of the year was it when you joined the Army ?

A When I first joined it was in October, 1942, I believe.

Q Had you been working in the Steel Plant long before then ?

A No, sir.

Q Am I right in saying you worked the farm in the summer of 1942 and after the crop was in you went to Hamilton to work in the Steel mill?

A Yes, sir.

Q How much taxes were owing on the farm by February of this year when you make your payment ?

A February of this year ?

Q How much did you pay then ?

A About thirty dollars.

Q ---QUESTIONED BY THE PRESIDENT: Were you born and brought up on the farm ?

A Yes, sir.

Q How many years did you spend on the farm before being called up by the Army ?

A About twenty-two years.

Q That, I take it, is most of your life ?

A Most of my life, sir.

Q Before you were enrolled in the Army in October of 1942, had you had anyone else with you on this particular farm ?

A No, sir.

Q Do your mother and father live nearby, or are they living ?

A My mother and father are living. They live in Hamilton.

Q In the city of Hamilton ?

A Yes, sir.

Q Did they formerly farm ?

A They did at one time; they don't now.

Q When did they cease ?

A About five or six years ago.

Q Did you get that farm from them or did you get it from some other place ?

A I got it from my father.

Q How did you happen to go to the Steel Mill and leave the farm ?

A I owed some money on the farm. I wanted to earn some money and pay off the farm.

Q How much money did you owe then ?

A About five hundred dollars.

Q From your work in the steel mill were you able to pay that off ?

A No, I couldn't. I didn't work there long enough

Q I take it you put the money you earned on the farm ?

A I put it on the farm.

Q When you went on the loose in July, 1944, you say you only owed thirty dollars taxes ?

A Yes, sir.

Q You say by February 1945 you had not been able to earn enough to pay the thirty dollars taxes ?

A Yes, sir.

Q How do you explain that ?

A The explanation for that is you can't go and make money like you could in civilian life when there is nothing to interfere with you .

Q No, but I happen to know something about a farm myself. What I want to know is why you wouldn't be able to earn thirty dollars between July 1944, and February 1945, working on the farm and logging in the bush in the winter time ?

A I had all my seed. I had to pay for that. The crop didn't turn out as good as I expected.

Q How much did you realize from your logging operations in the bush ?

A I don't know just how much I got

Q Approximately ?

A About thirty-seven dollars, but I had other things to pay out of that besides.

Q Yes, I quite appreciate that. How many cords of wood did you cut there ?

A I don't know how many cords of wood I cut.

Q You must know that. You are a farmer. Approximately how many ?

A I can't just tell you. We cut it and sold it as we cut it.

Q You say you got thirty-seven dollars for it ?

A Yes, sir.

Q How many cords does that represent ?

A That would be two thousand feet of logs.

A Apparently everything went along quite well from the time you came into the Army in October of 1942, until you applied for the farm leave in 1944, is that correct ?

A It went along, sir.

Q Who was operating the farm during that period ?

A There was nobody operating the farm.

Q I see. It was lying idle ?

A Yes, sir.

Q When you went home in July of 1944 there would be no seeding to be done would there ?

A No, sir, only what I did on my furlough

Q It was simply a matter of raising what you had planted on furlough and then doing your fall ploughing, am I right ?

A Yes, sir, quite right.

Q Did you ever attempt to get in touch with anyone in the Army at Brampton when you were away ?

A No, sir, I don't believe I did.

Q Why did you not attempt to get in touch with someone there ?

A I don't know, sir.

Q Why did you wear your uniform on some occasions and not on others ?

A Cause I was scared they were going to have me up for desertion, that's about it.

Q Where exactly is your farm ?

A It is between Hamilton and Guelph ?

Q I know, but near what place ?

A Four miles north of Freelton.

Q And during the period of your absence did you ever run into the Provost any place ?

A No, sir.

---PROSECUTOR: Would you ask the accused if this seed that he had to pay for from this logging operations was that seed for this coming Spring ?

Q ---PRESIDENT: The seed you bought from the money you made on logging operations, was it the seed you required to use in the Spring of 1945 ?

A 1944, sir.

---PROSECUTOR: Ask the accused did he owe the taxes of thirty dollars and the seed as well.

Q ---PRESIDENT: Did you owe for the taxes of thirty dollars and also for the seed you had purchased during the year of 194- ?

A Right, sir.

Q ---PRESIDENT (To Defending Officer) Any questions ?

A No, sir.

---THE ACCUSED RESUMES HIS PLACE.

THE PROSECUTOR AND DEFENDING OFFICER MAKE CLOSING ADDRESSES WHICH ARE RECORDED BUT ARE NOT TRANSCRIBED

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir, I wish to say something myself and I wish my Defending Officer to speak for me. (See following page)

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

STATEMENT BY THE ACCUSED AND HIS DEFENDING OFFICER IN MITIGATION OF PUNISHMENT:

--- ACCUSED: When I first came into the Army, sir, I didn't go active, being as how I had the farm. If I could get things fixed up on the farm, and could get a draft to go overseas - could that be arranged ?

---PRESIDENT: It isn't up to me to say what is going to happen to you. I am merely the President of a Court-Martial sitting here to hear this charge against you today. I have no doubt your Defending Officer will give you such instructions you need with regard to your going active. I can't point that out today, but there is a way of doing that and you can find out from your Defending Officer.

---DEFENDING OFFICER: With regard to punishment to Private Mitchell, I would like to plead mitigation for the following reasons:

His M.F.M. 6 which is clean except for a short, very short, absent without leave charge, at the beginning of his Army career.

His PULHEMS is M-4 S-3; and he has had very little education. While no training record or officer's remarks are available on Private Mitchell, I feel sure that he has been a thoroughly good soldier since 1942 judging from his crime record.

Also I feel that in this case the blame does not all rest on the man's shoulders. He should not have been led to believe he would get his farm leave to reap his crop;if he had thought that for a moment he would not be given his farm leave, I feel sure he would not have spent his furlough sewing his crop.

I believe the conditions whereby a soldier's farm and his means of livelihood after the war could be taken away from his while he is in the Army should not exist; and that is what would have happened in this case. While he was in the Army his farm would have been sold for taxes if he had not gone back to pay for the taxes.

The farm is now in a good condition to produce this year. There is a considerable amount of stock on the farm at present as Private Mitchell has told the Court. If this man could operate it this year

he could produce a very useful crop which the country needs.

I'd like to recommend he be given a discharge to work his farm where he could be of more use to his country; or a very short sentence and a recommendation that he be given farm leave after he has served it, if the Court sees fit.

Exhibit "A"

S.O.S. D.O. No. 281 d/24 Oct. 44. Eff. 20 Oct. 44.

"F" Battery Major President S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at Exhibition Barracks, Toronto, Ontario,

on the twenteith day of October, 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-626142, Private MITCHELL, Charles Daniel, Appraisal Wing, No. 2 District Depot, C.A., Exhibition Barracks, Toronto, Ontario.

DECLARATION

The Court declare that No. B-626142, (Regt'l No.) Private (Rank) Charles Daniel MITCHELL, (Full Name) Appraisal Wing, No. 2 District Depot, C.A., (Unit) illegally absented himself without leave from 24 C.A.(B)T.C., Brampton, Ontario, at Brampton, Ont. (Place) at 0600 hours on the 6 th day of July, 1944, that he is still so absent, and that on the 20th day of October, 1944, he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	

B. Grossberg, Capt. (Name) (Rank) President
(Unit) (H.W.E.) No. 2 District Depot, C.A.

Signed at Exhibition Barracks, Toronto, Ontario, (Name) (Rank) (Unit) Member

this 20th day of October 19 44 (Name) (Rank) (Unit) Member

Signature of Commanding Officer O. S. Hollinrake, Col., Officer Commanding, No. 2 District Depot,

Certified true copy J. J. Eyles Capt. & Adjt. No. 2 District Depot, C.A. CA
(Rank) (Unit)
(J. J. Eyles) (Signature of Officer having custody of original record)

M.F.B. 275
A.F.B. 115
15934—10-42 (8530)
H.Q. 1772-39-357

CLOTHING SECTION "D"		
Badges, cap	1	.07
SECTION "A-1"		
Bags, ration	1	.03
Belts, waist W.E. 37	1	.50
Bottles, water	1	.49
Braces, W.E.37, r&l	2	.51
Carriers, waterbottle	1	.28
Frogs, bayonet	1	.14
Haversacks, W.E. 37	1	1.72
Helmets, steel	1	1.79
Packs, W.E. 37	1	1.70
Ruches, basic	2	1.54
Straps, shoulder haversack	2	.46
Straps, web supporting	2	.21
Tins, mess	1	.43
SECTION "A-2"		
Respirators, anti-gas, comp	1	4.51
Outfit, anti-dimming	1	.11
Eyeshields, anti-gas	6	.78
SECTION "J-1"		
Sheets, ground	1	1.85
TOTAL SHORTAGES -		102.08

CERTIFIED CORRECT

P Eyles Capt&Adjt.

No. 2 District Depot, C.A.

CLOTHING SECTION "A"		
Anklets, web, prs.	1	.56
Gloves, wollen khaki, pr.	1	.50
Greatcoats, drab	1	11.66
Overalls, comb. prs.	1	1.89
Dressing, first field	1	.16
Coats, waterproof, army	1	5.18
Overshoes, prs.	1	1.02
Caps, winter melton cloth	1	.79
CLOTHING SECTION "B"		
Blouses, battle dress	2	9.76
Trousers, battle dress	2	9.82
Boots, ankle, prs.	2	8.74
Caps, field service	1	.53
Drawers, woollen, prs.	2	2.10
Vests, woollen	2	1.80
Drawers, cotton short	2	.64
Shirts, under cotton	2	.66
Jersey pullover	1	1.24
Shoes, canvas, prs.	1	1.72
Socks, army, prs.	4	1.40
Jackets, serge drab, O.C.	1	8.10
Trousers, serge drab, NP	1	3.25
Shirts, cotton khaki	3	3.48
Shoes, lea. black, prs.	1	3.63
Trousers, K.D. short	1	.98

CLOTHING SECTION "C"		
boot dressing, tins	1	.04
Blacking, tins	1	.04
Boot laces, prs.	1	.02
Neckties, black	1	.15
Pins, collar	1	.05
Socks, black, prs.	2	.42
Belts, waist lea. brown	1	.26
Bags, kit	1	1.26
Braces, prs.	1	.21
Sticks, button	1	.03
Brushes, button	1	.08
Brushes, cloth	1	.13
Brushes, boot polishing	1	.16
Brushes, hair	1	.30
Brushes, shaving	1	.32
Brushes, tooth	1	.07
Caps, comforter	1	.31
Combs, hair	1	.03
Holdalls	1	.17
Housewives	1	.26
Knives, table	1	.14
Spoons, table	1	.06
Forks, table	1	.06
Razors, safety	1	.32
Towels, hand	2	.46

Exhibit "B"

"G" Witness Major, President. S.C.M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, B-99752. Sgt. Robertson. W. of No. 2 Det. 31 Coy. C. PRO. C. Hamilton, Ont.,
(Number) (Rank) (Name) (Unit)

hereby certify that B-626142. Private. MITCHELL, (Charles, Daniel)
(Number) (Rank) (Name in full)

of the Appraisal Wing------ No. 2 District Depot, TORONTO, Ontario,
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by [redacted] B-26827. L/cpl. Lowes. C. and
(Number) (Rank)

B-132576. Pte. Rowatt. J. of No. 2 Det. 31 Coy. C. PRO. C. Hamilton, Ont.,
(Name) (Unit or appointment)

on YORK STREET, HAMILTON, Ontario, at 1615 Hours,
(Hour)

on the 19th day of March 19 45

Strike out words not applicable } as a [redacted] absentee without leave), and that at the time of his arrest he was [redacted] (dressed in civilian clothes).

Dated at Hamilton, Ontario this 19th day of March 19 46

B-99752 W. P. Robertson Sgt.,
(Signature, Number, Rank, Unit or appointment)
W. P. ROBERTSON
NCO i/c No. 2 Det. 31 Coy. C. PRO. C. Hamilton, Ontario.

Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

6
730)
936

Y. [illegible] Major.
President, S.C.M.

M.F.B. 358
S(M)—4-43 (5992)
H.Q. 1773-39-620
A.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-626142,	Private,	Charles Daniel MITCHELL,	No. 2 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~xxxxxxxxxx~~ ~~xxxxxxxxxxxxxxxxxx~~ Conduct sheets ~~xxxxxxxxxxxx~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~xxxxxxx~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	AWL	1 times
For		times		times
For		times		times
For		times		times

~~xxxxxxxxxxxxxxxxx

~~11. (In the case of an officer) The accused holds in the Royal Canadian Air Force the rank of~~

Permanent Force
unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~23rd~~ 28th day of March, 1945. Capt.&Adj.

No. 2 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. B-62614 Name Pte. MITCHELL Charles Daniel Sqn., Battery, or Company # 2 D.D. (NRMA) INF (R) WING # 9 Coy. Corps Date of enlistment 5-10-42 O.C. Badges Tradesmen's Rates of Pay

M.F.M. 6 (A.F.B.122) 75934—12-42 (787) H.Q. 173-26-1052

No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. One Signature O.C. Company, etc. J.Read. Capt. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
				~~Entries NIL 29-10-42~~	" J.Read" Capt.				
Brampton	8-12-42	Pte.		AWL from 2359 hrs 8-12-42 until he reported at Hamilton Military Hospital at 1730 hrs. 10-12-42 An absence of 41 hrs. 31 min A.A. Sec. 15 (1)	L/Cpl. Weidmark Documentary	14 days C.B.	18-12-42	R.V.E.Conover Lt.Col.	Forf. 2 days pay&All Under FR&I.

CERTIFIED TRUE COPY .....Capt. & Adj.
No. 2 District Depot, C.A.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. B.626142 Pte. Charles Daniel MITCHELL of No.2 District Depot is in a good state of health, and is fit to undergo Trial by Court martial.

R. Stubbings Capt.
Medical Officer Capt. RCAMC
attached to No.2 District Depot, CA

Station Exhibition Barracks, Toronto, Ontario.

Date 28th March 1945

M. F. B. 246
1334—10-43 (6509)
H.Q. 1772-39-480

R. Evans Major.
President, S.C.M.

HQC.55-M-1646 (JAG/D-3)
Your File T.20-M-10163

12 Apr 45

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

STANDING COURT-MARTIAL
B.626142 - Pte. Charles Daniel MITCHELL
No. 2 D.D., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

KMC/AB

(R.J. Orde), Brigadier,
Judge Advocate-General.

831

THIS COPY FOR: H.Q. C.55-M-1646
M.D. T.20-M-10163

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B.626142 Name MITCHELL, Charles Daniel

Rank Pte Unit No. 2 D.D. C.A.

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 6-7-44

Date of Arrest 19-3-45 Charge Signed 23-3-45

Orders for D.C.M.

Place and Date of Trial Stanley Brks Toronto Ont 28-3-45

Sentence Det 5 mos

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36721

Date 10-4-45

MEMO Guilty A.W.L.

M.D. 2 - No. 2 D.D.

Absent	Sentence
8½ mos	Det. 5 mos

for Judge Advocate-General

10M-1-45 (M-4629)

12 April 1945

Passed - no enquiries made

[illegible]

IN REPLY PLEASE QUOTE No.

In reply please quote No. T-20-M-10163 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
189 Bay Street, Toronto, Ontario,
6th April, 1945.

CONFIDENTIAL

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.A.S.F. M-164

STANDING COURT-MARTIAL
B-626142 - Pte. Charles Daniel MITCHELL,
No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

R. D. Evans Major.

(R. D. Evans)
Major
Permanent President
Standing Courts-Martial

36721

NAT. DEF. B. 440
2500M-4-44 (4320)
H.Q. 1773-39-267

12 Agosto 1945

Passou - no cinquenta mês

H.Q.C. 55-M-1647

CONFIDENTIAL

M.F.R. 35B
15M—4-45 (8620)
H.Q. 30-1-45

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT DISTRICT COURT-MARTIAL

MACINNIS. EARL VINCENT F.22316 BSM W011

CONFIDENTIAL
H.Q.C. 55-M-1647

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
		All purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute"					
APR 1 1945	30 4 45	BF		J A G	NEW FILE	C.R.	APR 10 1945
APR 28 1945	28 4 45	BF	EKM	J. A. G.	PER B.F. APR 30 1945		
MAY 9 1945	25 5 45	BF	EKM	Jag.	PER B.F. MAY 10 1945		
MAY 30 1945	30.5.45	BF		JAG	With Papers C.R. MAY 12 1945		
JUN 21 1945				JAG	With Papers C.R. JUN 18 1945		
JUN 20 1945	21 6 45	pa		ICM	to note, please	MD	20.6.45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q. C.55-M-1647
M.D. [redacted]
H. Mc-498

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. F.22316 Name McINNIS, Earl Vincent

Rank Sgt Maj (WO II) Unit 30th AA Bty Royal Cdn Arty CA

Charge (1) A.A. 18(4) Stealing public property

(2) A.A. 40 Conduct to the prejudice...

(3) A.A. 18(4) Stealing public property
(4) A.A. 18(4) Stealing property belonging..

(5) A.A. 40 Conduct to the prejudice.....

Date of Crime (1) (2) (3) (4) (5) on or about 30-3-45.

Date of Arrest Charge Signed 20-4-45

Orders for ~~D.~~ F.C.M. Major Comd Defended Area of Goose Bay.

Place and Date of Trial 25-4-45; Goose Bay Labrador

Sentence To be reduced to rank of Cpl

Date of Confirmation ~~26~~ 30-4-45

Date of Promulgation 3-5-45

Entered in Records of J.A.G. as No. 3692

Date 15-5-45

MEMO (1) (2) (3) (4) Not guilty.

W. Dolan, Capt
for Judge Advocate General

1DM-1-45 (M-4629)

205 [illegible]

Passed - no irregularities noted

HQC.55-2-1647 (JAG/D-8)

20 Jun 45

The Commander,
Defended Area Goose Bay.

FIELD GENERAL COURT-MARTIAL
F.32316 BSM (WO II) Earl Vincent MacInnis
30th A.A. Bty., R.C.A., C.A.

Receipt is acknowledged of your G.B. 5-7-5 dated 14 Jun 45 under cover of which you forwarded for registration and custody the proceedings of the marginally noted Field General Court-Martial.

2. It is noted that the accused was found Not Guilty of the 1st, 2nd, 3rd and 4th charges and Guilty of the 5th charge and sentenced to be reduced to the rank of Corporal.

3. As the Finding would appear to be supported by the evidence and the Sentence is legal, the proceedings are being retained for custody.

(R.J. Orde), Brigadier,
Judge Advocate-General.

RO/AB

Noted
L.H. CLAYTON
Lieut.-Colonel
Assistant Judge Advocate General
JUN 21 1945

G.B. 5-7-5.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

322391

Headquarters,
Defended Area Goose Bay,
14 Jun 45.

CENTRAL REGISTRY Army
CONF. SEC.
JUN 18 1945
File C55-M-1647
Chgd. to
Referred to JAG

The Secretary,
National Defence Headquarters,
OTTAWA, Ontario.

Field General Court-Martial
F22316 BSM (WO II) Earl Vincent MacInnis
30th A.A. Bty., R.C.A., C.A.

1. Returned herewith are proceedings in the m/n with action taken as directed in your H.Q.C. 55-M-1647(JAG/D-8) d/29 May 45 as follows.

2.

Your para 2 (a): Information attached to page A and initialled by Major McLeod, the convening officer.

Your para 2 (b): A minute setting out fully that the convening order had been read, the President, Members and Judge Advocate duly sworn, and that R.P. 110 was complied with, signed by the President is attached to the proceedings.

Your para 2 (c): Covering in minute referred to above.

Your para 2 (d): As to R.P. 35(B) - covered in minute referred to above.
As to R.P. 83 - a statement initialled by the President has been added at the end of the evidence of each witness.

Your para 3: Complied with.

Your para 4: The sentence was passed by the court. The paper signed by the President was intended to assist the confirming or reviewing officer only. The sentence passed by the court was final as far as they were concerned - there was no referral to any higher authority.

Your para 5: The minute of confirmation by Major McLeod has been deleted, and the minute by Lt-Col. Roach has been expanded to read "Finding and sentence confirmed". A new certificate D has also been completed by Lt-Col. Roach.

3. In connection with the apparent confusion of both Major McLeod and Lt-Col. Roach signing as Commander, Defended Area Goose Bay, it should be noted that Lt-Col. Roach was absent on duty at the time of the convening of the court, during the trial, and at the time Major McLeod entered the minute of confirmation of the proceedings. During this period Major McLeod was in actual command of the Area.

...../2

Minutes of Swearing in of Court and Shorthand Writer and of arraignment of the accused.

The convening order and the names of the President and Members of the Court are read to the accused. The accused is asked if he objects to being tried by the President or by any of the Members of the Court.

The accused does not object to being tried by the President or by any of the Members of the Court.

The President, Members, and Judge Advocate are duly sworn.

The accused is asked if he objects to 33454916 Cpl. Weldon S. Miller, U.S.A.A.F., as shorthand writer.

The accused does not object to 33454916 Cpl. Weldon S. Miller as shorthand writer.

33454916 Cpl. Weldon S. Miller is duly sworn as shorthand writer.

The first charge is read to the accused and the accused is asked to plead. The accused pleads not guilty and the plea is duly recorded in the proceedings.

The second (alternative) charge is read to the accused and the accused is asked to plead. The accused pleads not guilty and the plea is duly recorded in the proceedings.

The third charge is read to the accused and the accused is asked to plead. The accused pleads not guilty and the plea is duly recorded in the proceedings.

The fourth charge is read to the accused and the accused is asked to plead. The accused pleads not guilty and the plea is duly recorded in the proceedings.

The fifth (alternative) charge is read to the accused and the accused is asked to plead. The accused pleads guilty to the fifth charge.

The accused is informed of the nature of the charge, the effect of pleading guilty, and the difference in procedure which will follow on his plea of guilty.

The accused states that he clearly understands the effect of his plea and reaffirms it.

The Court is closed.

The Court decide to accept the plea of guilty on the fifth (alternative) charge and find the accused not guilty on the third and fourth charges.

The Court is reopened and the accused is informed that he is found not guilty on the third and fourth charges.

The trial is proceeded with.

[signature] Capt
President

Field General Court Martial held April 26th 1945
at Goose Bay, Labrador.
in the trial of
F.22316 Battery Sergeant Major (W.O.II)
Earl Vincent McInnis, 30th Anti Aircraft
Battery, Royal Canadian Artillery,
a Warrant Officer of the Canadian Army,
on charges as laid down on attached charge sheet.

Summarizing of evidence and prosecution by the court.

Charges one & (Alternate)2.

Accused pleads "Not Guilty "

Inasmuch as the statement of Ordnance representative as to missing sleeping bags, as per exhibit D, from ordnance stock as stated in summary of evidence, was corrected at a further check up asked for by the court- and a Government stamp being found only on the container and no stamp or indentification of ownership on sleeping bag contained therein (Exhibit D)- the witness for the prosecution not being able to prove proper indentification of said exhibit D -
the plea of "Not Guilty" of the accused was sustained by the court.

Charges three & four

Accused pleads "Not Guilty

The court accepts.

Charge 5 (Alternative)

Accused pleads "Guilty"

The Court sustains the plea of accused.

Recommendation of sentence.

Taking into consideration that the accused admits his guilt to this charge, voluntarily, and the following points in relation to plea:

(A) That the accused has already been fined the amount of One hundred dollars by the customs Dept. Newfoundland Government for his act as laid down in charge 5.-
(B) The statement of his Officer Commanding re the accused's Effeciency as an N.C.O.
(C) The receiving of the Effeciency decoration for previous service
(D) That the accused is a married man with three children-

it is recommended by the court that the accused be sentenced to be reduced to the rank of Corporal, the sentence to be carried out as from the date of confirmation of these proceedings.

(A.F.Goodier) Captain
President of the Court.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twenty-third day of April, 1945.

Whereas it appears to me, the undersigned, an officer in Command of the Defended Area of Goose Bay, Labrador, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial of the offence to a superior qualified officer.~~]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers ~~hereunder~~ appointed or detailed hereunder.

* Omit if not applicable.

*[I am unable to appoint:—

*(~~1. Three Officers.~~)

*(2. A Field Officer as President.)

*(~~3. Three Officers having more than one year's service.~~)

for the following reasons, namely:—] that a Field Officer is not available.

President.

Rank.	Name.	Regiment.
Captain	A.F. Goodier	HQ Def Area Goose Bay

Members.

Rank.	Name.	Regiment.
Captain	S.J. Bendall	# 4 Sec., 6 Dist. Signals
Lieut.	J.C.K. Norton	HQ Def Area Goose Bay

I hereby appoint Major N.F. MacDonald, A.J.A.G., Headquarters, Military District No. 6, Judge Advocate.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed. [illegible]

Commanding Defended Area of Goose Bay, Labrador

Convening Officer.

Prosecutor: Captain L.R. Puize, C. Pro. C., Educational Officer, Defended Area Goose Bay.

Defending Officer: Lieut. J.N. Grassby, Goose Bay Detachment, No. 6 E.S. & W. Coy., R.C.E.

Shorthand Writer: 33454916 Cpl. Weldon S. Miller, 1383 A.A.F. Base Unit, N.A.D., A.T.C. Goose Bay, Labrador.

Extracts entered as No. in the Record of Courts-Martial kept in the office of the Judge Advocate-General this day of 19.....

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F22316 Battery Sergeant Major (WO II) Earl Vincent MacInnis, 30th Anti Aircraft Battery, R.C.A.	First Charge Stealing Public Property. Particulars are set out in the Charge Sheet attached.	Not Guilty	Not Guilty	[illegible]
	Second Charge (Alternative) Conduct to the Prejudice of Good Order and Military Discipline. Particulars are set out in the Charge Sheet attached.	Not G.	Not Guilty	[illegible]
	Third Charge Stealing Public Property. Particulars are set out in the Charge Sheet attached.	Not G	Not Guilty	[illegible]
	Fourth Charge Stealing Property belonging to a Regimental Institution. Particulars are set out in the Charge Sheet Attached.	Not G	Not Guilty	[illegible]
	Fifth Charge (Alternative) Conduct to the Prejudice of Good Order and Military Discipline. Particulars are set out in the Charge Sheet attached.	Guilty	Guilty (a) ~~Our [illegible] Guilty~~ [illegible] To be Reduced to the rank of Corporal.	[illegible] Findings & sentence Confirmed G. T. Roach Maj Cmdg 30th Heavy Anti Aircraft Regt Bty

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?".

Answer (*to be recorded on separate sheet if necessary*): Does not seek adjournment.

(Signed) [illegible] Lieut Dy Adjt

Commanding [illegible]

(Signed) [illegible] Lieut Colonel

Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

(B) A.J. Goulds Capt. Presided F.G.C.M.

CHARGE SHEET

The accused, F.22316 Battery Sergeant Major (W.O. II) Earl Vincent McInnis, 30th Anti Aircraft Battery, Royal Canadian Artillery, a Warrant Officer of the Canadian Army placed on Active Service, is charged with:

First Charge
Sec. 18(4)
Army Act

STEALING PUBLIC PROPERTY

in that he

at Goose Bay, Labrador, on or about March 30th, 1945, stole one Woods Arctic Sleeping Bag, being public property.

Second Charge
(alternative)
Sec. 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Goose Bay, Labrador, on or about March 30th, 1945, did improperly deliver to Sydney Blake, North West River, Labrador, one Woods Arctic Sleeping Bag, being public property.

Third Charge
Sec. 18(4)
Army Act

STEALING PUBLIC PROPERTY

in that he

at Goose Bay, Labrador, on or about March 30th, 1945, stole the following articles; twelve one pound boxes Benson corn starch, two one pound bottles Girard Company lemon extract, one four pound tin Wagstaffe goose berry jam, one fourteen ounce tin grape fruit juice, one five pound tin hot chocolate powder, one two pound tin Wilsils butter, five pounds Canadian cheddar cheese, 15 pounds onions, one package of twelve shredded wheat biscuits, twelve tins canned tomatoes, one tin concentrated orange juice, being public property, from the kitchen of the combined non-commissioned officers and mens mess of the 30th Anti Aircraft Battery, R.C.A., "F" Area, Goose Bay, Labrador.

Fourth Charge
Sec. 18(4)
Army Act

STEALING PROPERTY BELONGING TO A REGIMENTAL INSTITUTION

in that he

at Goose Bay, Labrador, on or about March 30th, 1945, stole nine boxes of "Kelloggs" Corn Flakes, the property of the Mens Canteen, 30th Anti Aircraft Battery, R.C.A., from the kitchen of the combined non-commissioned officers and mens mess, 30th Anti Aircraft Battery, R.C.A., "F" Area, Goose Bay, Labrador.

Fifth Charge
(alternative)
Sec. 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD
ORDER AND MILITARY DISCIPLINE

in that he

at Goose Bay, Labrador, on or about March 30th, 1945, took from the combined non-commissioned officers and mens mess?, "F" Area, Goose Bay, Labrador, the articles of public property specified in the third charge and the articles belonging to the Mens Canteen, 30th Anti Air-Craft Battery, R.C.A., specified in the fourth charge and delivered the said articles specified in the third and fourth charges to Sydney Blake, North West River, Labrador, without authority.

D.J. McLeod, Major
Officer Commanding,
30th Anti Aircraft Battery,
Royal Canadian Artillery.

20th April, 1945,
Goose Bay, Labrador.

To be tried by Field General Court Martial
25th April 1945.
Goose Bay, Labrador

D.J. McLeod Major
Commanding
Defended Area of Goose Bay

FIRST WITNESS

F/L Reamer, D.G., R.C.A.F., having been duly sworn, states:

Q: You are the DAPM for the Air Force for Goose Bay Defendant Area?

A: I am.

Q: Will you tell this court what happened on the morning of March 31st?

A: During the month we had several complaints on the RCAF side and one building known as Scottie's warehouse had several foodstuffs stored in it.

Q: We only want that part of your statements as relates to the Sleeping Bag.

A: Well, I made an inspection and had an officer to check the place.

Q: I would like to hear, did you see a fellow by the name of Blake?

A: At approximately 0830 hours on the morning of March 31st, 1945, F/Sgt Tuttle and WO McKenna along with myself proceeded to the old area known as civilian laundry girls mess, which sets on the north side in the old Men's Mess . We proceeded down in my jeep, RCAF #29. Upon arrival at the building in question, and going to the front entrance, we noticed a dog team. On the dog sled was a load covered with tarpaulen. However, the front end of the sled was already partially covered with a tarpaulen, and upon closely examining same, we noticed a case of canned fruit. On going into the building I saw one native, Sidney Blake of Northwest River. I did not ask the questions to anyone in particular, I asked who owned the dog sled in front of the building and the mentioned civilian told me it belonged to him. I questioned him as to what he had on the sled and he refused to divulge any information. I ordered Flight Sgt Tuttle of the Service Police to proceed to the ranger's office and notify Ranger Morris of the detachment of rangers on this base. He arrived shortly after. In the interim, or as soon as Sgt Tuttle left the building, Sidney Blake told me (Court waived further discussion on that evidence). Ranger Morris arrived at the scene and took from me the articles which were on the sled. They were all placed aboard my jeep. Ranger Morris, Mr. Mc Caffey and Sidney Blake proceeded to the Ranger's office, with the Flight Sgt Tuttle and myself proceeding on foot, and on the way to the ranger's office I had to stop at the CEE Board and we had conference with the officer commanding Wing Commander McKenna. We arrived at the Rangers approximately fifteen minutes later. On entering the ranger's office we noticed the goods in question were laid out on the floor. Ranger Morris contacted Col. Roach, officer commanding Canadian Army Units, Goose Bay. Also Captain Parrat of the RESC and Mr. McFarlane of the K of C and Major McCloud, commanding AA Battery.

Q: Would you confine your remarks as closely as you can to the article now in question, that is, the sleeping bag?

A: You mean the sleeping bag?

Q: The article in question is the sleeping bag -- was it a bag like this one?

A: I cannot say it was this one but it was one like it that was on the ranger's floor.

Q: It was exactly like this one here?

A: Yes.

PROSECUTION:

I am through with the witness.

DEFENSE:

No questions.

In the opinion of the court v. the Judge Advocate it is not necessary to comply with R.P.80(b).

Witness was excused.

SECOND WITNESS WAS SWORN AND TESTIFIED AS FOLLOWS:

Mr. Redge Hames, Commander of customs for the Newfoundland Government. having been duly sworn states:

QUESTIONS BY PROSECUTION

Q: Will you tell the Court how you happened to have custody of these articles?

A: On the 31st of March a phone call came from the Service Police. I don't know what happened as a result of the phone call but the Ranger went out and came back, and he said he had some goods in the back of a vehicle. The goods were brought in and I found among the goods the sleeping bag.

P: I produce for the record one Woods eiderdown sleeping bag 90 x 90 (Woods arctic sleeping bag was produced, accepted, and entered into evidence as Exhibit D).

P: You say that the sleeping bag has been in your possession -- where has it been?

A: In my possession in the office.

P: Do you know from whom the bag was taken?

A: The bag was taken from the dog team of Sidney Blake.

P: Did you see the bag as it was taken from the dog sled?

A: I would say the bag was taken from the team. I was around there but I did not see it until it was brought back from the rest of the goods.

P: But the evidence in this case so far as Sidney Blake was concerned was given to me in my department.

C: Do you have any objection to the entering of Exhibit D, sleeping bag into evidence?

D: I have no objections to Exhibit D being entered into evidence.

P: No further questions.

C: Does the defense have any questions?

QUESTIONS BY DEFENSE

Q: You actually did not see the goods as they were taken from the sled, did you?

A: No I did not see them when they were taken from the sled but as they brought them into the office in a RCAF jeep, I saw them.

Q: Do you know from whom the bag was taken?

A: The bag was taken from the dog team of Sidney Blake.

Q: You say the bag was taken from the team -- did you see them when they were taken from the sled?

A: I was around there but I did not see until the goods were brought back in the office.

Q: Then you did not actually see the goods as they were taken.

A: No.

Q: Was this arctic sleeping bag among the goods unloaded from the jeep?

A: It was.

D: No further questions.

C: That's all Mr. Hames.

Mr. Hames: Will there be any further need of my staying here?

A: I don't think so. In the opinion of the board + Judge Advocate it is not necessary to comply with RP 83(B)

THIRD WITNESS

S/QMS W.O. II Kiely, J.T. ~~DWO 2 Kiely~~, F93404 - of the Ordnance Sub Depot, Goose Bay, Detachment RCOC, having been duly sworn, states:

QUESTIONS BY PROSECUTION

Q: On March 31st you were in charge of the ~~Arctic lists~~ Ordnance Stores in Goose Bay — you were called to identify an Arctic Sleeping Bag as Government property?

A: That is right, Sir.

Q: I produce Exhibit D (Sleeping Bag). Will you identify this sleeping bag for the purpose of evidence as army property?

A: (Examining the Exhibit D) This army bag, Exhibit D has the Government marking right here (points to marking in bag).

Q: You are sure this is the Government marking?

A: I would say so, Sir.

Q: How many types of sleeping bags do you carry in ordnance stock in Goose Bay?

A: Two, Eiderdown, and Kapok.

Q: On your last inspection of stock, were you missing any sleeping bags?

A: I stated in previous evidence I was lacking one. I took stock of all I had on hand and I checked the ledger and we were short one.

Q: That sleeping bag is of the type which was missing (Pointing to Exhibit D).

A: Ithink it is, sir.

Q: Are you sure?

A: Yes.

Q: Then it is a Wood's eiderdown, the same type as this Exhibit D?

A: Yes.

Q: Do all of your sleeping bags come in containers like this?

A: No, the sleeping bag Kapok doesn't have the canvas container.

Q: You are sort of an expert on army goods, but you would recognize this as Government property, how?

A: By the Government marking. That is the only way I could identify it.

QUESTIONS BY DEFENSE

Q: If that bag was removed from its canvas container would there be any way of identifying it?

A: There are no Government markings on the bag.

Q: I submit to the Court that there is no definite proof as to whether this sleeping bag is army property or civilian property. May I ask if the bag be taken out to see if there isn't an identifying mark?

C: Let's take the bag out.

QUESTIONS BY COURT

Q: Have you ever seen any of those bags with a stamp on it?

A: The sleeping bag, I do not believe has any markings.

Q: If the container is marked, this bag is in the container at all times.

A: Yes, Sir.

Q: If the other bag which you have in stock were to be put in this container, how would you know that it did not belong there?

A: It would only half fill the bag.

Q: Then there are no markings on the sleeping bag itself?

A: I do not see any marks on that anywhere. There is only the factory mark.

QUESTIONS BY DEFENSE

Q: There is no marks to say the bag is property of the Government. It has no markings to identify it as other than civilian property.

A: No, Sir,

In the opinion of the Court and Judge Advocate, it is not necessary to comply with R.P. 83(B)

NO FURTHER QUESTIONS, WITNESS WAS EXCUSED

FOURTH WITNESS

Mr. Sidney Blake, resident of Northwest River, Trapper, having been duly sworn, states:

QUESTIONS BY PROSECUTION

Q: Mr. Blake, do you know the accused?

A: Yes, Sir.

Q: Which is he?

A: (Witness points to accused) -- That's him.

Q: What's his name?

A: Mr. Mc Innis.

Q: Have you seen this or a similar sleeping bag before?

A: I have seen them, yes.

Q: Will you tell the court what happened on the morning of March 31st? Tell the Court exactly what happened.

A: I was going to Northwest River and I had my stuff, and I was going to go, and the Air Force man, Mr. Reimer, stopped me and asked me what I had in the sled.

Q: That was on Saturday?

A: Yes. I told him, and the Ranger made me open the bag and he opened the sled and found the food. They took everything and took it down to the ranger's quarters and looked it all over and asked me about the articles.

Q: Will you tell where you got the stuff?

A: From Mr. Mc Innis.

Q: When did you get the stuff, the night before?

A: Yes.

Q: Where?

A: I don't know where.

Q: Wherewere you when he brought it to you?

A: He brought it to me at Dan Michelins.

Q: Did he bring this sleeping bag to Michelin's?

A: Yes.

Q: Was Michelin there?

A: No he wasn't there.

Q: What time was this?

A: About eleven or twelve o'clock.

Q: Was this in the morning or late at night?

A: Late at night.

Q: What did you give for the sleeping bag?

A: Twenty-five dollars.

Q: How much in all did you give Mr. McInnis?

A: Fifty-three dollars.

Q: What was the rest of the money for?

A: The rest of the money was for foodstuff.

Q: Who was with you when you took the stuff from where you got it Dan Michelin's?

A: Just Mr. McInnis and myself.

Q: You are sure that there was only McInnis and yourself when you got out with the goods.

A: Just he and I.

Q: How were the goods taken to Dan Michelin's?

A: In a jeep.

Q: An army jeep?

A: It was one of these on the base.

Q: You are sure it was an army jeep?

A: An army jeep, yes.

Q: Who gave you your sleeping bag?

A: Mr. McInnis.

Q: Where did he get it?

A: I don't know.

Q: Was it in his room?

A: No, Mr. McInnis gave it to me.

Q: He gave it to you.

A: Yes.

QUESTIONS BY DEFENSE

Q: Mr. Blake, it is not quite clear in my mind -- On March 30th from the time you left the Northwest River until the time you got to Dan Michelin's with the goods, at what time did you return ~~to~~ from Northwest River on Friday, March 30th?

A: About seven o'clock.

Q: You were with this Army man, no one else?

A: No.

Q: Where did you go?

A: We went to the mess.

Q: What did you go there for?

A: We stopped there for a time, then went off to Dan Michelin's.

Q: What time was that?

A: That was ten o'clock I suppose.

Q: Did you have anything to drink?

A: Not until after we came back.

Q: And then you had something to drink?

A: We had a few bottles of beer.

Q: Do you know how many?

A: I think we had three.

Q: Did you give the accused any money?

A: Yes.

Q: How much?

A: Fifty-three dollars.

Q: Did the accused tell you clearly what that money was for?

A: Yes.

Q: What did he say it was for?

A: For the sleeping bag and other food.

Q: With the permission of the Court I feel for a general logical approach to the whole question as to whether this money was paid all in one sum or whether two separate transactions took place with regard to the bag, and food. The money was not paid in one sum, as the witness previously stated. Was all the money given for the sleeping bag?

A: No, it was for the food too.

Q: At the same time you were given the food, were you given the sleeping bag?

A: No.

Q: Where were you given the bag? In the quarters?

A: Not in the quarters.

Q: Then where was it given to you?

A: I can't recall the place.

Q: What did you do after coming back to the mess and drinking beer -- what did you do?

A: Nothing.

Q: Then did you go anywhere, where did you go? -- After ten o'clock.

A: We went off again from the mess to Dan Michelins.

Q: Did you do any riding around before you went to Dan Michelin's?

A: Yes, we rode around for about an hour.

Q: Where did you go?

A: We run around so much, I, I don't know.

Q: What time did you leave Sgt McInnis, the accused?

A: It must have been somewhere between eleven o'clock to midnight.

Q: Between eleven and midnight you just drove around and saw no one, do you know when you got the bag, and where?

A: I got the bag the last time, sometime between eleven o'clock, and midnight.

Q: But do you know where?

A: I do not know where.

Q: Were there any witnesses on your first visit to Michelin's? Was there anyone there when you went there?

A: There were people there and --

Q: Were there any witnesses there at midnight? --when you came back?

A: There was no one.

Q: With respect to the food, there were people there, but with respect to the bag, no one saw the bag other than you and the accused?

A: Yes Sir, no one.

Q: Did anyone see you give the accused fifty-three dollars?

A: No.

Q: When you left the mess, to go on this long drive, wereyou under the influence of alcohol? In any one wit at all?

A: I didn't feel it much, a very little.

Q: Can you say that that bag, Exhibit D, is the one that was given to you that night?

A: I couldn't say but it looks like the one, but I couldn't say for sure.

DEFENSE RESTS

DEFENSE: With the Court's permission, I would like to ask one other question.

Q: You say you gave the accused fifty-three dollars in the mess?

A: I couldn't say, but I think I paid it all in the mess.

Q: You think?

A: I am pretty sure I did.

Q: You are positive you paid him fifty-three dollars all in one lump sum?

A: Yes, I believe I paid him everything.

QUESTIONS BY COURT

Q: Mr. BlakeI want to get this quite clear, you stated that when the bag was brought to you at Mr. Michelin's you gave twenty five dollars at Michelin's and fifty-three dollars at the mess. Where did this money transaction take place? In your previous evidence the total mount was

fifty-three dollars which he was given, now you say you gave the whole fifty-three dollars at once, twenty-five dollars for the sleeping bag.

A: But I paid it all at one time.

Q: The prosecution asked you where you got the sleeping bag, and you tell us it was brought there in a jeep. Where was it brought?

A: It was brought to Michelin's.

Q. The sleeping bag is the thing we are talking about, and you said in your evidence that you paid twenty-five dollars for it.

A: No, I didn't say that. That is a mistake there.

Q: Was the twenty-five dollars included in the fifty-three total?

A: Yes.

Q: And you say you paid it all in one sum?

A: As far as I can figure out I paid it and --

Q: Then you paid him separate for the bag?

A: No I never paid him for it, I paid it all together as far as I can remember.

QUESTIONS BY PROSECUTION

Q: What was the price that you were supposed to pay for the sleeping bag?

A: Twenty-five dollars.

Q: That was all?

A: That was all.

Q: When you say you got the foodstuff, where did you get it?

A: I got the foodstuffs at the accused's quarters.

Q: Was the sleeping bag among that foodstuff?

A: No, the sleeping bag was at an entirely different place.

Q: You say the sleeping bag was delivered later?

A: Yes.

Q: What time was the stuff given to you?

A: About eleven at night.

Q: When was the sleeping bag delivered to you?

A: About twelve o'clock.

Q: How was the sleeping bag delivered to you?

A: It was in the back of the jeep.

Q: And you went to Michelin's.

A: Yes.

Q: What did you do after you delivered the food to Michelins?

A: Then we went driving around the base.

Q: Then, when was the sleeping bag brought to you?

A: It was brought to me that night, he brought it to me that night.

Q: The same night?

A: Yes.

Q: What time?

A: About twelve o'clock.

Q: You say that you left Michelins after the food was brought?

A: Yes.

Q: That it was taken in a jeep of the accused of which you were a passenger.

A: Yes.

Q: Who went back to the jeep after you took the food to Mr. Michelin's?

A: Both of us.

Q: And when you came out of Mr. Michelins after delivering the food, what did you do?

A: We went riding.

Q: Were you with him, the accused?

A: Yes

Q: Where did you go?

A: We went over on the American side, but there are so many roads, I don't know exactly where we went.

Q: And you went on the American side, where did you stop?

A: We stopped two or three places.

Q: Were your stops on the American side or Canadian side?

A: We stopped on the American side for a little bit.

Q: Did he carry out anything from the American side?

A: No.

Q: Where did you go after that?

A: I don't know.

Q: You have no idea where the next stop was?

A: It was on the Canadian side.

Q: Was it near his quarters?

A: No, I think it was T Area.

Q: Do you know where the accused's quarters are?

A: DK Area I think.

Q: How do you know it was his quarters that you went near?

A: I had been there before.

Q: That was the last stop you made?

A: Yes.

Q: And it was on the Canadian side?

A: Yes.

Q: Was any articles brought out at that time?

A: He brought out the sleeping bag.

Q: Did he put the sleeping bag in the car?

A: Yes.

Q: When did you pay him the fifty-three dollars?

A: In the mess hall.

Q: You admit that you paid twenty-five dollars, why did you pay that?

A: That is what he told me the price was, twenty-five dollars.

Q: Did he ever pay that money back?

A: Yes.

Q: Did you receive that twenty-five dollars before or after the stuff was taken?

A: I got it back the next morning. He gave the twenty-five dollars back.

Q: He gave the twenty-five dollars back?

A: Yes.

Q: Why did he give the twenty-five dollars back?

A: I don't know.

Q: Then you paid fifty-three dollars but he gave you twenty-five dollars back the next morning -- was it after you had been stopped by the ranger?

A: Yes.

Q: You went to the accused's quarters and he returned you twenty-five dollars?

A: Yes.

Q: Did anyone see the bag being given to you?

A: Nobody saw the bag in the jeep. But there was somebody where he got it.

Q: No one saw the accused hand the bag to you?

A: No one saw him hand it to me.

Q: The person who saw him get the bag, was he a soldier?

A: I think he was a soldier.

Q: Would you be able to identify him?

A: No.

Q: Did he see you get the bag?

A: I don't know.

At 1200 hours Court adjourns until 1400 hours, 26 April 45.

On the 26th April, 1945, at 1400 hours the Court reassemble pursuant to adjournment. Present the same members as at adjournment.

Mr. Blake is recalled on his former oath, and continues.

QUESTIONS BY COURT

Q: About that twenty-five dollars that McInnis returned to you -- can you tell what time he returned that money?

A: Not the exact time.

Q: Approximately what time?

A: About eleven o'clock in the morning.

Q: Did he give it to you himself?

A: Yes.

Q: Did he tell you why he was returning the money?

A: No Sir.

Q: He didn't say anything when he gave you this money?

A: No.

QUESTIONS BY DEFENSE

Q: Can you state clearly that fifty-three dollars was handed to Sgt. McInnis in the mess while you were with Sgt. McInnis?

A: I did not give it all at one time, but it was fifty-three dollars in all.

Q: Do you have any idea what the sums were at the different times?

A: The first time it was nineteen dollars and fifty cents -- that was for the food.

Q: Can you specify what food?

A: The stuff I brought here.

Q: Nineteen dollars and fifty cents for food. The next sum?

A: Four or five dollars.

Q: Was that for anything in particular?

A: It was for something we had all together.

Q: The next sum was twenty-five dollars for the sleeping bag?

A: Yes.

Q: Can you give us any idea of the exact time you were having those money transactions?

A: No I couldn't.

Q? Was it very long after you handed the first sum that you handed the twenty-five dollars?

A: Not very long.

Q: Was it an hour?

A: It may have been an hour.

Q: Was that at the same place?

A: Yes.

Q: Then you really had three transactions in all?

A: Yes.

Q: Then it wasn't one transaction?

A: No.

Q: Mr. Blake, you say on the Friday Evening, that is the night before, you were apprehended by the DAPM?

A: Yes.

Q: The goods were taken off of your sled on the evening of Friday -- that would be the 30th from 11:00 after the accused handed these goods to you at the mens mess?

A: No..

Q: After you went to Michelin's with the goods you received from the accused who helped you unload them?

A: Sgt McInnis.

Q: Then you say you left Michelin's and went for a drive around to the American side?

A: Yes.

Q: This was before you received the sleeping bag, Exhibit D?

A: Yes.

Q: That was the last thing you received?

A: Yes.

Q: Then, where did you stop -- was it in front of a Government building? on the Canadian side?

A: I don't know if it was a Government building or not.

Q: Was it an army hut?

A: I don't know.

Q: Would you say it was on the Canadian side?

A: Yes.

Q: Where?

A: It was near T Area.

Q: The only huts along this area are Government huts. And it was a soldier that brought this Exhibit D out?

A: We went into his room.

Q: You both went into the room?

A: Yes.

Q: What was in that room?

A: Nothing, only a man sleeping and another Canadian up.

Q: Was there anything that might disclose this as being sleeping quarters?

A: I never took notice.

Q: Didn't you walk into a bedroom?

A: No.

Q: There were no desks or anything like that around?

A: No.

Q: Was there anything like a bed or something like that or that nature?

A: There was only one bed so far as I know, and I didn't go into any other rooms.

Q: Did the man that was up know the accused?

A: Yes.

Q: He actually handed to you, the bag, in there?

A: Yes.

Q: And where did you go from there?

A: Went to Dan Michelin's.

Q: You went to Michelin's?

A: Yes.

Q: Did this man have a uniform on, the man who was in the hut?

A: I think so.

Q: When you went into the hut he wasn't in bed?

A: No.

Q: There were two men in the hut — would you be able to identify those men if you saw them?

A: No. One man was in bed.

Q: Well the one that was up, did he have on his uniform?

A: I don't know.

Q: Was he fully dressed?

A: I think he had his coat off.

Q: Was he a soldier?

A: Yes, I think he was a soldier.

Q: Then the accussed got the bag from this man?

A: Yes.

Q: And took it out to the jeep — the accused took this bag and carried it out to the jeep from this hut that you stopped at?

A: Yes.

Q: And then he left that hut with Exhibit D?

A: Yes.

Q: And you went from this hut to Michelin's?

A: Yes.

Q: Then what happened after that?

A: I went home, he went somewhere, I don't know where.

QUESTIONS BY DEFENSE

Q: Your statement was previously that you did not get out of the building, now I find that this time you did go into the building.

A: Yes, I said that, but that is theonly building I go in.

Q: There is a question concerning the bag I would like you to clear up for us — In the beginning of the evidence, you claimed on your written evidence you received fifty-three dollars for articles but it included many things. But, in another statement you made, you say that you got Exhibit D and paid twenty-five dollars. Then you said that the next morning you got twenty-five dollars back.

A: Yes.

Q: How did you get over to the accused the next morning?

A: Sgt Pollard from T Area brought me back.

Q: How did you come to be connected with Sgt Pollard.

A: He come over to Dan Michelin's to see me.

Q: Then what happened?

A: I told Sgt Pollard I had money up there.

Q: What connection did Sgt Pollard have with this case?

A: I just know him.

Q: How did he know about this deal?

A: I suppose he heard that they took the stuff from me, and he took me to Mr. McInnis and he give me my money before I ask him.

Q: That is what you went to the accused's quarters for?

A: Yes.

Q: How did you know where his quarters were?

A: Mr. Pollard took me there.

Q: Was he in a truck or jeep, Sgt Pollard?

A: I don't know.

Q: Then what happened there?

A: He give me the money and I go back.

Q: Where did you go?

A: I go back to Northwest River.

Q: Didn't you ask him why he gave the money back?

A: No.

Q: Then you don't know why he returned the money?

A: He give it back to me for the sleeping bag.

Q: Why didn't he give you the whole fifty-three dollarsback?

A: I don't know.

Q: You didn't get the benefit of your money — didn't it strike you as funny, didn't you ask what it was for? When you got the twenty-five dollars back given to you by the accused?

A: No.

Q: Didn't any conversation take place?

A: He just say that is for sleeping bag.

Q: Then what did you do?

A: I took money and put it in my pocket.

Q: Was Sgt Pollard there at the time?

A: That was done just two of us in the room.

Q: How is Sgt Pollard interested in this thing -- Had he told you that he was in communication with the accused?

A: I don't know, I would think so, but I don't know.

Q: Was Sgt Pollard with you boys the night before?

A: No.

Q: Just you two, was he with you earlier in the afternoon?

A: No.

Q: Was Sgt McInnis out at Northwest River with you before this happened?

A: Yes.

DEFENSE: I have no further questions.

COURT: Does the Prosecution have any questions?

QUESTIONS BY PROSECUTION

Q: Did you say that when you met Pollard, you were going back to get your money?

A: Yes

No further questions.

QUESTIONS BY DEFENSE

Q: When you met Sgt Pollard, did you tell him how much money you were going to get back?

A: I just tell him I want to get some money.

Q: You didn't tell him how much?

A: No.

NO FURTHER QUESTIONS

QUESTIONS BY COURT

Q: Was Sgt Pollard in the same building that you stopped at the night before, when you picked up this bag?

A: No, Sir.

Q: How did Sgt Pollard come to get in touch with you the next morning?

A: After I come home from Ranger's quarters, he found out that Ranger had me.

Q: This is something you don't quite understand, we are trying to get to the bottom of this. How did Sgt. Pollard happen to find you?

A: I know him a long time, and he was trying to find me, and he find that out that the ranger had me and when he come home he find me.

In the opinion of the Court the Judge Advocate is not necessary to comply with R.P. 83(3)

COURT IS CLOSED 2:35

COURT REOPENED 2:45

RECALL S/QMS (W.O. II) Kiely, J.T., F.93404, RCOC, on former oath

QUESTIONS BY COURT

Q: S/QMS Kiely where did you tell us -- would you tell us where or if you have a special place that you store sleeping bags such as Exhibit D?

A: Yes, they're stored in one building in H Area.

Q: Is there anyone sleeping in this building?

A: No Sir.

Q: Have any of these bags been issued?

A: To my knowledge there are none in issue, not according to our record

Q: You said in your evidence you found one was short, but have you any idea where it might be?

A: No Sir.

Q: If one were gone it would be gone from that hut?

A: I don't know -- the actual count was the bags on hand.

Q: When count was taken did you know where they were?

A: There were three out and there was one missing.

Q: Was the one missing one of the three that were out on indent?

A: No.

Q: And this check that you made was subsequent to March 31, 1945?

A: I don't recall the exact date. It was taken the day before the evidence was typed on 2 April.

QUESTIONS BY DEFENSE

Q: You say that there were three bags out -- are you personally acquainted with the names of those having the bags?

A: One was in the Sgts' Quarters, one which the Ordnance Officer was using in the Ordnance Office, and one to the Garage for the night operator's use. Over and above that we are one missing according to our ledger.

Q: Was not one of these sleeping bags issued to Capt. Edwards, R.C.E.M.E., located at T Area Officers' Quarters. This bag was returned yesterday from this area. How did you make this check?

A: We counted the ones on hand and compared them with the figures in our ledger. I inquired at the time and the three bags that I had out were all accounted for.

Q: Then one of those bags was out to the R.C.E.M.E. which may be the one in question. If such be the case there is no bag missing. I would suggest that you go back and make another check. In the opinion of the Court and Judge Advocate it is not necessary to comply with R.P. 83(B) [illegible]

FIFTH WITNESS:

BQMS MAYBEY, H.W., F.24386, having been duly sworn, states:

QUESTIONS BY THE COURT

Q: You are QM Sgt. for the Royal Canadian Artillery?

A: Yes.

Q: You issue all equipment to men?

A: Yes Sir.

Q: Are sleeping bags on you scale of issue?

A: Not in our unit, Sir.

Q: Did you ever issue on indent a sleeping bag to the accused?

A: No Sir.

Q: Do you know the accused?

A: Yes.

NO QUESTIONS BY DEFENSE

QUESTIONS BY PROSECUTION

Q: In your summary of evidence Quartermaster, you state that you did have a sleeping bag at that time?

A: Yes Sir.

Q: Where did you get it?

A: I got it from Ordnance on indent--it was on a request by the OC Battery, Lieut. Mosley.

Q: When was that?

A: It was in 1942 or 43, Sir.

Q: What happened to that bag?

A: It was sent out with him.

Q: Did he take it back with him?

A: I couldn't say Sir.

Q: To your knowledge Lieut. Mosley left this base with the sleeping bag that he bought through indent?

A: Yes Sir.

In the opinion of the Court & Judge Advocate - it is not necessary to comply with R.D. 83(e)

COURT IS CLOSED AT 3:05

COURT REOPENED AT 3:50

RECALL S/QMS (W.O. II) Kiely, RCOC, on his former oath

QUESTIONS BY COURT

Q: I asked you to take recount of all sleeping bags in your stock. What have you to report?

A: The stock agrees with the ledger.

Q: Then there is no shortage?

A: No Sir.

C: Thank you very much.

NO FURTHER QUESTIONS

In the opinion of the Court & Judge Advocate it is not necessary to comply with R.D. 83(e)

WITNESS WAS EXCUSED

To the Prosecutor

Q: Have you any more witnesses?

P: No Sir, the prosecution is closed.

The Defending Officer submits that no case has been made out in connection with the 1st and 2nd charges due to the fact that the sleeping bag in question has no government mark on it and there is no sleeping bag missing in this area.

The Prosecuting Officer makes no reply.

The Court is closed to consider their decision.

The Court allow the submission of the Defending Officer.

The Court is reopened and the decision of the Court is made known to the accused.

The Court being open, the accused being before it, the charge to which he has pleaded Guilty is read to him again.

The Summary of Evidence is read signed by the President and attached to the proceedings.

QUESTION TO THE ACCUSED

Q: Do you wish to make any statement in mitigation of punishment?

A: I wish to give evidence on oath.

The accused, F.22316 Battery Sergeant Major (W.O. II) Earl Vincent McInnis, having been duly sworn, states:

Evidence on Next page

First of all I would like to go back a short while ago to my first coming here in Labrador in June 1942. I wish to show why I gave the food to the native. In 1942 I first arrived in here there was trouble with the men at that time. As a result of this development here I was asked by the DAPM in the Air Force to assist him in his work. As this was the only means of settling the troubles that were here, I started working with the DAPM. I noticed that living conditions with the natives was very bad and that assisting them in their homes created a better understanding between them and the army. Whenever a helping hand could be given to the natives it was done. I want to tell also that the rangers at the time knew that this condition existed although they gave no notice to discontinue this action they took no action against it. I left here in July 43 and returned July 44 and on returning naturally made myself acquainted with my native friends made in my previous year here. On the first occasion I could , I visited Northwest River which was Tuesday 27th of March. I had a pass from Area Headquarters to go down to the village. Blake was a man whom I met here in May of my first year and I wanted him to take me back. I saw the conditions in his home and his wife especially asked me if I could get her a few things, that she couldn't get these items herself and she needed them for her children. I told her I didn't know what I could do about but I'd do what I could. I returned to the base where Blake was and we had supper and then we went to a KOC Recreation Hall in T Area, going along by the American Side. I spoke to the Chaplain in charge and told him that I wanted to buy a certain amount of food and as he was an original man from 1942, asked no questions. At the time I got some candies and stuff for the native children down at Northwest River and gave them to Mr. Blake with instructions to keep some for his children and give the rest to the school teacher to give to the other children. The cases of food which we got there then took them to the old mess. From there we proceeded to our own mess where we drank some beer at the time. It struck me that I hadn't gotten any corn flakes so I went to the kitchen and asked the cook if there was a surplus. Being quite sure that there was a surplus laying on the shelf for a good while, I took some of the articles and gave them to Blake. From there I took him back to Dan Michelin's with the food. This is not the first occasion I have taken steps to help the natives and witnesses to come will prove that fact, but I did want to take this opportunity to say that while I admit to the charge it was not uncommon practice. One other thing is the money transaction that took place. It was twenty-three dollars and some odd cents. The food came to approximately twenty-one dollars, the rest of it was for beer that we drank in the messes, each paying for his own. That is all, Sir.

In the opinion of the Court and Judge Advocate it is not necessary to comply with R.P. 83(B)

Question to the accused.

Q: Do you wish to call any witnesses as to character?

A: Yes.

FIRST CHARACTER WITNESS FOR THE DEFENSE

Lieut. J.J. Fullerton, 30th A.A. Bty., R.C.A., having been duly sworn, states:

Q: How long have you been in Goose Bay?

A: I came up here in the middle of last July.

Q: Have you been connected with the 30th A.A. Bty. this entire time?

A: I have.

Q: And your dealings with the accused; have you found him entirely trustworthy in carrying out his job in an efficient manner? In matters as to his relation with natives has he been of assistance to the Army?

A: Well, I think the accused has some good will between the natives and the Army in Goose Bay.

Q: As a matter of furthering good will has his actions been of such nature as to cause you to think that this was contrary to Army rules?

A: No.

Q: Was this taking of food stuffs common practice or do you know of it ever having been done before?

A: It has been a practice and it wasn't considered ill practice by those in authority. In the opinion of the Court & Judge Advocate - it is not necessary to comply with RP 85(B) MK

SECOND CHARACTER WITNESS FOR THE DEFENSE

Daniel Michelin, Northwest River, employed at R.C.A.F. Laundry, Goose Bay, having been sworn, states:

Q: Do you know the accused?

A: Yes.

Q: What's his name?

A: Earl McInnis.

Q: Where did you first meet the accused?

A: Down at Otter Creek--Mr. McInnis, Sgt. McDougal, and F/L Alexander used to be down there and I happened to know these boys.

Q: Has the accused been friendly with the natives in Goose Bay?

A: He has been a very nice man.

Q: Has he tried to help any of you at any time?

A: Well, yes, there was a young lady and he helped her get specs as she had bad eyesight.

Q: Did the accused charge money for this?

A: Never that I know anything about.

Q: In your own case did the accused ever assist you at all?

A: He brought me some things for Christmas.

Q: Do you remember when he helped the woman with bad eyesight to see the specialist?

A: I cant remember but is was a couple of years ago if I'm not mistaken. In the opinion of the Court the Judge Advocate is not necessary to comply with R.P. 83(13) [illegible]

THIRD CHARACTER WITNESS FOR THE DEFENSE

Major N.F. McLeod, Officer Commanding, 30th A.A. Battery, R.C.A., having been duly sworn, states:

Q: With respect to the accused, could you attribute towards his behalf as to attention to duty, general character and conduct, as a statement?

A: BSM McInnis has been working for me for a period of approximately two years and in my opinion he is the best and most efficient Sgt. Major I have ever had.

Questioned by the Court

Q: Have you any evidence to produce as to the character and particulars of service of the accused?

A: Yes. I produce these documents, M.F.M. 355 and M.F.M. 6.

The witness hands in the statements which are read, signed by the President, and attached to the proceedings. as exhibits Y and Z. [illegible]

Q: Is the accused the person named in the statements which have heard read?

A: Yes.

Q: Have you compared the contents of the above statements with the Regimental books?

A: Yes.

Q: Are they true extracts from the Regimental Books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

A: Yes.

The accused declines to cross-examine. In the opinion of the court the Judge Advocate - it is not necessary to comply with R.P. 83(3) WRC

To the accused

Q: Do you wish to address the Court?

A: My Defending Officer will speak for me.

Plea by Defending Officer

I wish to bring a general short summary in support of mittigation in that the ranger has received $100 in payment on a fine from the accused for improperly transferring goods that did not pass through the customs office to the natives. Also evidence that the accused was not instituting new practices when he disposed of the goods mentioned on the charge. Also as the transactions were carried out openly with no fear of censure upon detection that the court view the accused actions in a favourable light. Character evidence shows tha accused to be a reliable individual with a normal concern for those less fortunate than himself, although this concern may seemingly have interferred with Army rules in its expression.

I produce the following documents:

Exhibits

F - 1. Receipt for $100 from Collector of Customs (Newfoundland)
F - 2. Letter from Secretary of Customs (Newfoundland)
G - 3. Pass R.C.A.F. to work with D.A.P.M. (Air Force)
H - 4. Pass (Army) to work with D.A.P.M. (Air Force)
I - 5. Authority from Commander, Goose Bay Defences to assist D.A.P.M.

The Court is closed for the consideration of the sentence.

The Sentence:-

The court sentences the accused F. 22316 Battery Sergeant Major (W.O.II) Earl Vincent McDonnis, 30th Anti Aircraft Battery, Royal Canadian Artillery, to be reduced to the rank of Corporal.

Signed at Goose Bay Labrador. this 26th Day of April 1945.

N.F. MacDonald
Major
Judge Advocate

A.F.G. Shier Capt.
President.

IN REPLY PLEASE QUOTE No. (E)

A.H. Fisher Capt. President

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

H.M. CUSTOMS, NEWFOUNDLAND

Port of Goose Bay Receipt No 23135

Received from Sgt Major E MacInnis the

sum of one hundred dollars ($100.00)

on account of Fine imposed under Section 122 (6)(b)

Customs Act

$100.00

Date 25 April 45

Sgt Reg Haines
Collector

Certified true copy

A.H. Fisher Capt.
President of F.G.B.M.
Goose Bay Labrador.
April 26th 1945.

NAT. DEF. 8-40
250M-6-44 (4221)
H.Q. 1732-39-767

All communications should be addressed to the Secretary for Customs.

Ref. No._____

JGH/EP

CUSTOMS DEPARTMENT
ST. JOHN'S, NEWFOUNDLAND

(F)

Rehabilitation Officer
Production

13th April, 1945.

Dear Sir,

I have to inform you that the Board of Customs have ordered legal proceedings to be taken against you for a breach of Section 122 (6) (b) of the Customs and Excise Act, 1938, as amended by the Act No. 6 of 1942, for transferring goods imported into Newfoundland duty free for Army purposes in contravention to the Customs and Excise Act, 1938, as amended.

I have to state that if you do not disclaim liability, the Board are prepared, having regard to all the circumstances and in virtue of the powers given them by Section 195 of the above mentioned Act, to stay proceedings provided that the sum of $100.00 is paid within one week of receipt of this notice, the goods in question being confiscated.

I shall therefore refrain from taking further steps until you have had an opportunity of complying with the terms of this letter, but you should clearly understand that you are entitled to have your case heard in Court if you prefer to do so.

Yours faithfully,

J. Morell
Secretary for Customs.

Sergeant Major Earl MacInnis, No. F-22316, 30th A. A. Btry.
R. C. A.,
Goose Airport,
Labrador.

(To be handed to the man proceeding on Pass) (H)

PASS

Place Goose Bay

Date 7 July 43

Unit So. L. R. R. Bty R.C.A.

No. B. S. M. McInnes.

has permission to be absent from his Quarters from 1800 hours Wednesday the 7 July 43 until 2359 hours Wednesday the 14 July 43 for the purpose of going on duty with R.C.A.F.

(STAMP)

Goose Bay Detachment

JUL 1943

MIL. Book 63

HEADQUARTERS

P. V. Beaudan

Lt.-Col. Commanding

To be used only
when employed with
the D. D. P. M.

ROYAL CANADIAN AIR FORCE

PASS

No. 0.A.1051

Admission to DOCK

Issued to Sgt Major E.V.McInnis (G)

Of 30th Light A.A., Canadian Army

Purpose Official Duty

Valid until cancelled

Deputy Minister

For

The person to whom this pass is issued is responsible for compliance with the Standing Orders of the unit concerned.

This pass is not transferable and is not valid unless signed below by the person to whom issued.

Return to point of issue on expiration or when no longer required.

R.C.A.F.G. 19—15M—4-43 (2651)—H.Q. 1062—9-M

B.S.M.

G.B. 5-4

5-4

CANADIAN ARMY

Copy

(I)

Area Headquarters,
Goose Bay Defences,
29 May 43.

Officer Commanding,
R.C.A.F.
Goose Bay, Labrador.

1. Authority of this Headquarters is hereby granted to the D.A.P.M. to utilise the services of the two undermentioned N.C.O's, to assist the Service Police, in the handling of Army Personnel, whenever, their Battery Commander sees fit to grant them permission.

B.S.M. Cousins 15 L.A.A.

~~B.S.M. Joseph, J.J. 15th H.A.A. Bty, R.C.A.~~

B.S.M. McInnes, K. 30th L.A.A. Bty, R.C.A.

2. At no time will these N.C.O's act alone or together in a police capacity but only when accompanied by a member of the Service Police or the Newfoundland Rangers.

McAlee Capt
for (J.R. Medhurst, E.D.) Lt-Col.,
Commander Goose Bay Defences.

MCB/lhb

G.B. 5-4

COUNTER NUMBER 13063

HOUR 16:50

OPERATOR'S INITIALS GU

RELIEVING OPERATOR OW

(Y)

A.F. Leslie Capt
President F.G.C.M.

M.F.B. 255
22M—5-41 (572-3)
H.Q. 1772-30-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F.22316	B.S.M.(W.O.II)	Earl Vincent MacInnis	30th. A.A. Bty.

1. ~~The following is a fair and true summary of the entries in the Service and General Conduct sheets~~ ~~Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court Martial or a Civil Court,~~ ~~Air Force Act~~ ~~of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed~~ with

~~Within last 12 months~~ ~~Since enlistment or appointment~~

~~For ..... times ..... times~~

~~For ..... times ..... times~~

~~For ..... times ..... times~~

~~For ..... times ..... times~~

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of ..... 19.....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and Nil days in ~~military~~ Air Force custody, making a total of Nil days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 28 yrs. 8 months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is Aug. 29, 1939.

7. ~~The service which the accused is allowed to reckon towards discharge~~ is

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to wear air force~~ military decoration, ~~or air force regular (or in military possession of or entitled to)~~. State any ~~air force~~ military decoration or reward. Efficiency Medal
Canadian Volunteer Service medal and Clasp.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of Sergeant.

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ ~~Permanent Force~~ ~~unit~~ ~~dated~~ ~~, and in his regiment (or corps), the rank of~~ ~~dated~~

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

August 29th. 1939 Date of promotion.

In the rank of Corporal 8 months ~~years~~

In the rank of Sergeant 4 months ~~years~~

In the rank of B.S.M. 4 years-7 months. ~~years~~

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army ~~Air Force~~ Act, and of cases in which trial has been dispensed with of accused, Number F.22316 Rank B.S.M. Name Earl Vincent MacInnis of 30th. A.A. Bty., R.C.A. ~~Unit~~ ~~Regiment~~

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Officer Commanding Defended Area of Goose Bay	Goose Bay, Labrador	(1) A.A. Sec. 11 Neglecting to obey Unit Standing Orders. (2) A.A. Sec. 40 "Conduct to the prejudice etc." Using a D.N.D. vehicle for private purposes	Reprimand	
D.O.C. M.D. No. 7	Saint John N.B.	Conduct to the prejudice etc. Using a D.N.D. vehicle without authority.	Severe Reprimand.	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26th day of April 1945

O.C. 30 A.A. Bty, RCA

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

No. F.22316 Name BSM MacIrris, E.V. Sqn., Battery, or Company: 30th. A.A. Bty., R.C.A. Corps

Date of enlistment: 24 Aug 39 G.C. Badges:

Tradesmen's Rates of Pay:

M.F.M. 6 (A.F.B. 122) 5003M—11-41 (2498) H.Q. 1773-39-1481

No. and date of last drunk:

Period not reckoning towards freedom from extra fine:

Sheet No. 3

Last sheet destroyed 20 May

Signature O.C. Company, etc.: H.D. Carr, Capt

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Goose Bay	6 Nov 42	BSM		A.A. Sec. 11 "Neglecting to obey Unit Standing Orders" A.A. Sec. 40 "Conduct to the prejudice etc" Using a D.N.D. vehicle for private purposes	Lieut. Kennedy, H.S.	Reprimanded	7 Nov 42	Lt.-Col. J.W. Medhurst	C.
Toronto		BSM		Issued with Special Leave and Furlough Transport Warrant No. A.333512					
Saint John, N.B.	5 Mar 44	BSM		Conduct to the prejudice, etc., using a D.N.D. Vehicle without authority	documentary	Severe Reprimand	18 Mar 44	Brig. Anglin	G.L. Kent Lt.-Col.

CERTIFIED TRUE COPY.

26 Apr 45 — R.A.C. Lord Capt O.C. 30 A.A. Bty. RCA

(1) Orders Capt Quartermaster

(P.T.O.)

(C)

A.T. Goslen Capt.
President F.G.C.M.

SUMMARY OF EVIDENCE

in the case of

No. F.22316, B.S.M.(W.O.II) Earl Vincent MacInnis, 30th. Anti Aircraft Battery, R.C.A., a warrant officer of the Canadian Army placed on Active service.

CHARGES:-

Stealing Public Property (two charges)

Stealing Property belonging to a Regimental Institution.

Conduct to the Prejudice of Good order and Military Discipline.

The Commanding Officer directs that the evidence be taken on oath.

First Witness: No. 77, Arthur Morris, a member of the Newfoundland Ranger Force, having been duly sworn states:-

About 10 o'clock A.M., March 31st., the D.A.P.M. notified me that he had found a dog team with a quantity of goods on it. I went to the old mess hall, Goose Bay, Labrador, and found a quantity of goods on a sled in the possession of Sydney Blake. I seized these goods, took them off the sled and brought them to the Newfoundland Rangers Office. I was present at this office when Lt.-Col., Roach examined the goods and listed them and when Capt. Parrott examined them. They were the same goods which I seized. I was also present when a soldier came and asked to examine the sleeping bag. I was not actually in the room where the examination took place but there was only one bag in the building and that was the one I had seized from Sydney Blake.

The accused declines to cross examine.

A. Morris, Ranger

~~Second Witness:~~ ~~I certify that in my opinion due to the inconvenience and difficulty of travelling from North West River to Goose Bay, the attendance of Sydney Blake cannot readily be procured.~~ ~~Lt.-Col.~~

~~Lt.-Col. Lead Dep. Adv.~~

~~The written statement of Sydney Blake (including the three exhibits) was read to the accused and attached to the summary.~~ ~~Lt.-Col.~~

Sworn to as true

Sydney Blake of Duck West River Labrador being duly sworn states:

I am Sydney Blake of Duck West River, Labrador. On March 30th I received from Sergeant Major Mr. Dennis the following articles, one sleeping bag, twelve tins corn starch, two bottles of lime extract, one tin of gooseberry jam, one tin of fruit jam, one tin hot chocolate powder, one tin of butter, five lbs. of cheese, fifteen lbs. apparently of raisins, one quarter of shredded wheat, twelve tins of tomatoes, one tin of condensed milk, nine packages of corn flakes. Some of these items were for myself and some for my brother Harry Blake. There were some other articles too.

Q. Where did you get these articles?

A. He delivered the small stuff to me at his quarters.

Q. What about the rest of it?

A. The rest of the articles were delivered to me at Dan Michelin's place. That is in Sango Bay Labrador.

Q. Did you pay for these articles?

A. Yes.

Q. How much?

A. Fifty three dollars.

Q. That sum includes other articles not included in the list above?

A. Yes it includes everything I got from him.

Received before to me examiner

Sid Blake

Third Witness: F.24386, B.Q.M.S. Mabey, H.W., 30th. A.A. Bty., R.C.A., having been duly sworn states:-

I am B.Q.M.S. of the 30th. A.A. Bty., and in charge of stores. This Battery has no sleeping bags on charge or in stores. It never had any except one in the winter of 1942-43. This bag was sold on payment to Lieut. J.A.C. Stewart. B.S.M. MacInnis never bought a sleeping bag on payment through the Battery. He was never issued with one by the Battery.

The accused declines to cross examine.

Fourth Witness: F.93404, S/Q.M.S. J.T. Kiely, No. 6 Ordnance sub depot, Goose Bay, Detachment, having been duly sworn states:-

I am store holder of Goose Bay Detachment R.C.O.C. and am at present in charge of the detachment in the absence of Lieut. Hemphill. On April 2, 1946 I checked the stock of sleeping bags on charge to this detachment and found one short. There are bags at Riglet and I could only check the records on these, I did not actually count them. On instructions from Lt.-Col. Roach I called at the Newfoundland Rangers office to inspect a sleeping bag there. I examined this bag and it had a mark on the flap inside the canvas container. The mark was only faintly distinguishable but in my opinion is the government stores mark.

The accused declines to cross examine.

Jas. Kiely S/Qms.

Fifth Witness: Capt. E.R. Parrott, No. 6 District Coy., R.C.A.S.C., having been duly sworn states:-

I am C.S.& T.O. for the Defended Area of Goose Bay, Labrador. On March 31st. I was called to the office of the Newfoundland Rangers at Goose Bay. I was shown a quantity of food and tinned goods. I identified these as being the same type and brand as are issued as rations in this Area. Among these articles were Benson corn starch, Grape fruit juice, canned tomatoes, tinned butter.

Accused declines to cross examine.

E. Parrott, Capt.

Sixth Witness: G.600309, Pte. Hanson, H.E., No. 6 Coy., R.C.A.S.C., attached as in W.E. to 30th. A.A. Bty., R.C.A., having been duly sworn states:-

I am night cook in the combined N.C.O's and men's mess at Battery Headquarters, 30th. A.A. Bty., "F" Area, Goose Bay, Labrador. On ~~April~~ 30th I was on duty around ten thirty or eleven P.M. or thereabout and B.S.M. MacInnis came in and asked me if I was overstrength in any particular rations. I told him we were in certain things, corn flakes, corn starch, tomatoes, onions. He went around into the store room. I saw him take some articles and bring them to the kitchen. I did not pay any attention to what went on after this and did not see him leave. I did not see the articles he brought from the store room again.

Accused declines to cross examine.

X H.E. Hanson.

Seventh Witness: M.608228, Bdr. Hawrelko, P., 30th. A.A. Bty., R.C.A., having been duly sworn states:-

I am an N.C.O. of the 30th. A.A. Bty., and am in charge of rations. I draw and distribute all rations and extra messing. In the extra messing the Unit receives Kellogs corn flakes from time to time. Some have been received fairly recently although I cannot say the exact date. Some of these were distributed to the combined mess in "F" Area. Kellogs Corn Flakes are not on the scale of issue of rations and cannot be drawn from the ration depot.

Accused declines to cross examine.

X Peter P. Hawrelko

Question to the Accused

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by Accused

I have nothing to say.

I certify that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

Taken down by me in the presence of the accused at Goose Bay, Labrador, this 3rd. day of April 1945.

(P.F. McLeod) Major,
30th. A.A. Bty., R.C.A.

ADDITIONAL SUMMARY OF EVIDENCE

in the case of

No. F.22316, E.S.M. (W.O.II) Earl Vincent MacInnis, 30th Anti Aircraft Battery, R.C.A., a warrant officer of the Canadian Army placed on Active Service.

CHARGES:-

Stealing Public Property (two charges)

Stealing Property belonging to a Regimental Institution

Conduct to the prejudice of Good Order and Military Discipline.

The Commanding Officer directs that the evidence be taken on Oath.

Fifth Witness (recalled): Capt. E.R. Parrott, No. 6 District Coy., R.C.A.S.C., having been recalled is again duly sworn and states:-

On March 31st, 1945, I examined certain articles in the office of the Newfoundland Customs and Rangers at Goose Bay, Labrador.

Question: Do you recall the exact articles ?

Answer: No, I cannot recall them off hand, but would recognize a list.

Question: Were the following articles among them :- Twelve one pound boxes Benson corn starch, two one pound bottles Girard Company lemon extract, one four pound tin Wagstaffe goose berry jam, one fourteen ounce tin grape fruit juice, one five pound tin hot chocolate powder, one two pound tin Wilsils butter, five pounds Canadian cheddar cheese, 15 pounds onions, one package of twelve shredded wheat biscuits, twelve tins canned tomatoes, one tin concentrated orange juice, and nine boxes of "Kelloggs" Corn Flakes ?

Answer: At least some of them were. Each of these items is of the type and brand that we issue except corn flakes. The only corn flakes which the Supply Depot issues are in small individual packages.

The accused declines to cross examine.

E.R. Parrott, Capt.

Fourth Witness (recalled): F.93404, S/Q.M.S. J.T. Kiely, No. 6 Ordnance sub depot, Goose Bay Detachment, having been recalled is again duly sworn and states :-

The sleeping bag which I examined in the Newfoundland Rangers office and to which I referred in the previous evidence in this case given by me was a "Bags, sleeping, Eiderdown" similar to those carried in Ordnance stock here. As far as I can determine from the records this is the type that is missing from our stock.

Question by Accused: How many types of sleeping bags do you have in stock ?

Answer: Two, I believe.

Question by Accused: How do you know which type is short ?

Answer: I took stock and according to the ledger balance and actual stock figures at that time we were deficient one of that type. It must be borne in mind that I took no physical count of stock supposed to be at Rigolet.

Question by Officer taking summary:

Why didn't you count the ones at Rigolet ?

Answer: It is impossible to visit Rigolet at this time of year. I tried to get a check over the radio by Area Headquarters but was told it was impossible.

Accused declines to question the witness further.

Question to the Accused:

Do you wish to make any statement or to give evidence upon Oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by Accused:

I have nothing to say.

I certify that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

Taken down by me in the presence of the Accused at Goose Bay, Labrador, this 20th day of April, 1945.

(N.F. McLEOD) Major,
30th A.A. Bty., R.C.A.

MEDICAL OFFICER'S REPORT

I certify that No. F.22316 BSM W.O.2 Earl V. MacInnis

of 30th. L.A.A. Bty. is in a normal state of health,

and fit to undergo Trial by Court martial.

S. S. Avren, Capt
(S. S. AVREN), Capt. RCAMC.
Medical Officer

Station Goose Bay, Labrador

Date 26 April 1945.

M. F. B. 246

25M—10-42 (6500)
H.Q. 1771-39-480

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 26th day of April 1945, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) Shorthand writer
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 26th day of April 1945.

H J Macdonald Major
Judge Advocate

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 14 day of June 1945.

G. G. Roach Lt-Col

Confirming Officer.

Promulgated and extracts taken in the case of F22316 BSM (WO II) Carl Samuel Madsen

(a) (Dated) 3 May 1945 (Signed) [illegible]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

300-9-42(O-1398)

H.Q.C.55-M- (JAG/D-3)

AIR MAIL

29 May 45

The Commander,
Defended Area Goose Bay.

Field General Court-Martial
F.22316 BSM (WO II) Karl Vincent MacInnis,
30th Anti Aircraft Battery, R.C.A., C.A.

Receipt is acknowledged of the proceedings of the m/n Field General Court-Martial which were forwarded under date of 10th May 1945 by the A.J.A.G., M.D.#6.

2. The record is most unsatisfactory. It does not specifically state:

(a) The names, ranks, etc., of the Prosecuting and Defending Officers and the Shorthand Writer.

(b) That the Convening Order and the names of the President and Members of the Court were read to the accused and that R.P.110 was complied with.

(c) At what stage the accused was found Not Guilty of the third and fourth charges.

(d) That R.P.35(B) and R.P.83 was complied with.

3. Further, the Judge Advocate should have signed the schedule at page 2 of A.F.A3, in addition to the President, and also certificate B on page 3.

4. The Court included in the proceedings a paper signed by the President setting forth the reasons for the Finding on the first and second charges and also a "recommendation on sentence". Does this mean that the Court did not pass the sentence at the conclusion of the trial but referred the matter of sentence to Lt.Col. G.T.Roach who awarded the sentence? May advice be received please as to what actually was done in respect of the sentence.

5. The Charge Sheet was signed by Major McLeod as O.C. 30th Anti Aircraft Battery and he also convened the Court. It appears that Major McLeod confirmed the Finding only and that Lt.Col. Roach confirmed the Sentence. In view of K.R. (Can) 568 confirmation of both Finding and Sentence should have been effected by Lt.Col. G.T.Roach. Under these circumstances if Lt.Col.Roach approves the confirmation of the Finding and Sentence or if he in fact did by his Minute "Confirmed" on p.2 of A.F.A3 intended to confirm both the Finding and Sentence, the Minute of Confirmation signed by Major McLeod on p.2 should be struck out. Lt.Col.Roach should then complete a new Certificate D and attach it to p.3 and sign and date it and this Confirmation should be promulgated to the accused, a new Minute of Promulgation endorsed on p.3 and the accused's documents amended accordingly.

6. When the proceedings have served your purpose, may they be returned to this office, please, when the review will be completed.

MO/MX

(H.F.Orde), Brigadier,
Judge Advocate.

IN REPLY PLEASE QUOTE NO. Mo-498 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

313752

Headquarters, M. D. No. 6,
Halifax, N. S., 10 May 45.

CONFIDENTIAL

CENTRAL REGISTRY Army
CONF. SEC.
MAY 13 1945
File C 55-M-1647
Chgd. to
Referred to JAG

Judge Advocate General,
Department of National Defence,
Ottawa, Ontario.

FIELD GENERAL COURT-MARTIAL
F-22316 E.S.M.(W.O.II) E.V. MacINNIS
30 A.A. Bty., R.C.A.

Reference H.Q.C.55-M-1647 (JAG/D-8) dated 14 Apr 45.

2. Herewith proceedings of Field General Court-Martial on the m/n Warrant Officer held at Goose Bay on the 26th Apr 45.

3. It was necessary to secure the services of a court stenographer from the American Army as there was no other one available with sufficient experience to take down and transcribe the evidence. This reporter was, therefore, not familiar with our forms and procedure or terms in use in our courts and some variations from the usual transcriptions may appear in the proceedings.

N. F. Macdonald

ALB/jmcg

-3692

(N. F. Macdonald) Major,
A. J. A. G., M. D. No. 6

NAT. DEF. 8. 440
250SM-4-44 (4821)
H-O. 1772-39-767

ORIGINAL IS ON:

H.Q. C.55-M-1647
M.D. ~~10-MONTREAL-RV~~
H. Mc-498

GS

FIELD GENERAL
MEMORANDUM - DISTRICT COURT-MARTIAL

No. F.22316 Name McINNIS, Earl Vincent

Rank Sgt Maj (WO II) Unit 30th AA Bty Royal Cdn Arty CA

Charge (1) A.A. 18(4) Stealing public property

(2) A.A. 40 Conduct to the prejudice

(3) A.A. 18(4) Stealing public property

(4) A.A. 18(4) Stealing property belonging

(5) A.A. 40 Conduct to the prejudice

Date of Crime (1) (2) (3) (4) (5) on or about 30-3-45.

Date of Arrest Charge Signed 20-4-45

Orders for ~~D.C.M.~~ FG Major Comd Defended Area of Goose Bay.

Place and Date of Trial 25-4-45; Goose Bay Labrador

Sentence To be reduced to rank of Cpl

Date of Confirmation ~~26~~ 30-4-45

Date of Promulgation 3-5-45

Entered in Records of J.A.G. as No. 3692

Date 15-5-45

MEMO (1) (2) (3) (4) Not guilty.

for Judge Advocate-General

10M-1-45(M-4629)

H.Q.C.55-M-1647 (JAG/D-8)

14 Apr 45

The District Officer Commanding,
Military District No. 6, Halifax, N.S.

Application for District Court-Martial
F.22316 BSM (NOXI) Earl Vincent MacInnis,
30th Anti Aircraft Battery, R.C.A., C.A.

Further to the telephone conversation of 13 Apr 45 between our Lt.Col.N.B.Bredin and your Major N.F.Macdonald, we are enclosing herewith copy of our letter to the Commander, Defended Area Goose Bay, re the m/n Application for District Court-Martial, for your information.

(R.J.Orde), Brigadier,
Judge Advocate-General.

MO/MM

H.Q.C.55-M-1647 (JAG/D-8)

AIR MAIL

15 Apr 45

The Commander,
Defended Area Goose Bay.

Application for District Court-Martial
F.22316 NSW (WOII) Earl Vincent MacInnis
30th Ainti Aircraft Battery, R.C.A.,C.A.

Receipt is acknowledged of your G.B.5-7-5 dated 7 Apr 45, under cover of which you forwarded Charge Sheet and Summary of Evidence in the marginally-noted District Court-Martial pursuant to K.R.(Can) 540.

2. In our opinion the Charge Sheet should be redrawn in accordance with the Draft Charge Sheet enclosed herewith.

3. The evidence of F.93404 S/QMS J.P.Kiely is barely sufficient to support the first and second charges. It is considered that normally, when goods are shown to bear the Government s tores mark, the same are proven, prima facie, to be public property. Therefore it is important that definite evidence be given to identify the Government stores mark on the sleeping bag alleged to be stolen by the accused.

4. S/QMS Kiely in his evidence has stated that on checking the stock of No. 6 Ordnance Sub-Depot, one sleeping bag was missing. Evidence should be adduced to show that the sleeping bag alleged to have been stolen by the accused, is of a similar make and type to the sleeping bag missing from the stock of No.6 Ordnance Sub-Depot.

5. As to the remaining charges, it is considered that the evidence is sufficient to support the respective charges. It is noted that Capt.E.R. Parrott, in his evidence, has NOT identified each and every article specified in the third and fifth charges, as being the same type and brand of rations issued in this area. This is considered necessary to support the a/m charges.

6. It is noted that the accused is to be tried by District Court-Martial. In view of the limited powers of punishment available to District Courts-Martial in respect of Warrant Officers under A.A.182, it is considered that the serious nature of the charges alleged, warrant the accused to be tried before a Field General Court-Martial whose powers of punishment are NOT so limited.

7. We strongly suggest for your consideration the advisability of appointing a Judge Advocate in the event the accused is to be tried by a F.G.C.M. Major N.F.Macdonald, A.J.A.G.,at Halifax, N.S. is available and upon notice from you can be despatched to Goose Bay. He will require one week's notice.

8. The original Charge Sheet and Summary of Evidence are returned herewith.

(R.J.Orde), Brigadier

MG/MM

CHARGE SHEET

The accused, F.22316 Battery Sergeant Major (WOII) Earl Vincent McInnis, 30th Anti Aircraft Battery, Royal Canadian Artillery, a Warrant Officer of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE
Sec.18(4)
Army Act

STEALING PUBLIC PROPERTY

in that he

at Goose Bay, Labrador, on or about March 30th,1945, stole one Woods Artic Sleeping Bag, being public property.

SECOND CHARGE
(Alternative)
Sec. 40,
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Goose Bay, Labrador, on or about March 30th, 1945, did improperly deliver to Sydney Blake, North West River, Labrador, one Woods Artic Sleeping Bag, being public property.

THIRD CHARGE
Sec. 18(4)
Army Act

STEALING PUBLIC PROPERTY

in that he

at Goose Bay, Labrador, on or about March 30th,1945, stole the following articles, twelve one pound boxes Benson corn starch, two one pound bottles Gizzard Company lemon extract, one four pound tin Wagstaffe goose berry jam, one fourteen ounce tin grape fruit juice, one five pound tin hot chocolate power, one two pound tin Wilsils butter, five pounds Canadian chedder cheese, 15 pounds onions, one package of twelve shredded wheat biscuits, twelve tins canned tomatoes, one tin concentrated orange juice, being public property, from the kitchen of the combined non-commissioned officers and mens mess of the 30th Anti Aircraft Battery, R.C.A., "F" Area, Goose Bay, Labrador.

FOURTH CHARGE
Sec.18(4)
Army Act

STEALING PROPERTY BELONGING TO A REGIMENTAL INSTITUTION

in that he

at Goose Bay, Labrador, on or about March 30th,1945, stole nine boxes of "Kellogs" Corn Flakes, the property of the Mens Canteen, 30th Anti Aircraft Battery, R.C.A., from the kitchen of the combined non-commissioned officers and mens mess, 30th Anti Aircraft Battery, R.C.A., "F" Area, Goose Bay, Labrador.

FIFTH CHARGE
(Alternative)
Sec. 40
Army Act.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Goose Bay, Labrador, on or about March 30th, 1945, took from the combined non-commissioned officers and mens mess "F" Area, Goose Bay, Labrador, the articles of public property specified in the third charge and the articles belonging to the Mens Canteen, 30th Anti Aircraft Battery, R.C.A., specified in the fourth charge and delivered the said articles specified in the third and fourth charges to Sydney Blake, North West River, Labrador, without authority.

IN REPLY PLEASE QUOTE No.

G.B. 5-7-5.

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

BY AIR MAIL
PAR AVION

Headquarters,
Defended Area Goose Bay,
7 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Att: Judge Advocate General

District Court Martial
F22316 BSM (WO II)
Earl Vincent MacInnis

C. 55-11-1647

Attached are charge sheet and summary of evidence in the case of Battery Sergeant-Major (WO II) Earl Vincent MacInnis forwarded under provision of K.R. (Can) 540.

2. It is pointed out that the evidence of Sydney Blake was obtained under difficulties and it was impossible to have it typed and signed. Sydney Blake is a trapper living 35 miles away and is not readily available because he has to travel by dog team and only visits Goose Bay periodically. He will, of course, have to be brought to Goose Bay for the trial. It is suggested that additional evidence from Blake for the summary (if it should be considered deficient) be ordered only on very substantial grounds.

3. Copies of charge sheet and summary of evidence have also been forwarded to Assistant Judge Advocate General at H.Q., M.D. 6.

4. May this H.Q. be advised, please.

G. T. Roach Lt.Col.

(G.T. ROACH) Lt-Col.,
Commander,
Defended Area Goose Bay

/RLA

NAT. DEF. R. 440
250000-4-44 (A221)
H.Q. 1172-53-267

H.Q.C. 55-M-1648

CONFIDENTIAL

N.F.B. 2618
SSM—1-G (66CA)
H.Q. 200-1-46

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MATEKA. JOSEPH JOHN B.127904 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1648

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "See Minute")		
				J.A.G.	NEW FILE	C.R.	APR 12 1945
				Admin	Reassigned, pleas etc	EDM	17-4-45
MAY 3 1945	3-5-45	PA		J.A.G.	Returned pl	wof	28.4.45
JUN 7 1945	7-6-45			Admin	[redacted] JUN 4 1945		
JUN 25 1945	25.6.45	PA	wof	Admin	[redacted] JUN 1[illegible] 1945		
JUL 1[illegible] 1945	14/7/45			Admin.	PER B.F. JUL 20 1945		
JUL 23 1945	23/7/45	PA		J.C.M.	[redacted] JUL 2[illegible] 1945		
AUG 13 1945	13.8.45	PA	wof	Admin	PER B.F. AUG 14 1945		
OCT 2 - 1945				EMBR	[redacted] OCT 2 1945		
				C.M.P.A.	[redacted] OCT 1[illegible] 1945	OK	OCT 19 1945
				SC	Fol 28	was	OCT 19 1945
NOV 2 - 1945	14.11.45	PA	GAB	Adm	Returned pl	GAB	20.10.45
NOV 8 - 1945	7.11.45	PA	GAB	Admin	[redacted] NOV 6 1945		
NOV 13 1945	13/11/45	PA	E.D.M.	[redacted]	[redacted] NOV 1 1 1945	OK	
				Admin.	Per B.F. 14.11.45	C.R.	13/11/45
				JAG	Per request	GAB	5/12/45
				Admin	Returned pl	pm	6.12.45
DEC 14 1945							
DEC 10 1945	10 Dec	PA	LOK	Admin	To file	ARG	10/12/45.
MAY 2[illegible] 1946	23/4/46	PA	was	VRB	[redacted] MAY 4 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

T-36-10-282 Vol.2 (AJAG)
T-20-B-20813
T-20-M-22111
T-20-S-4233

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
26th November, 1945.

11737
NOV 28 1945
File M-1646
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

S.U.S. ex ITALY and U.K. - Remission of Sentences

B-157711 Pte. BRAGGNUR, D.J.
B-127904 Pte. MATEKA, J.J.
B-55952 Pte. ST. LOUIS, L.X.

Reference K.S. 374(A) dated 26th October, 1945, 21st October 1945 and 10th October, 1945.

2. The marginally-named SUS were discharged on 14th November 1945 under C.A.R.O. 1029(8) and granted remissions of sentences effective the date of discharge.

3. Herewith completed Appendix "G" to C.A.R.O. 5913 and Army Form A 3104 for each SUS.

(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

COPY TO : The District Officer Commanding, (FOR INFORMATION)
Military District No. 3,
KINGSTON, Ontario.

noted JAG

noted JGR

IN REPLY PLEASE QUOTE
No. K.55-M-5577-C (DAPM)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

KINGSTON, Ontario. 8 NOVEMBER, 1945.

NOV 9 1945
CSS-M-1648

Secretary,
Dept of National Defence,
O T T A W A, Canada.

B.127904 - Pte. MATEKA, J. J.

Reference radiogram RANKS 1058 RESTRICTED dated 20 Oct 45.

2. Please be advised that the marginally named soldier was released from 89 Military Detention Barracks on this date and was despatched under escort to 2 District Depot for a remission of his sentence and his ultimate discharge from the Canadian Army.

C.H. Watts Major,
for (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No. 3.

Capt Parker

EW/V.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CoM.

NDHQ FILE No.
District File No. T-20-M-22111

PART I

No. B-127904 Rank Pte. Name MATEKA, J.J.
Unit No. 2 District Depot, C.A. (formerly 4 Cdn. Rft. Bn.)

PART II

Date of Trial 20th December 1944 (FGCM)
Charge(s) Desertion (AA Sec. 12(1)(a)
Sentence 2 years' Imprisonment with Hard Labour
Date of Sentence 20th December 1944
Confirmation - (a) Authority : T.G. Gibson Brig. Comdr. 1 Cdn. Base Rft. Group
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act ~~xxxx

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B127904 Pte Mateka J J Unit 4 Cdn Rft Bn
Sentenced to 2 yrs imp with hard labour on 20 Dec 44
Age on, and date of enlistment 27 yrs; 21 May 42 Term of service duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

26

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	No remission. B.F. 6 Jun 45.	(W. G. H. Ross) Brigadier O.R. Cdr Sec 1 Ech A.F.H.Q. 14 MAR 1945	
	No remission, Return to Canada in custody under sentence	(C. S. BOOTH) Brigadier, D.A.G. Canadian Military Headquarters. 24 APR 1945	
6th Nov. 45	Remit Effective Date of Discharge.	(A.E. Potts) Major-General D.C.C. M.D. No.2.	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. 1st Charge A A Sec 12(1)(a) When on Active Service Deserting His Majesty's Service in that he in the Field, in Italy, after having been duly warned that he would be proceeding to his unit in the field on draft, absented himself from 1400 hrs 16 Oct 44 until surrendering himself at 1820 hrs 9 Dec 44, with the intent to avoid so proceeding. (Total time absent 54 days 4 hrs 20 mins). (A E Davidson) Capt & Adj Signature of Officer making entry. 4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF	16 Oct 44	20 Dec 44

VIII.—Second Trial.

Signature of Officer making entry.

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
15 Jan 45	I have no personal knowledge of this soldier. My impression is however that any lenient sentence would not be of value to the army. He appears to be an incorrigible type. (L J Flynn) Lt-col Commanding 4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF	

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
19 Jan 45	Recommend full sentence be served	Brig. COMMANDER 1 CDN BASE RFT GROUP

T-26-10-282 Vol.2(AJAG)
T-20-B-20813
T-20-M-22111
T-20-S-4233

8420

NOV 10 1945
File 53-M-1648
Chgd. to
Referred to

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
8th November, 1945.

The Officer Commanding,
No. 2 District Depot, C.A.,
Stanley Barracks,
TORONTO, Ontario.

S.U.S. ex ITALY and U.K. - Remission of Sentences

H-157711	Pte. BRASSEUR, D.J.	- 1029(8)
B-127904	Pte. MATEKA, J.J.	- 1029(8)
B-55952	Pte.ST. LOUIS, L.X.	- 1029(8)

Reference K.S. 674(A) dated 26th October, 1945, 21st October, 1945 and 10th October, 1945.

2. The District Officer Commanding, M.D. No. 3, has advised that the marginally-named SUS were despatched to No. 2 District Depot, C.A. on the 8th November, 1945, for Discharge under the provisions of C.A.R.O. 1029(8) and remission of balance of sentence.

3. The District Officer Commanding, M.D. No. 2 has remitted the balance of the sentences now being served by the marginally-named SUS effective the Date of Discharge.

4. Enclosed herewith Appendix "O" to C.A.R.O. 5913 effecting remission.

5. May Promulgation of the Remission be made to the said respective SUS effective the Date of Discharge, Parts IV and V of the said form completed and the form then returned to this Headquarters, please.

P.J. Flynn
(P.J. Flynn)
Major
A.J.A.G. M.D. 2.

COPY TO : The Secretary, (FOR INFORMATION)
Department of National Defence,
OTTAWA, Ontario.

The District Officer Commanding, (FOR INFORMATION)
Military District No. 3,
KINGSTON, Ontario.

T-36-10-282 Vol.2(AJAG)
T-20-B-20813
T-20-M-22111
T-20-S-4233

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
8th November, 1945.

The Officer Commanding,
No. 2 District Depot, C.A.,
Stanley Barracks,
TORONTO, Ontario.

S.U.S. ex ITALY and U.K. - Remission of Sentences

B-157711 Pte. BRASSEUR, D.J. - 1029(8)
B-127904 Pte. MATEKA, J.J. - 1029(8)
B-55952 Pte.ST. LOUIS, L.X. - 1029(8)

Reference K.S. 674(A) dated 26th October, 1945, 21st October, 1945 and 10th October, 1945.

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3. The District Officer Commanding, M.D. No. 2 has remitted the balance of the sentences now being served by the marginally-named SUS effective the Date of Discharge.

4. Enclosed herewith Appendix "G" to C.A.R.O. 5915 effecting remission.

5. May Promulgation of the Remission be made to the said respective SUS effective the Date of Discharge, Parts IV and V of the said form completed and the form then returned to this Headquarters, please.

P.J. Flynn
(P.J. Flynn)
Major
A.J.A.G. M.D. 2.

COPY TO : The Secretary, (FOR INFORMATION)
Department of National Defence,
OTTAWA, Ontario.

The District Officer Commanding, (FOR INFORMATION)
Military District No. 3,
KINGSTON, Ontario.

~~GIB V CIA NR 10 & 11~~

VER V [redacted]A NR 4

FROM CMDG 3 KINGSTON ONT 051015R

~~TO DOC MMD NO 2 TORONTO ONT~~

~~RPTD OFFICER CMDG NO 2 D D TORONTO ONT~~

THE SECTY DND OTTAWA ONT

GR 156 BT

RECEIVED NOV 5 1945
C. SIGS. R. OF CANADA ARMY SIGNAL OFFICE NOV 5 1945
THIS IS AN INTERIM COPY
IF RECEIVED, COMPLETE BELOW AND RETURN TO A.S.O. WOODS
DATE | TIME | SIGNATURE

C-55-M-1648

KD 430 RESTRICTED

RETEL KD 419 RESTRICTED DATED 31 OCT 45 STOP UNDER HQC 9039-1-1 (ADM 3) DATED 31 OCT 45 DEFENCE HQS SETS FORTH IN PARA 4(B) THAT IN [redacted] CASES WHERE CMDR RECOMMENDS IMMEDIATE RELEASE OF ANY SOLDIER MENTIONED ON THEIR RADIOGRAM THAT THE SOLDIER IN QUESTION MUST BE RETURNED TO [redacted] HIS DISTRICT NOT LATER THAN IN ONE WEEKS TIME STOP RANKS 1058 RESTRICTED DATED 20 OCT 45 RECOMMENDS IMMEDIATE RELEASE B 127904 PTE MATEKA J J STOP THIS SUS WILL BE DESPATCHED FROM 89 MDB UNDER ESCORT ARRIVING TORONTO 1730 HOURS 8 NOV 45 STOP REQUEST TRAIN BE MET AT TRAINSIDE BY ESCORT STOP DOCUMENTS WILL BE IN POSSESSION OF ESCORT STOP ADDSD CMDG TWO RPTD OC 2 DD AND DEFENSOR

BT 051150R IB AR

52800

Cay file pls 127904 Re 7

~~CIB V C A NR 10211~~

VER V CIA NR 4.

FROM CMDG 3 KINGSTON ONT 051014R

~~TO DOC HD NO 2 TORONTO ONT~~

~~RPTD OFICER CMDG NO 2 D D TORONTO ONT~~

THE SECTY DND OTTAWA ONT

GR

GR 156 ET

RECEIVED NOV 5 1945

R.C.S.I.G.S. NATIONAL CAPITAL BLDG. OTTAWA 4 NOV 1945 ARMY SIGNAL OFFICE

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO A.S.O. WOODS

BRANCH	TIME	SIGNATURE

KD 430 RESTRICTED

RETEK KD 419 RESTRICTED DATED 31 OCT 45 STOP UNDER HQC 9039-1-1 (ADM3) DATED 31 OCT 45 DEFENCE HQS SETS FORTH IN PARA 4(B) THAT IN CASES WHERE CMDR RECOMMENDS IMMEDIATE RELEASE OF ANY SOLDIER MENTIONED ON THEIR RADIOGRAM THAT THE SOLDIER IN QUESTION MUST BE REYURNE TO HIS DISTRICT NOT LATER THAN IN ONE WEEKS TIME STOP RANKS 1058 RESTRICTED DATED 21G OCT 45 RECOMMENDS IMMEDIATE RELEASE B 1278/// 127904 PTE MAT/// MATEKA J J

STOP THIS SUS WILL BE DESPATCHED FROM 89 MDB UNDER ESCORT ARRIVING TORONTO 1730 HOURS 8 NOV 45 STOP RQ// REQUEST TRAIN BE MET AT TRAINSIDE BY ESCORT STOP DOCUMENTS WILL BE IN POSSESSSION OF ESCORT STOP ADDSD CMDG TWO RPTD OC 2 DD AND DEFNSOR

051204R

ET 051140R IB B

52786

LR

C;: : PTE MATEKA J J

COPY

VER V CIA NR 7

FROM COMMANDING TROOP KINGSTON ONTARIO 311558 R

TO SECRETARY DEPT OF NAT DEFENCE OTTAWA ONTARIO

GRS 273 ST

RE 419 RESTRICTED RELEASE RS 674 (A) DATED 10 21 24 AND 26 OCT 45 STOP FOLLOWING SOLDIERS UNDER SENTENCE PRESENTLY HELD 89 MDB BARRIFIELD ARE DUE FOR RELEASE AND DESPATCH TO TWO DD FOR REMISSION OF SENTENCE AND ULTIMATE DISCHARGE FROM CANADIAN ARMY

B 74151 PTE CLAIRMONT R E

B 79304 PTE GASTON J

B 76042 PTE RIGPEL M J

B 58354 PTE FAILOA J V

B 130041 PTE GUSTAFSON F A

B 39579 PTE WARD H

STOP ABOVE SIX SHS WILL GRADE ATTACHMENT 89 MDB AND BE SCS DD 3 WED 6 NOV 45 AND WILL ARRIVE TORONTO 1730 HRS SAME DATE STOP

FOLLOWING FIVE SHS WILL GRADE ATTACHMENT 89 MDB AND BE SCS DD THREE WED 13 NOV 45 AND WILL ARRIVE TORONTO 1730 HRS 13 NOV

B 157711 PTE BRASSEUR D J

B 21490 PTE BOTTOS H

B 55932 PTE ST LOUIS L E

B 127904 PTE MATSKA JJ

B 11218 GNR MOGAN T J

STOP REQUEST COMMANDING TWO HAVE ESCORTS DETAILED TO MEET BOTH TRAINS ON ARRIVAL AND TAKE OVER THESE SOLDIERS ON DATES ABOVE MENTIONED STOP REGIMENTAL DOCUMENTS OF EACH SOLDIER WILL ACCOMPANY ESCORT STOP ADJUTANT COMMANDING TWO REPEATED OC TWO DD AND DEFENCE

ST 010229 R GY AR (K)

note
DD

CLEAR

ARMY MESSAGE

(OUTGOING)

FILE HQC 55-M-1648
Adm 3a2

PLACE: OTTAWA ONT

DATE: 23 OCT 45

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 3
KINGSTON ONT

RANKS 0484 UNCLASSIFIED RETEL ED 228 DATED 21 OCT 45 (.) AF A3104 FOR B127904 PTE NATEKA J J FORWARDED TO YOU ON 20 OCT 45 (.) MAY THIS FORM BE FORWARDED TO APPROPRIATE DISTRICT

ADJUTANT GENERAL

WEC:[redacted]7984:hrr

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT, INCLUDING WIRELESS	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED: B Clark Gen for Major-General Adjutant-General		1525

SINGLE COPY FORM FOR CLEAR MESSAGE

(THIS FORM IS TO BE USED FOR ADDITIONAL DISTRIBUTION)

DDA

15

VER V CIA NR

FROM CMDG THREE KINGSTON 211640

TO SECTY DND OTTAWA

TO ~~GOC IN C PAC CMD VANCOUVER~~

GR 68 BT

KD 228 UNCLASSIFIED RETELS RANKS 1058 AND 021/0251 RESTRICTED DATED 20TH OCT 45 STOP FORWARD AFAS 3104 AND REVIEW SHEETS OF EACH SUS DIRECT TO CMDG 2 AND GOC IN C PACIFIC AS THESE DOCUMENTS ARE NOT HELD AT THIS HQS STOP ADDSD DEFENSOR RPTD CMDG 2 AND PAC CMD

ET 211648 AR RO K

211900

1205 22/10/45

70291

HQ MD3 To clarify this by further wire

22 OCT 45

R.C. SIGS
OCT 22 1945
ARMY SIGNAL OFFICE

RECEIVED
OCT 21 1945
A.D.M.I.N.
34

HQC 55-M-1648, Adm 3(a)

AIR MAIL

Ottawa, Ont, 20 Oct 45.

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario.

B-127904 - Pte MATEKA J J

1. Ref our Ranks 1056 d/20 Oct 45.

2. Enclosed herewith AF A3104 for the m/n soldier.

(A E Walford)
Major-General,
Adjutant-General.

GDB:mw

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE HQC 55-M-1648
Adm 3(a)

PLACE	DATE
OTTAWA, Ont	20 Oct 45.

District Officer Commanding,
Military District No 3,
KINGSTON, Ont.

RANKS 1058 (RESTRICTED)

REVIEW REF AG 0267 D/18 Oct 45 REFERS

B-127904 PTE MATEKA J J (.) CMBR RECOMMENDS

IMMEDIATE RELEASE (.) AG CONCURS (.) ACK

ADJUTANT GENERAL

Infm copy to: AG
CMBR
JAG

GDB:mw

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED (A E Walford) Maj-Gen, Adjutant-General.		IMMEDIATE	0945

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

HQC 55-M - 1648 (CMBR-1)/evj
10 Oct 45
Case No 0151

REVIEW OF SENTENCE

1. No, Rank and Name: B.127904 Pte MATEKA, B.

2. Unit at date of offence: 4 CBRB, 1 CBRG, CMF.

3. Charge: AA Sec 12(1)(a) WOAS - after having been warned to proceed to his unit in the field was AWL for 55 days with intent to avoid so proceeding.

4. Place and Date of Trial: 20 Dec 44 - in the Field - Italy.

5. Finding: Guilty

6. (a) Sentence: Imprisonment with H.L. - 2 years
   (b) Date of Sentence: 20 Dec 44

7. Date of Confirmation: 28 Dec 44

8. Date of Promulgation: 4 Jan 44

9. Being served at 89 M.D.B. in MD 3

29

(N.B. - Discharged under RO 1029 ( ) for wef)

~~Case No~~ ----------

CONDUCT

11. (a) Prior to conviction: Good

Date of enlistment: 21 May 42

Date of enrolment:

Age: 28

(b) After conviction: Good. Earliest date of release 19 Apr 46.

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

Prosecution proved that accused had been warned for the draft. Accused claims he was confused about the exact time, he had no intention of missing the draft, but was drunk for 3 or 4 days and does not know where he was at the time the draft left. Accused also claims that his wife was in difficulty and they would only let him send 2 pounds a day home to her. Got fed up and went on a drunk.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC Reviewing Offr, etc).

CMHQ: To serve full sentence and be dismissed for misconduct.

Rev Offr: To be released immediately in view of good record in the field and good conduct sheet.

Reviewed by A.B. O'KEEFE, Capt.

14. Recommendation of the Board

Immediate Release.

Date OCT 15 1945

Secretary Major

IN REPLY PLEASE QUOTE No. T-20-M-22111(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
3rd October, 1945.

1213
OCT 5 1945
6.35-M-1648
CMBR

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

SUS ex Italy G.O. 131/44
B-127904, Pte. Joseph John MATEKA
No. 2 District Depot, C.A.
(formerly H & P.E.R. Regt.)

Reference Telegram CMBR 7 Unclassified dated 3rd October, 1945.

2. Herewith Army Form A 3104 and proceedings of Field General Court-Martial referring to the marginally-named soldier.

(O.S. Hollingsake)
Colonel
T/D.O.C. M.D. No.2.

NAT. DEF. B. 449
250M-4-44 (4350)
H.Q. 1772-09-757

27

RECORDED AT CMHQ IN AB 160 4-P-47.

RECEIVED 8 FEB 1945

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA31) 40/P & S/1698 (40/0) 4/38B

Convened by Order of Lt. Col. L J Flynn Comd 1 C.B.R.G. 4 Can Rst Bn dated 18 Dec. 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 127904	Pte		Joseph John	Matexa	4 Can Rst Bn

PROCEEDINGS REVIEWED

10 Jan 45. Rd Landerkopf

WAITING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 20 Dec 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 26-94

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0935 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as ~~interpreter?~~ Ans .....

~~The Interpreter is sworn.(1)~~ Do you object to B 127933 S/Sgt Rehanek as shorthand writer? Ans No Sir

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Capt	G. Payette	4 Can Rst Bn
Member	Capt	J. Marcotte	4 Can Rst Bn
Member	Capt	G. Vanpeois	4 Can Rst Bn
Judge-Advocate			
Prosecutor	Capt	H. S. Hopper	4 Can Rst Bn
Defending Offr	Lt	B. A. Nunn	4 Can Rst Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Sir Is the Defending Offr a lawyer? Ans No Sir(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See DI p 3.)

A8. The accused B 127904 Pte Matexa J J before arraignment make(s) (no) (a) .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

M96

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED, NUMBER B127904 PRIVATE JOSEPH JOHN MATEKA OF 4 CDN RFT BN, 1 CDN BASE RFT GROUP, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

1ST CHARGE
A A Sec 12 (1) (a)

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, in Italy, after having been duly warned that he would be proceeding to his unit in the field on draft, absented himself from 1400 hrs 16 Oct 44 until surrendering himself at 1820 hrs 9 Dec 44, with the intent to avoid so proceeding. (Total time absent 54 days 4 hrs 20 mins).

(L J Flynn) Lt-col
Commanding

In the Field
16 Dec 44

4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(L J Flynn) Lt-col
Commanding

In the Field
16 Dec 44

4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

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FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to seperate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B127904	PRIVATE		JOSEPH JOHN	MATEKA	4 Cdn Rft Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 18 Dec 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (~~a) three Offrs to form the Court~~, (b) a Fd Offr as President, for the reasons I have attached hereto. None available
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge-Advocate to preside the Offr mentioned hereunder.~~
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Capt	G PAYETTE	4 Cdn Rft Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	F MARCOTTE	4 Cdn Rft Bn
Capt	G VAUGEOIS	4 Cdn Rft Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	D J DOOLEY	4 Cdn Rft Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (*Country.*)

(L J Flynn) (*Signed personally. RP 105 fn 2.*) Lt-col (*Rank.*)

Date 18 Dec 44

Commanding 4 Cdn Rft Bn - 1 Cdn Base Rft Group CMF
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

4/38A CFABS (Up Ren of APA3) 40/P & S/1897 (4031)

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MEDICAL OFFICER'S CERTIFICATE

DEC 20th 1944

K.R. (CAN) Para 557

I hereby certify that I have this morning examined No B127904 PTE. MATEKA J.J. on strength 4 Cdn Rft Bn, 1 C B B Gp, and in my opinion he is FIT/~~UNFIT~~ to undergo trial by Court Martial

W J Brady Capt
Medical Officer 4 Cdn Rft Bn.

OPENING ADDRESS BY THE PROSECUTION

I would like to draw the attention of the court to the three points in the charge sheet requiring proof to substantiate a charge of Desertion. I will call witnesses for the prosecution who will deal with the three points in turn; which are, the accused was warned for draft, that he in actual fact did go absent without leave, and the third point that by his actions he showed the intention of avoiding the draft.

FIRST WITNESS FOR PROSECUTION

D71493 Sgt McIlroy A M, 4 Cdn Rft Bn, 1 C B R G, having been duly sworn, states:

I am D71493 Sgt McIlroy A M, P E Sgt of 'B' Coy. At approx 0800 hrs 15 Oct 44 I mustered the X-List of the HPER. The name and number of Pte Mateka was on that list. He answered his name and I then warned all present that they would be available for draft to the field units and would proceed to go through draft routine, pass the Medical Officer, Dental Officer and Quartermaster Stores. At approx 1400 hrs 15 Oct 44 I mustered my draft. Pte Mateka answered his name and was present on parade. I then proceeded to pass them through draft routine. Pte Mateka passed through the Medical Officer and Dental Officer. At approx 1400 hrs 16 Oct 44 I mustered my draft. Pte Mateka failed to answer his name. The draft left at 1400 hrs 16 Oct 44. Pte Mateka was not present and I placed him as an absentee at 1400 hrs 16 Oct. I have not seen Pte Mateka around the coy lines.

Question by Prosecution

Q Are you certain that Pte Mateka was on parade at 0800 hrs on 15 Oct when the draft was warned they would be proceeding?

A Yes Sir, I am positive.

Cross Examination by Defence

Q When warned for draft, did you give them any idea when the draft would be leaving?

A When we warn the draft, we tell them to be available for the field unit within 24 hrs to the following day.

R P 83B complied with.

SECOND WITNESS FOR PROSECUTION

P9577 BSM McDermott M M, 4 Cdn Rft Bn, 1 C B R G having been duly sworn, states:

I am P9577 BSM McDermott M M, of 'B' Coy, 4 Cdn Rft Bn, 1 C B R G. At approx 0800 hrs 15 Oct 44 I was present on parade when Sgt McIlroy warned the draft. Pte Mateka was on that draft. He answered his name. Pte Mateka was present.

Question by Court

Q If you saw Pte Mateka, could you identify him?

A Yes Sir.

Q Is he here? Point him out.

A Witness points to accused.

R P 83B complied with.

THIRD WITNESS FOR PROSECUTION

A3885 Pte Knowles H, 4 Cdn Rft Bn, having been duly sworn, states:

I am A3885 Pte Knowles H, File Clerk, 4 Bn Orderly Room. I hereby produce a certificate under A A Sec 163 (1) (j) purporting to relate to the accused and showing that B127904 Pte Mateka J surrendered himself at PERUGIA at 1820 hrs 9 Dec.
(Produced, signed by President, marked Exhibit 'A', and attached to proceedings).

R P 83B complied with.

ADDRESS BY DEFENCE

I submit that the evidence for the prosecution does not establish a prima facie case against the accused on the first charge in that it has not proved that Pte Mateka went absent without leave with the intent to avoid so proceeding. They have shown that he was warned and that he was absent without leave. They have not shown that he had intended to miss the draft.

REPLY BY PROSECUTION

I would like to draw the attention of the court to Chap. 6 in "Evidence", para 13 (quotes). I submit that in this case it is covered by Para 13 in "Evidence".

B127904 Pte Mateka J J, having been duly sworn, states:

I thought that the draft was leaving on 17 Oct 44 and I intended to be present at that time. For three or four days I don't remember where I was as I was drunk.

Question by Court

Q Pte Mateka on what grounds did you believe that the draft was to leave on the 17th?

A I went back to the room, Sir, and it was a rumour amongst the boys that it would be leaving on 17th.

Q Is it the first time you were on draft or were you in a unit before?

A I was in a unit before, Sir.

Q How long?

A Since 10 Feb of this year. It was 16 Sep when I went out sick.

Q Were you wounded?

A No Sir.

R P 83 B complied with

SUMMING UP BY PROSECUTION

At the opening of the trial I pointed out that 3 points were to be proven to substantiate a charge of desertion. The evidence of the first witness - the sworn testimoney of Sgt McIlroy, is that the draft was warned and Pte Mateka later admitted that he was present on that parade. The second point of absence without leave has been established by the first witness and the fact that Pte Mateka surrendered himself on the date shown is borne out by the evidence of Pte Knowles. As pointed out earlier, the fact of the accused's intention to desert is a point that is not possible to prove but in consideration of the evidence that has been given I would say that it was strongly presumptuous and it is entirely a matter for the court to decide whether the accused had an intention of avoiding draft or not.

SUMMING UP BY DEFENCE

I would like to point out that the accused, although being absent without leave, had not the intention of missing a draft but was incapable of forming the intention of missing the draft. He was intoxicated and does not know where he was at the time the draft left.

ADDRESS BY DEFENCE IN MITIGATION
OF PUNISHMENT

This man served with his field unit, the HPER, from 10 Feb of this year to 16 Sep, when he was S.O.S. to hospital through sickness. He was contented with his unit and on leaving hospital was anxious to get back to it. His wife is having trouble at home. He had a large sum of money. He tried to sent money home but due to regulations could only send £2-0-0 a day. He thought that he would be leaving on draft on the 17th and unfortunately with all this money on hand he got intoxicated and thus missed the draft. There also is the fact that the accused surendered himself and he is anxious to get back to his unit.

CERTIFICATE IN ACCORDANCE WITH ARMY ACT. SECTION 163(1)(a).

I, Captain E Potter certify that No B/127904 Rank Pte

Name MATSIKA J. of HASTINGS - PRINCE EDWARD 1st BRIG 1st Div

surrendered himself to No 154115 Rank Cpl. Name WOODS A

200 PROVOST COMPANY. C.M.POLICE at PELWICK at 1820 hrs, on the 9 day of DEC 1944

as a deserter (or absentee without leave).

(Sgd) E Potter Capt.

RANK & SURNAME

O.C 200 Provost Company. C.M.Police.

Commanding Officer of the person or portion of His Majesty's Forces to whom the surrender was made.

Cir B" 4P

ARMY FORM B 236.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B127904	Private	Joseph John MATEKA	4 Cdn Rft Bn - 1 C B R G

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For	Nil times	Nil times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement, but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers begin a fresh month (or week) with the month (or week) in which the conduct sheets are renewed, or in the manner laid down in the most serious offence in each entry, and to any recognized special entry of exemplary or distinguished conduct.

INSTRUCTION.—If the character be for drunkenness, the entries for drunkenness must be stated separately and dated.

2. The accused has not been previously convicted, *or*

~~PREVIOUS CONVICTION OF THE ACCUSED BY A COURT MARTIAL OR A CIVIL COURT, SUMMARY AWARD UNDER SECTION 47 OF THE ARMY ACT, OR IN POSSESSION WITH LEGITIMATE CLAIM OF THE Army Act, 1940, OR OF ONE IN THE SCHEDULE ANNEXED TO THE VALOUR.~~

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for _____ beginning on the _____ day of 1620 hrs 9 Dec 44

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 11 days in military custody, making a total of 11 days, of which, Nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 27

6. The date of his ~~enlistment~~ attestation specified in his ~~attestation paper~~ record of service is 21 May 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). N/A

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A, dated _____ and in his regiment (*or* corps *or* department) the rank of _____ dated _____

(71,8250) Wt. 15802/143 125,000 6/43 A.R.B.W.Ltd. G6,499

17

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B127904 Rank Private Name MATEKA J J of 4 Cdn Rft Bn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		Nil		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th day of December 1944

(A E Davidson) Capt & Adjt
4 Cdn Rft Bn - 1 C B R G.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of Date of Promotion.

In the rank of / years,

In the rank of years

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such records as are available and the paragraphs concerned amended accordingly.*)

years,

No B127904 Name Mateka J J | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | MF (AF B 40/PAS/136 (3438))

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED THERE IS NO M.F.M.6 IN THE REGIMENTAL CONDUCT BOOKS HELD IN MY CUSTODY

A E Davidson

(A E DAVIDSON) Capt & Adjt
4 Cdn Rft Bn 1 C B R G

In the Field
17 Dec 44

(PTO)

96

Summary of Evidence in the case of B127904 Private Joseph John MATEKA, 4 Cdn Rft. Bn, 1 C B R G. who is charged with WOAS Deserting His Majesty's Service (A A Sec 12 (1) (a).

By direction of the Commanding Officer, the evidence is taken upon oath.

1st Witness D71493 Sgt McIlroy A M, 4 Cdn Rft Bn, 1 C B R G, having been duly sworn, states:

I am D71493 Sgt McIlroy A M, (P E) Sgt with 4 Cdn Rft Bn, 1 C B R G. As orderly Sgt of 'B' Coy I called the nominal roll of the HPER.at 0800 hrs 15 Oct 44. The name and number of Pte Mateka whom I now recognize as the accused, was on this nominal roll. He answered his name. I then warned him for draft telling him that he was on draft to his field unit, theHPER and would go through draft routine. I paraded the accused with other members of the draft to the M.O. and the D.O. and the Quarter Stores. At approx 1400 hrs 16 Oct 44 I mustered my outgoing draft. The accused was absent from this muster parade. I then searched the billets and coy lines but could not locate him. The draft left at approx 1430 hrs and the accused was still absent. I have not seen the accused in the coy lines or camp area since that date.

A M McIlroy
(McIlroy A M)

The accused declines to cross-examine this witness.

2nd Witness P9577 BSM McDermott M M, 4 Cdn Rft Bn, 1 C B R G. having been duly sworn, states:

I am P9577 BSM McDermott M M, P E BSM of 'B' Coy 4 Cdn Rft Bn, 1 C B R G. At approx 0800 hrs 15 Oct 44 I was present on parade when Sgt McIlroy warned the accused for draft. I recognize the accused as Pte Mateka.

M M McDermott
(McDermott M M)

The accused declines to cross-examine this witness.

3rd Witness A3885 Pte Knowles H, 4 Cdn Rft Bn, 1 C B R G, having been duly sworn, states:

I am A3885 Pte Knowles H, File Clerk 4 Cdn Rft Bn Orderly Room. I hereby produce a certificate under A A Sec 163 (1) (j) purporting to relate to the accused and showing that B127904 Pte Mateka J J, surrendered himself at PERUGIA at 1820 hrs 9 Dec 44. (Produced, shown to accused, marked Exhibit 'A' and attached hereto).

H. Knowles
(Knowles H)

The accused declines to cross-examine this witness.

Question to Accused:

Do you wish to make a statement or to give evidence upon oath. You are not obliged to say anything or to give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by Accused:

I have nothing to say at this time.

I certify that R P 4 (c) (d) (e) and (f) have been complied with.

I certify that this summary was taken down by me in the presence and hearing of the accused.

In the Field
16 Dec 44

(R R Brown) Capt
Officer taking Summary

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE

I hereby certify that I have this date 18 Dec 1944 received from 4 Cdn Rft Bn, I C B R Gp, 1 copy of Charge Sheet and Summary of Evidence referring to charge (s) of Desertion 12(a)(a)

for which I was remanded for Court Martial.

(Sig of Accused).

REQUEST FOR DEFENDING OFFICER

I hereby request that Lieut B.A. Nunn if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, I C B R Gp appoint an officer to act in my behalf.

(Sig of Accused)

Pursuant to Chap V Sec V Sub Sec of MML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

(Sig of Accused)

13

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) ~~(no)~~ opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the Sixth charge(s). The Court is closed, and considers the submission.(2) The Court is re-opened and the President announces that the submission is disallowed on the Sixth charge(s) ~~and allowed on the charge(s), but that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s)~~.(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Give sw. Dress on oath. Do you intend to call witnesses on your behalf? Ans. No Sir. ~~Are they witnesses to his character only? Ans.~~

(1. RP 115. 2. RP 40(A), see 110(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s). The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the Sixth charge(s), being subject to confirmation, will be promulgated later.(1)

Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (4), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes Sir (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the Members of the Court~~.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

12

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 9505 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 30 day of Apr 1945

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B127904 Private Joseph John Mateka

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st HR 12(1)(a)	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~As present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned with hard labor for Two (2) years

(Sgd) ..... Judge-Advocate, if any.

20 Dec 44 Date awarded.

(Sgd) Y. Lapotte Capt. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) N. Nilstson Brig.

Date 29 Dec 44

Commanding COMMANDER 1 CDN BASE REP GROUP Confirming Offr.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B127904 Pte MATEKA, J.J. H.PER 4 Bn. ICBRGP	4 Jan 45	J. A. Salomon Capt Adjutant 2 Can Reclamation Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ARMY MESSAGE
(OUTGOING)

CLEAR

FILE: HQC 55-8-1648 (CMBH)

PLACE DATE

OTTAWA, Ontario, 2 Oct 45

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO. 2,
TORONTO, ONTARIO.

CMBH 7 UNCLASSIFIED

REF T.36-10-282 A4 AND THIS HQC 55-8-1648

DATED 6 JUN 45 STOP FORWARD EARLIEST FGCM

PROCEEDINGS B.127904 PTE MATEKA J J

ADJUTANT-GENERAL

ABO/ADM

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT INCLUDING WIRELESS	DEGREE OF PRIORITY	TIME OF ORIG
SIGNED (A.E. Walford) Major-General Adjutant-General		

COPY 4 FOR ORIGINATOR'S FILE

7

DEPARTMENT OF NATIONAL DEFENCE
-A R M Y -

FILE NO: K.S. 674; K 55-B-8476-C;

K.55-C-6884-C; K.55-G-4578-C; K.55-L-6153-C;
K.55-L-6151-C; K.55-L-6238-C; K.55-M-5577-C;
K.55-Mc-3941-C; K.55-R-3842-C; K.55-S-6988-C;
K.55-W-4142-C; K.55-W-5104-C; K.55-T-2939-C; (A)

Kingston, Ontario 14 JUNE, 45.

Commandant, 89 Military Detention Barracks, Barriefield, Ont.
A.J.A.G. Military District No. 3, Kingston, Ont.
Officer Commanding, 3 District Depot Kingston, Ont.
District Paymaster, Military District No, 3, Kingston, Ont.
District Medical Officer. Military District No. 3 Kingston, Ont.
D.A.P.M. Military District No. 3, Kingston, Ont.
Officer Commanding, 3 Ordnance Depot Coy, RCOC Kingston, Ont.
Governor of the County Jail County of York, Toronto, Ont.
District Records officer, Military District No. 3, Kingston, Ont.
Officer Commanding No. 33, Coy, C Pro C. Ottawa, Canada,
Commandant, Ottawa Area Command, Ottawa, Canada.

SUS EX ITALY GO 131/44
Military Detention Barracks, 89, Fort Henry

Under HQS 8536-1 Vol 2 Adm 3(b)2 dated 27 Apr 45 National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy to No. 89 Military Detention Barracks, Fort Henry, Kingston.

2. The Undermentioned personnel have been sentenced to imprisonment with Hard Labour and are to serve the remainder of their sentence in a Provincial Institution, in Ontario:

MILITARY DISTRICT NO: 2

B.135241	- Pte BLUE, D.	- 2 yrs imprisonment Hard Labour
B 133644	- Pte CASSELMAN, C.	- 2 yrs imprisonment Hard Labour less 55 days Hard Labour
B 81888	- Pte GRIGSBY A.N.	- 1 yr imprisonment Hard Labour
B 44286	- Pte Howard W.W.J.	- 2 yrs imprisonment Hard Labour
B 55629	- Pte LEDUC J.A.	- 2 yrs imprisonment Hard Labour
B 13019	- Pte LENTZ F.J.	- 18 mos imprisonment Hard Labour
B 64539	- Pte LUCAS G.E.	- 2 yrs imprisonment Hard Labour
B 46416	- Pte Mabon J.N.	- 2 yrs imprisonment Hard Labour
B 127904	- Pte MATEKA, J.J.	- 2 yrs imprisonment Hard Labour
B 84116	- Pte McGRATH J.	- 2 yrs imprisonment Hard Labour
B 134371	- Pte REDRING G.D.	- 2 yrs imprisonment Hard Labour
B 83207	- Pte REDMOND E.	- 18 mos imprisonment Hard Labour
B 111994	- Pte STANLEY R.	- 18 mos imprisonment Hard Labour
B 78715	- Pte. WELLER G.L.	- 2 yrs imprisonment Hard Labour
B 67555	- Pte WIGE T.J.	- 2 yrs imprisonment Hard Labour
B 52186	- Pte HOPE M.H.	- 2 yrs imprisonment Hard Labour and discharge with ignominy
B 37827	- Pte TODD, J.A.	- 2 yrs imprisonment Hard Labour and discharge with ignominy

3. It is understood that National Defence Headquarters have made arrangement with the Province of Ontario whereby the above mentioned soldier under sentence will be admitted to a Provincial Institution to serve the remainder of their sentence. Consequently the Commandant, 89 Military Detention Barracks will arrange as soon as the documents of the above mentioned personnel are available to have the above personnel made ready for despatch to No. 2 District Depot and will advise this Headquarters when the personnel are ready to despatch.

OR. 1

mentioned

B 10

4. The A.J.A.G. will prepare the necessary Order of Release and forward it to the Commandant, 89 Military Detention Barracks. In this connection it will be necessary to grant one day's remission in the case of all soldiers sentenced to two years with Hard Labour.

5. The D.S. & T.O., MD 3, will issue the necessary transportation on demand

6. The D.A.P.M., MD 3, will arrange for sufficient escort to guard the movement of this personnel from No. 89 Military Detention Barracks, to District Depot No. 2, such escort being supplied from No. 33 Coy, C. Pro. C., Ottawa, and No. 89 Miltiary Detention Barracks, Kingston.

7. The above personnel will move in two groups of nine in on e group and eight in the other, and the D.A.P.M. MD 3, will advise the District Officer Commanding, MD 2, at least forty-eight hours before the despatch of these groups This arrangement was made to-day by telephone between the D.A.A.G. MD 3, and Capt Richardson, Headquarters, MD2.

8. All the above personnel will cease attachment to No. 89 Military Detention Barracks and be struck off strength to No. 3 District Depot to No. 2 District Depot effective the date they are despatched. Such prisoners will then be discharged from the Canadian Army and handed over to the Governor of the County Jail of the County of York after a Warrant of Commitment has been signed by the District Officer Commanding, Military District no. 2, for the use of the Governor of the County Jail, County of York Toronto. In this connection the attention of the District Officer Commanding, MD 2, is drawn to National Defence Headquarter's letter HQS 8536-6 Vol 2 Adm 3 dated 28 May 45 (R922(t)).

COPY TO
D.D. & T.O. Military District No. 3, KINGSTON, Ont.

(W.K. MacGregor) Major
D.A.A.G. M.D.3,

COPY TO
District Officer Commanding, Military District No. 2, TORONTO
Officer Commanding, 2 District Depot TORONTO, Ont.

Provincial Secretary, Parliament Buildings TORONTO, Ont.
Attention Superintendent of Reformatories.

Secretary Department of National Defence, OTTAWA, Ont.
Attention Capt. Parlee, Administration.

WKM/EV

HQC 55-M-1648
Adm 3(b)2

OTTAWA, Canada

6 Jun 45

CONFIDENTIAL

District Officer Commanding,
Military District No2,
TORONTO, Ontario

B.127904 Pte MATEKA, J J
SUS ex Italy - No 89 MDB

Ref T-36-10-282 A4 and further to this HQS 8536-6 Vol 2 dated 6 Jun 45:

2. Enclosed herewith Proceedings of FCCM and AFA 3104 with reference to the above SUS.

3. When these documents have served their purpose, may they be returned to this HQ, pls, with reference to the above file number.

(A E Walford)
Major-General
Adjutant-General

Encl. 2

WOP:da

9

THIS COPY FOR H.Q. C.55-M-1648
M.D. 10/Mateka, JJ/1

GS

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. B.127904 Name MATEKA, Joseph John

Rank Pte Unit 4 Cdn Rft Bn, 1 Cdn Base Rft Gp CAO

Charge A.A. 12(1)(a) Desertion

Date of Crime 16-10-44

Date of Arrest 9-12-44 Charge Signed 16-12-44

Orders for F.G.C.M. Lt.Col Comd 4 Cdn Rft Bn, 1 C.B.R.G.

Place and Date of Trial In the field; 20-12-44

Sentence Imprisonment for 2 yrs W.H.L.

Date of Confirmation 28-12-44

Date of Promulgation 4-1-45

Entered in Records of J.A.G. as No. 3505

Date 30-4-45

MEMO Balance of sentence remitted by Conf. Auth. 2-1-45

Absent	Sentence
1½ mos	Imprisonment W.H.L 2 yrs

8

W. Oslen Capt
for Judge Advocate-General

10M-1-45 (M-4629)

3 May 45

Passed - no irregularities noted.

HQS 8536-6 Vol 2
AAm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

OTTAWA, Ontario

CONFIDENTIAL

27 Apr 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

B.127904 Pte MATEKA, J J

SUS EX ITALY

This SUS is being returned from O/S in custody and is to be posted to No 3 DD and to be committed to No 89 MDB, in accordance with HQS 8536-6 Vol 2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ Letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of **imprisonment with hard labour.**

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

~~3. This SUS is to be ultimately discharged with ignominy in accordance with the sentence of the Court under CARO 1029(9).~~

Dr. A. Stilwell
for (A E Welford)
Major-General
Adjutant-General

Encl. 3

7

[redacted]ER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Mateka, JJ./1

CANADIAN MILITARY HEADQUARTERS

LONDON 3 Apr 45

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

C. 55-M-1648

B-127904 Pte Mateka, J.J.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 20 Dec 44 for an offence under AA Sec 12(1)(a). The earliest date on which he should be released if he earns full remissions for good conduct while serving his sentence is 19 Apr 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein, their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence.

5. In view of the serious nature of the offence of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 20 Dec 44, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E.G. WEEKS), Major-General
In charge of Administration
Canadian Military Headquarters

Inc. 4

Q 1000:76
& S/803 (6739)

6

[redacted]
CONFIDENTIAL

10/Mateka, [illegible]

3 Apr 45

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

D-127904 Pte Mateka, J.J.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 20 Dec 44 for an offence under AA Sec 12(1)(a). The earliest date on which he should be released if he earns full remissions for good conduct while serving his sentence is 19 Apr 46.

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5. In view of the serious nature of the offence of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

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(E.G. WEEKS), Major-General
In charge of Administration
Canadian Military Headquarters

Enc. 4

C O P Y

BOMBER
CONFIDENTIAL

AIR MAIL

10/Mateka, J.J./1

CANADIAN MILITARY HEADQUARTERS

LONDON 3 Apr 45

Secretary,
Department of National Defence,
OTTAWA, Canada

B-127904 Pte Mateka, J.J.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 20 Dec 44 for an offence under AA Sec 12(1)(a). The earliest date on which he should be released if he earns full remissions for good conduct while serving his sentence is 19 Apr 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM, and his sentence has been served, so far in that theatre.

3. Att hereto is a copy of the relevant portions of the review Sheet used at CMHQ showing the date of this Soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, ([redacted]).

5. In view of the serious nature of the offences of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of Para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 20 Dec 44, original A.F.A3104 in respect thereof on which this direction has been endorsed, and Committal Order. This soldier will be despatched to Canada direct from Italy.

Encs: 4

(E.C. Weeks) Major-General
In Charge of Administration
CANADIAN MILITARY HEADQUARTERS.

4

C O P Y

BOMBER
CONFIDENTIAL

AIR MAIL

10/Mateka, J.J./1

CANADIAN MILITARY HEADQUARTERS

LONDON 3 Apr 45

Secretary,
Department of National Defence,
OTTAWA, Canada

B-127904 Pte Mateka, J.J.

1. The m/a soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 20 Dec 44 for an offence under AA Sec 12(1)(a). The earliest date on which he should be released if he earns full remissions for good conduct while serving his sentence is 19 Apr 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM, and his sentence has been served, so far in that theatre.

3. Att hereto is a copy of the relevant portions of the review Sheet used at CMHQ showing the date of this Soldier's enlistment and his record of any previous army or civil offences.

4. A Neuro-Psychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, ~~(Unsuitable for further combatant service.)~~

5. In view of the serious nature of the offences of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of Para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 20 Dec 44, original A.F.A3104 in respect thereof on which this direction has been endorsed, and Committal Order. This soldier will be despatched to Canada direct from Italy.

(E.C. Weeks) Major-General
In Charge of Administration
CANADIAN MILITARY HEADQUARTERS.

Encs: 4

3

REVIEW OF SENTENCE

SPECIAL REVIEW

DATE :

FILE : 10/Mateka J.J./1

1. NO., RANK AND NAME: B.127904 Pte. Mateka, J.J.

2. UNIT AT DATE OF OFFENCE: 1 CBRG

3. AT PRESENT ON STRENGTH OF: "X2" List. 1 CBRG

4. DATE OF SENTENCE: 20 Dec 44.

5. AWARD: 2 years imprisonment with hard labour.

6. CONFIRMED SENTENCE: As awarded.

7. BEING SERVED AT: Italy.

8. OFFENCES:

AA Sec 12(1)(a) - WOAS - Deserting H.M. Service - After having been duly warned that he would be proceeding to his unit in the field on draft, absented himself with intent to avoid so proceeding. Surrendered after 54 days 4 hours.

8 (a) PRESENT AGE: - 27 years.

9. PREVIOUS CONDUCT: - Enlisted 21 May 42.
Charged under AA Sec 15(1) - 1 offence
AASec 19 - 1 offence.
Maximum punishment awarded - 4 Oct 43 - 14 dys F.P. - AWL 9 hrs 40 mins.

10. CONDUCT WHILE UNDER SENTENCE: -

11. EARLIEST DATE OF RELEASE: - 19 Apr 46.

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE CHANNELLED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS **B-127904 Pte Mateka, J.J.** of **4 Cdn Rft Bn** was by Field General Court-Martial held in the field convicted of the offence(s) of **Desertion**

and by a sentence signed on the **20th** day of **December** 194 **4** sentenced to undergo **Imprisonment with hard labour** for **2 years**

said sentence of **imprisonment** commencing on the aforesaid day, and such sentence has been confirmed by **Comd 1 Cdn Base Rft Group** as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the [illegible] in charge of the appropriate craft and is hereby [illegible] and convey the said soldier in custody overseas to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this **3rd** day of **April** 194 **5**

[signature]
Major General Brigadier
Deputy Adjutant General
Canadian Military Headquarters

H.Q.C. 55-M-1649

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MATISZ. GEORGE A.604674 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1649

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS (If space for which referred cannot be increased on one line, add minute to file and enter here "With Minute")	INITIALS	DATE
APR 20 1945	[redacted]	[redacted]		J. A. G.	NEW FILE C.R.		APR 18 1945
				JAG	With Papers C.R. APR 28 1945		
MAY 2 1945				JCM	To note, gk.	mm	1-5-45
MAY 28 1945	[redacted]			L.C.M.	PER B.F. MAY 27 1945		
JUN 16 1945		P.A.		JCM	With Papers C.R. JUN 15 1945		
JUL 25 1945	JUL 24 1945	P.G.			[redacted] OCT 17 1945		
OCT 18 1945	18 Oct				Per Reconsideration C.R. OCT 17 1945		
DEC 18 1945	17 Dec 45			Int.	Per [redacted] C.R. NOV 30 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55-M-1649 (ICM)

MDHQ Ottawa, Ont

24 Jul 45 1945

CONFIDENTIAL
C.M.

District Officer Commanding,
Military District No.1.
London, Ontario

A.604674 Pte MATISZ, G.

Ref L.28-M-1117 (AJAG)

2. Enclosed herewith:-

(a) MFM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford)
Major-General
Adjutant-General

Capt

IN REPLY PLEASE QUOTE

No. L.28-M-1117 (DAPM)
L.28-T-523
L.28-N-103

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

321762

HQ MD 1 London, Ontario, 12 June 1945

Secretary,
N.D.H.Q.,
OTTAWA, Can.

A.608070--Pte. NAU, L.
M.612178--Rfn. G. TKACHUK.
A.604674--Pte. MATISZ, G.

Ref. H.Q.C. 55-N-203; 55-T-523 and 55-M-1649 dated 24th May, 28th May and 28 May, 1945 respectively, herewith returned forms P.C.M.-B completed for the m/n soldiers.

Encl.--3.

(P. Earnshaw) Brigadier
D.O.C., M.D. No. 1.

Army
JUN 14 1945
655-M-1649
Referred to

D. 23
7-44 (5769)
1-101-23

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1649 (ICM)
OTTAWA, 28 Th. May, 1945

Your File - L.28-M-1117

District Officer Commanding,
Military District # 1,
LONDON, Ontario.

A-604674, Pte. G. MATISZ.

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in # 60 LONDON Military Detention Barrack, under your command, a sentence of (7) Months detention awarded by a Standing Court-Martial on the 12 day of April 1945

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC/IL

5M-2-45(M-4516)

H.Q.C.55-M-1649 (JAG/D-7)

30 Apr 45.

District Officer Commanding,
Military District No. 1,
London, Ontario.

Standing Court-Martial

A.604674 Pte. George MATISZ
No. 1 District Depot, C.A.

Receipt is acknowledged of your L.38-M-1117 (AJAG) dated 26th April 1945, under cover returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M.288.

Noted
L.H. Clayton
L. H. CLAYTON
Lieut.-Colonel,
Inspector of Courts Martial
MAY 2 1945

/ET

E.A.M.
Capt.
for (R.J. Orde) Brigadier,
Judge Advocate General.

2M-8-44 (M-4177)

I.C.M. - L 4477

REVIEW OF SENTENCE

DATE MAY 2 - 1945

H.Q.C. File: 55-11-1649

1. No. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES AWL from 26 Dec. 44 till arrested 14 March 45 3 mos.

8. PREVIOUS CONDUCT Excellent 1111111 ~~ENLISTED~~ ENROLLED 12 Aug. 43 AGE 26
failing to appear. 1
AWL. 4.
Neg. to Neg. 4

9. STATEMENT OF ACCUSED Born in Hungary. Several relatives living there.
Married Jan 44 without permission of C.O.
Baby coming in 4 months.
Want to go Active & go O/S. Parents against
my doing this. Still want to.

10. RECOMMENDATION

IN REPLY PLEASE QUOTE
No. L.26-M-1117 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

309966

H.Q. MD 1 London, Ont., 26 April 45

CENTRAL REGISTRY Army
APR 28 1945
File 55-M-1649
Chgd. to
Referred to

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada.

STANDING COURTS-MARTIAL
A.604674 Pte. George MATISZ
No. 1 District Depot, C.A.

Reference H.Q.C. 55-M-1649 (JAG/D-7) d/19 Apr 45.

2. The proceedings of the m/n Standing Court-Martial are returned herewith for custody as directed. Enclosed also is M.F.M. 288 relating to the m/n soldier.

(P. Earnshaw), Brigadier
D. O. C. M.D. 1

N.D. 23
(5000M—10-44 (5769))
M.Q. 1772-101-23

MEDICAL OFFICER'S REPORT

I certify that No. Pte. Matisz, G. – A604674

of No. 1 D.D. is in a fit state of health,

and is able to undergo Trial by Court martial.

Medical Officer

L.C. Hillis, (Major)
Medical Officer
No. 1 District Depot

Station No. 1 District Depot

Date 12 April 45

M. F. B. 246
MM—13-43 (3325)
H.Q. 1772-39-440

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No. 1 District Depot, C.A. London, Ont.

on the 12th day of April 1945 at 1000 hours,

for the trial of: A-604674 (Number) Pte. (Rank) George MATISZ (Full Name)

No. 1 District Depot, C.A. (Unit) (Attachment, if any)

PRESIDENT: Lt-Col. H.C. Cameron, M.C., President S.C.M., M.D. No. 1

PROSECUTOR: Major D.R. Nairn, E.D., Permanent Prosecutor, M.D. No. 1 (Rank, Full Name, Unit, Attachment, if any)

~~COUNSEL~~ OR DEFENDING OFFICER: Capt. F.G.W. Pannell, No. 1 District Depot, C.A. (Rank, Full Name, Unit, Attachment, if any)

FINDING: Not guilty of desertion but guilty of absence without leave.

SENTENCE: To undergo detention for seven (7) months and to be placed under stoppages of pay until he has made good the sum of $5.55 in respect of the cost of apprehension and return to his Depot.

Signed at London, Ont. this 12th day of April 1945

(H.C. Cameron) Lieut-Colonel, President, Standing Court-Martial

M.F.H. 1486
25M-6-44 (4835)
H.Q. 187-39-2238

Extracts authorized as shown in the 36830 in the ... kept in the ... Judge Advocate-General this 17 day of April 1945

BR

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~ ~~as interpreter?~~

Answer:

Question to the accused. Do you object to A.99636, CSM B.H. Payne, CMSC HQ MD 1 as shorthand writer ?

Answer: No, Sir

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, Sir

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Not guilty, Sir

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

Answer.

~~(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

B2

CHARGE SHEET

The Accused, No A-604674 Pte GEORGE MATISZ, No 1 District Depot, C.A., London, Ontario, a N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:

Charge
Section 12(1)(a)
Army Act

WHEN ON ACTIVE SERVICE

DESERTING HIS MAJESTY'S SERVICE

IN THAT HE

At ~~London~~ Niagara, Ontario, on the 26th day of December 1944, absented himself without leave from 1 Bn Edmonton Fusiliers, C.A., Niagara, Ontario, from 2330 hrs on the said 26th day of December 1944 until apprehended by the Military Police at Windsor, Ontario, at 0315 hours on the 24th day of March 1945. Cost of apprehension and return to this depot being $5.55.

(H.L.Petrie)Lt.Col.
C.O., No 1 District Depot, C.A.

No 1 District Depot, C.A.,
London, Ontario,
11 April 1945.

C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, Sir

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. Captain William Lawrence Kress, O.C. Legal Section, No. 1 District Depot, C.A.,

being duly sworn, is examined by the Prosecutor.

Question Will you give the court your rank, full name and appointment?

A. Captain William Lawrence Kress, O.C. Legal Section, No. 1 District Depot, C.A., officer having custody of original documents.

Q. From your custody I produce this document, will you identify it?

A. M.F.B. 375, Record of Declaration of Court of Inquiry, relating to the accused.

M.F.B. 375, RECORD OF DECLARATION OF COURT OF INQUIRY PRODUCED, READ, MARKED EXHIBIT "G" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

Q. I produce this document from your custody will you identify it?

A. M.F.M. 216, Certificate of Apprehension, relating to the accused.

M.F.M. 216, CERTIFICATE OF APPREHENSION PRODUCED, READ, MARKED EXHIBIT "H" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

Q. I produce this document from your custody will you identify it?

A. M.F.B. 1481, Certificate of cost of transportation, relating to the accused.

M.F.B. 1481, CERTIFICATE OF COST OF TRANSPORTATION PRODUCED, READ, MARKED EXHIBIT "I" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE. THE WITNESS WITHDRAWS.

SECOND WITNESS FOR PROSECUTION

A-102673, Cpl. William Tuscan Elliott, No. 30 Coy., Cdn. Provost Corps, C.A., being duly sworn is examined by the Prosecutor :

Q. Will you give your number, rank, full name, and appointment to the court?

A. A.102673, Cpl. Elliott, William Tuscan, Cdn. Pro. Corps, No. 30 Coy., No. 5 Det., Windsor.

Q. Rank?

A. Corporal.

Q. Do you know the accused, A.604674, Pte. Matisz?

A. I do, Sir.

Q. Is he present in the court room?

A. Yes, Sir.

Q. Which one is he?

A. There, Sir. (Witness indicates the accused.)

Q. On the 24th day of March 1945 did you have any official dealings with the accused?

A. Yes, Sir, I apprehended him at home.

Q. Tell the court what exactly took place without bringing in conversation with any third party?

A. There was no conversation in the presence of the accused ..... I went to the house.

Q. Which house?

A. His brother and father and mother reside there.

Q. What happened?

A. I encountered the accused's brother, Victor.

Q. Did you have a conversation with him?

A. Yes, Sir.

Q. As a result of the conversation with him what did you do?

A. I asked permission to search the house.

Q. As a result of the conversation with him what did you do?

A. I proceeded to get a warrant to search the house.

Q. What steps did you take?

A. I started to the police car, I had decided to go down town.

Q. What happened then?

A. The brother called me back.

Q. What happened then?

A. He went up-stairs and I heard a conversation and he came back and said the brother would be down in a few minutes.

Q. Did he come down?

A. Yes, Sir.

Q. How was he dressed?

A. In uniform.

Q. Did you then apprehend him?

A. Yes, Sir.

Q. Did you warn him?

A. Yes, Sir.

Q. Did you have any conversation with the accused then?

A. I had no conversation with the accused.

Q. Did he go peacefully with you?

A. Yes, Sir.

Q. That is the only official dealings you had with the accused?

A. Yes, Sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER :

Q. Cpl. Elliott when you first saw the accused when he came down-stairs, after the brother had been up-stairs, did he refuse to identify himself, or did you ask if he was Pte. Matisz?

A. Yes, Sir, he identified himself.

Q. Right away?

A. Yes, Sir.

Q. Was he dressed in uniform?

A. Yes, Sir.

RE-EXAMINED BY THE PROSECUTOR

Q. What time of the day did this take place?

A. When I first entered the house it was at 0305 hours.

Q. How long afterward did the actual apprehension take place?

A. Ten minutes.

QUESTIONED BY THE PRESIDENT

Q. You say you had no conversation with the accused after giving him the warning, was anyone else with you?

A. The driver in the car.

Q. Nobody else had any conversation relative to the absence in your presence?

A. Not in the accused's presence.

Q. Did anyone else have conversation with the accused in your presence?

A. No, Sir, not that I can recollect.

THE WITNESS WITHDRAWS.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I have a written statement, Sir

(See document marked Exhibit "J")

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, Sir

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS

THE PROSECUTOR MAKES A CLOSING ADDRESS.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused: ~~Have you any statement to make concerning the documents which have just been read to you?~~

Answer. PROSECUTOR : I would like to file with the court a certified true copy of Daily Orders Part I by Lt-Col. H.L. Petrie, M.C., Commanding No. 1 District Depot, C.A., Order No. 86 d/27 Mar 45.

CERTIFIED TRUE COPY OF DAILY ORDERS PART I BY LT-COL H.L. PETRIE M.C. COMMANDING NO. 1 DISTRICT DEPOT C.A. ORDER NO. 86, d/27 MAR 45 PRODUCED, READ, MARKED DOCUMENT "K" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

Question to the accused : Have you any statement to make concerning the documents which have been read to you? A. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. My Defending Officer will speak for me.

(See document marked "L" attached)

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"G" Chippawa Barracks
Pas S.Q.M.

RECORD of the Declaration of a Court of Inquiry assembled at Chippawa Barracks Niagara, Ontario on the 17th day of January 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A.604674 Pte. Matisz, George "B" Coy. 1st Bn.EDMONTON FUSILIERS, C.A.

DECLARATION

The Court declare that No. A.604674 (Regt'l No.) Pte. (Rank) George Matisz (Full Name) 1st Bn.EDMONTON FUSILIERS,C.A. (Unit) illegally absented himself without leave from Chippawa Barracks (Unit) at Niagara,Ontario (Place) at 2330 hours on the 26th day of December 1944, that he is still so absent, and that on the 26 Dec 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Anklets Web Prs.	1	.74	Pins Collar Safety	1	.06
Caps Winter Melton Cloth	1	1.05	Badges Cap	1	.09
Gloves Woollen Prs.	1	.66	Straps Web Supporting	1	.14
Mitts Pullover Leather	1	.93	Total		27.19
Battle Dress Blouses Sergel		6.50	Less 25% of Value(Total)		20.69
Trousers	1	6.55			
Boots Ankle prs.	1	5.82			
Caps Field Service	1	.95			
Shirts Woollen	1	1.20			
Shirts Cotton Khaki	1	1.54			
Socks Prs.	1	.46			
Towels Hand	1	.31			
Necktie Black	1	.19			

(J.R. Langabeer) Lieut. President
1st Bn.EDMONTON FUSILIERS, C.A.

Signed at Chippawa Barracks Niagara, Ontario (Name) (Rank) (Unit) Member

this 17th day of January 19 45 (Name) (Rank) (Unit) Member

Signature of Commanding Officer (T.G.Brown)Lieut.-Col.1st Bn.Edm.Fus.C.A.

Certified true copy (Name) (Rank) (Unit) 1st Bn.EDMONTON FUSILIERS,C.A.
(A.F.McKenzie)Lt. (Rank) (Unit)
A/Adjutant (Signature of Officer having custody of original record)

M.F.B. 373
A.F.B. 116
100M—10-42 (8530)
H.Q. 1772-39-357

"H"
Pass S.P.M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major G. A. Walker, (Number) (Rank) No. 30 Coy. C. Pro. C. (Name) CA. (Unit)

hereby certify that A-604674 (Number) Pte. (Rank) MATISZ, George (Name in full)

of the 1st. Bn. Edmonton Fusiliers, Niagara, Ont. (Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~[illegible]~~ A-102673 (Number) Cpl. (Rank)

Elliott, W. T., Windsor Detachment, No. 30 Coy. C. Pro. C. (Name) (Unit or appointment)

at Windsor, Ont. (Place) at 0315 hrs. (Hour)

on the 24th day of March 19 45.

Strike out words not applicable } as a ~~[illegible]~~ absentee without leave), and that at the time of his arrest he was wearing military ~~[illegible]~~ uniform ~~[illegible]~~

Dated at Windsor, Ont. this 24th day of March 19 45.

(Signature, Number, Rank, Unit or appointment)
(G. A. Walker) Major, Officer in Charge,
Windsor Detachment, No. 30 Coy.C.Pro.C.

NOTE.—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
300M—11-42 (8806)
H.Q. 1772-39-1936

"I" [illegible]

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. J.J. Richardson, Issuing Officer For DS & TO MD #1
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transportation for escort

Complete — to proceed from Windsor Ont. (Place) to London Ont. (Place)

and return to Windsor Ont. (Place) for the purpose of escorting

Full description of soldier being escorted — A/604674 (Number) Pte. (Rank) Matisz G. (Name in full)

1st Bn. Edmonton Fus. (Unit) Niagara Falls Ont. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~the transportation required~~ and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
Cost of Transport Warrant #C-867210 dated 26-3-45 Covering the following transportation.	
One 2nd class single to London Ontario	1.85
One 2nd class return to London Ontario	3.70
	5.55
The cost of above is recoverable from A/604674 Pte. Matisz G. 1st Bn. Edmonton Fus. Niagara Falls Ont.	
TOTAL	$ 5.55

Dated at Windsor Ont. this 26th day of March A.D. 19 45.

J.J. Richardson Lieut.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~authorizing transportation~~

Issuing Officer For DS & TO MD #1

Strike out description not applicable

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

M.F.B. 1481
120m—10-43 (5452)
H.Q. 1573-99-185

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

"J" [illegible] Pte. S.B.M

I am A-604674 Pte George MATISZ, a soldier of the Canadian Army, NRMA. I enrolled on 12 August 1943, at Wolseley Barracks, London, Ontario. That same month I was sent to Halifax, N.S. to A-23 RCA Training Centre as a Gunner. I was born in Hungary and have several relations living there in that country.

My home has been in Windsor, Ont for the past 16 years and I have worked on a farm about 10 miles from my home. I was married in June 44, without the permission of my father and without the permission of my Commanding Officer. My Mother did not mind my marrying, and I have been going with my wife for over two years. I did not have to marry. There is a baby coming in about 4 months time. At first my father would not let me live at home, but now he is in favour of my marriage and my wife.

While I was stationed in Nova Scotia, at No.1.Transit Camp I was reallocated to Infantry and sent to Chatham, Ont for four weeks and from there to Camp Ipperwash. That was in April 44. I did my training. It was while I was at Ipperwash that I married without permission and went A.W.L for several days.

I was posted to the 1st Bn Edmonton Fusiliers in August 44 and sent to Niagara, Ont. I didnt like that Unit as I always seemed to be in trouble. I liked the N.C.O's there, and I wanted to go Active and go Overseas but my parents were against me doing this. At Niagara I was doing duty guarding Hydro plants. I liked the Infantry better than the Artillery, but I could not seem to get on with the Edmonton Fusiliers.

I went absent in December 44 but never had any intention to desert from the Army. I never hid my uniform at any time, it was always at my home. When I worked I wore a pair of Battle Dress trousers, ~~[illegible]~~ a spare pair which I had bought, and I wore my uniform any time I went out during my absence. I have only been absent twice before this last time, one of these times being when I got married.

My brothers said that the Military Police had come to the house, and at the time that I was arrested at the house I was asleep upstairs and came down to them dressed in my uniform.

I have had two years High School and speak both English and Hungarian. I still say that I want to go Active and Overseas, and did not intend to desert. I have done my training and am only 21 years of age.

This is a true statement and I know that I would be very nervous if I had to speak from a witness box.

A-604674 George Matisz Pte.

A-604674 Pte George Matisz.

11 April 45

Y

Transmit to Inv SPM

M.F.B. 358
MM—9-43 (5952)
H.Q. 1772-39-420
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A.604674	Pte.	George MATISZ	No.1 District Depot, C

1. The following is a fair and true summary of the entries in the ~~Service and Gen~~ Field well ~~Regimental and Squadron, Batt~~ well Conduct sheets ~~or Company Conduct sheets of~~ the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force~~ well of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For A.W.L.	4 times	Failing to appear at place	times
For Neglect to the Prej.	4 times	of parade	1 times
For	times	A.W.L.	4 times
For	times	Neglect to the Prej.	4 times

Number of instances of gallantry or distinguished conduct Nil

~~There are no entries in the conduct sheets of the accused.~~ well

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

Previous convictions of the accused by a ~~court-martial or a civil court~~, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and dispensations with trial under ~~A.A. 73~~ A.F.A. 73 are set out in the Schedule ~~annexed to this statement.~~ well

3. The accused is not under sentence at the present time.

The accused at the present time is under ~~sentence~~ well beginning on the ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 19 days in military ~~Air Force~~ well custody, making a total of 19 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~regimental~~ enrollment well ~~attestation paper~~ is 21 years 7 months

6. The date of his ~~commission~~ enrolment specified in his ~~regimental~~ enrolment form ~~attestation paper~~ well is 12 August 1943

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon~~ well service for the purpose of determining his ~~pension, etc.~~

9. The accused is in possession of or entitled to no military decoration, or military reward ~~(military~~ well ~~possession of or entitled to). State any air force decoration or reward.~~ well

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ Air Force well

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank.....
Name..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of April, 1945

(W.I. Kress) Captain
O.C. Legal Section #1 DD.CA.
Officer i/c original documents

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

a-604674 Name MATISZ George

Sqn., Battery, or Company

Corps CIC

Sheet destroyed 12 Feb 44 JS Clue Capt

Last Entry NIL

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Date of enlistment 12 Aug 43

D.C. Badges

Tradesmen's Rates of Pay $1.50

Sheet No. one

Signature O.C. Company, etc. JS Clue Capt

Character none

M.F.M. 6 (A.F.B. 122) 30636—11-42 (2400) H.Q. 1772-28-1452

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	1944								
Windsor N.S.	10 Mar	Pte		Failing to appear at a place of parade.(Sec 40 AA)	Sgt Collins	7 days C.B.	11 Mar 44	Capt D.C. Harper	
Charham Ont	26 Apr 44	Pte		Open arrest AWL from 0200 hrs 26 Apr 44 to 0200 hrs 26 Apr 44	L/Cpl Plumridge	2 days C.B.	26 Apr 44	Major Knox	
Camp Ipperwash	15 Jul	Pte		A A Sec 15(1) A W L from 0200 hrs 15 Jul 44 until 1300 hrs 25 Jul 44(Absence:-10 days 11 hrs)	Cpl. Caughlin (doctry)	21 dys DETENTION	26 Jul 44	A.Garrod Lt-Col.	FOP 11 dys 149(1a)FR&I
Niagara Ont	30 Aug 44	Pte	NIL	Negl. to the Prej. etc. negligently handled his rifle as to cause it to be discharged. A.A. Sec 40	CSM Demone	7 days C.B.	30 Aug 44	G.D. Dunsford, Capt	

[redacted]

(P.T.O.)

CERTIFIED TRUE COPY
(W.I. Ross) Capt
O.C. Legal Section No 1 DD C
Officer having custody of original document

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Niagara Ont	2 Sep 44	Pte		Performed his duty as a sentry in a negligent manner at 0025 hrs 2 Sep 44(Post 47) AA Sec 40	L/Cpl Bannon	7 days pay 149(2)	4 Sep 44	Lt.Col. H.Strachan	HS
Niagara Ont	13 Sep 44		NIL	Negl. to the Prejudice, etc. neglected to obey an order A.A. Sec 40	CSM Wade, A.M.	Admonished	13 Sep 44	Major W.R.G. Morrison	
Niagara Ont	2 Oct 44	Pte		AWL from 1940 hrs 1 Oct 44 to 2245 hrs 20 Oct 44. Abs 19 days 3 hrs 5 min. A.A. Sec 15(1)	Documentary	25 days pay FR&I 149(2)	21 Oct 44	Major T.G. Brown	20 days pay FR&I 149-1-a
Niagara Ont	2 Nov 44	"		Neglect to the Prej. etc. performed his duty as sentry in a neglent manner - Sec 40	Lt.A.W.Swan	14 days C.B.	3 Nov 44	MajorWPG Morrison	WPGM
Niagara Ont	27-11-44	"		AWL 1200 hrs 27-11-44 to 1745 hrs 29-11-44-Total 2 days 5 hrs (1)	Documentary	14 days C.B. 5 days pay	1 Dec 44	Major WPG Morrosin	Forf 3 days pay WPGM

"K" Cameron Sgt
Pers C.M

CERTIFIED TRUE COPY

(W.L.Kress) Captain
O.C.Legal Section #1 D.D. CA.
London, Ontario.
Officer i/c original document

DAILY ORDERS PART I

BY

Lt. Col. H.L. PETRIE, M.C.

Commanding

NO. I DISTRICT DEPOT, C.A.

Order No. 86
27 Mar 45
London, Ontario.

(Last Part I Order No. 85, d/26 Mar 45)

1. DUTIES

DUTY OFFICER	Lieut. T.L. Wilson	From 1700 hrs.25 Mar 45 Till 1700 hrs.27 Mar 45
	Capt. F.G.W. Pannell	From 1700 hrs.27 Mar 45 Till 1700 hrs.29 Mar 45
	Lieut. G. Reddin	From 1700 hrs.29 Mar 45 Till 1700 hrs.31 Mar 45
ORDERLY OFFICER	27 Mar 45	Capt. W.L. Kress.
	28 Mar 45	Lieut. R.C. Ripley
	29 Mar 45	Capt. M.D. Whitney
ORDERLY SERGEANT	27 Mar 45	Sgt. Tribe, E.K.
	28 Mar 45	Sgt. Lacey, J.
	29 Mar 45	Sgt. Stead, H.W.
ORDERLY CORPORAL	27 Mar 45	Cpl. Shears, J.J.
	28 Mar 45	Cpl. Schnarr, E.J.
	29 Mar 45	Cpl. Howard, C.
ORDERLY CORPORAL H.Q.Wing	27 Mar 45	Cpl. Mount, W.H.
	28 Mar 45	L/Bdr. McMaster, J.A.
	29 Mar 45	Cpl. Robinson, H.R.
FIRE PICQUET		
WOLSELEY BARRACKS	27 Mar 45	Cpl. Bryon, C.W. 6 men from combined sections.
	28 Mar 45	Sgt. Henderson, J.R. 6 men from combined sections.
	29 Mar 45	Sgt. Wilkins, W.B. 6 men from combined sections.
CARLING HEIGHTS	27 Mar 45	Cpl. Kempel, J.W.J. 6 men from combined sections.
	28 Mar 45	Sgt. Forbes, J.P. 6 men from combined sections.
	29 Mar 45	Cpl. Loughlean, C.A. 6 men from combined sections.

2. PARADES — All Parades as per syllabus.

All WOs and N.C.O.s Not on the Home War Establishment will Parade in the Royal School Building at 1245 hours 27 Mar 45

2. PARADES (CONT')

PAY PARADE

Pay Parade will be held Thursday, 29 Mar 45, in the following places, hours as shown.

ALL OFFICERS	1200 hrs. in the Officers' Mess
HEADQUARTERS PERSONNEL	1300 hrs. in No. 14 Hut
ALL OTHER WO's and NCO's	1300 hrs. in No. 14 Hut
ROTATION LEAVE PERSONNEL	1300 hrs. in No. 14 Hut
OTHER PERSONNEL	1400 hrs. in No. 14 Hut

All other Ranks must have their Pay Books, Part I in their possession on this Parade.

3. EMPLOYMENT

Ceases to be attached to Pay Office for duty and discipline (Place.Wing) 25 Mar 45

A-50699 Pte. MOCKLER R.B.

Att. to Pay office for duty and discipline 26 Mar 45

A-50895 Pte. CHESWICK G.R. Place.Wing

Att. to Barracks Police for duty and discipline 26 Mar 45

A-3123 Pte. DEEKS A.E. Place.Wing

Ceases to be employed by Q.M. Stores as storeman 26 Mar 45

A-113610 Pte. TRAVISS H.S.

Ceases to be employed by Q.M. Stores 26 Mar 45

W-1352 CQMS DOUGLAS M.A.

4. POSTINGS

Posted from App.Wing to Rehab.Wing 26 Mar 45

Lieut. W.A. CAMPBELL

Posted from Paper Wing to Rehab.Wing 24 Mar 45

Capt. W.M.P. TRINIER

Posted from App.Wing to Rehab.Wing 24 Mar 45

Lieut. N.F. LEACH
Lieut.Col. L.A. LOREE

Posted from Paper Wing to App.Wing 24 Mar 45

A-606720 Gnr. BOLTER G.A.

Posted from Place.Wing to Rehab.Wing 26 Mar 45

A-44307 Sgt. KISSNER C.A.

Posted from Paper Wing to Rehab.Wing 25 Mar 45

A-28177 A/S/Sgt. SUTHERLAND H.J.

4. POSTINGS (CONT)

Posted from Reinf.Wing to Paper Wing 25 Mar 45

A-50656	Pte.	TILLOTSON	B.F.

Posted from App.Wing to Reinf.Wing 26 Mar 45

A-608647	Cfn.	SCHAFER	A.E.
A-115525	Cpl.	WOLFE	M.F.

Posted from App.Wing to Rehab.Wing 26 Mar 45

A-9531	Pte.	BORLAND	J.B.
A-50440	Cfn.	CLEAVELAND	G.W.
A-353	Cpl.	COOK	A.E.
A-102034	Pte.	DOWHAN	H.
A-22978	Pte.	(A/Cpl) MATHESON	R.M.
A-17195	Gnr.	ORAM	F.W.

Posted from App.Wing to Place.Wing 26 Mar 45

A-255	CSM (WOII)	CARLING	I.
A-11546	CQMS	HOLMES	C.W.
A-64187	Sgt.	KNOWLES	A.J.
A-3180	Cpl.	McMILLAN	A.
A-108456	Pte.	NIESON	F.F.
A-609040	Gnr.	THORNE	G.A.
A-58400	Pte.	WILSON	D.H.

5. SERVICE CHEVRONS

Under the provisions of CARO 4110, the u/m are authorized to wear Service Chevrons, dates as shown.

A-31237	Gnr.	SMITH	W.F.	(4).Red	25 Mar 45
A-65801	Pte.	SMITH	A.G.	(3) Red	28 Sep 45

6. LEAVES

INDUSTRIAL LEAVE

Application for Industrial Leave for the u/m has been forwarded to HQ MD No. 1.

A-51116	Pte.	SCHENK	A.E.

7. NOTICE

HOLY WEEK SERVICES IN DEPOT CHAPEL

The R.C. Personnel will celebrate Mass at 1245 hrs., Wednesday and Thursday, 28 and 29 Mar 45. Speaker, Rev. L. Wemple. Services for the Protestant personnel will be held at 1730 hrs. Wednesday and Thursday, 28 and 29 Mar 45. Speaker, H/Lt. Col. C.K. Nicoll.

It is the wish of the Commanding Officer that as many as possible attend these services.

8. BEST HUT PENNANT

Week ending 24 Mar 45 (Hut #6A)

HUT	POINTS	STANDING
6A	177	1
6B	176	2
12A	176	2
12B	175	3
11A	174	4
13B	174	4
13A	173	5
5B	172	6
3A	171	7
8B	168	8
10A	168	8
11B	167	9
9B	164	10
4A	162	11
8A	161	12
10B	159	13
7A	148	14

9. DISCIPLINE

The crime of absence without leave has been too prevalent.

In view of the above and also of the adverse influence on Discipline and Training which such absence causes, all ranks are warned that sentences for offences of this nature will be severe.

BOUNDS

The practice of shortcutting across lawns will cease forthwith. This includes the football field and the lawn west of the Officers Mess. Officers, N.C.O's and Regimental Police will see that this order is strictly adhered to. Disciplinary action will be taken against anyone violating this order.

ATTENTION AREA

Barracks Square and Roadway running east and west from R.C.A.S.C. compound to the Guard Room will be known as Attention Area. Officers, N.C.O's and Men crossing Square, must do so from the fire hydrant at the north east corner of the square to fire hydrant at the north west corner, or vice versa. All ranks must be properly dressed, and will march at a smart pace and in a soldierly like manner. When crossing this Area, no smoking will be allowed.

The above order must also be carried out when using sidewalks adjacent to the Square. Regimental Police will patrol this Area and any violators of the above will be disciplined.

R.N. Agnew

(R.N. Agnew) Capt. & Adjt.
No. 1 District Depot, C.A.

DOCUMENT "L"

Henderson Vol
Hec D.C.M

ADDRESS BY THE DEFENDING OFFICER IN MITIGATION OF SENTENCE

Sir, having all heard the conduct sheet of this accused, M.F.M. 6, I think we all realize this boy has not been as good a soldier as he may have been. He had one absence of one hour and one before that, but it seems that he has been a negligent soldier who did not take the army as serious as he should have done but referring to his own written statement he says he did not like the Edmonton Fusiliers, he always seemed to be in trouble with them, all the charges are with that unit.

There is very little more I can say regarding the accused except that I would like to refer again to his statement, "I still say I want to go active and go overseas, I have done my training and am only twenty-one years of age."

This boy has been in custody for nineteen days awaiting trial and I ask the court to treat him as lightly as his case warrants.

HQC.55-M-1649 (JAG/D-7)
Your File L.28-M-1117

19 Apr 45

District Officer Commanding,
Military District No. 1,
LONDON, Ontario.

STANDING COURT-MARTIAL

A.604674, Pte. George MATISZ
No. 1 D.D., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

LJR/AB

(R. J. Orde), Brigadier,
Judge Advocate-General.

THIS COPY FOR

H.Q. C.55-M-1649
M.D. L.28-M-111

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. A.604674 Name MATISZ, George

Rank Pte Unit No. 1 D.D. CA

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 28-12-44

Date of Arrest 24-3-45 Charge Signed 11-4-45

Orders for D.C.M.

Place and Date of Trial No. 1 D.D. C.A. London Ont 12-4-45

Sentence Det 7 mos; stoppages $5.55

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36830

Date 17-4-45

MEMO Guilty A.W.L.

M.D. 1 - No. 1 D.D.

Absent	Sentence
3 mos.	Det. 7 mos

R.J. Ryan Lt

for Judge Advocate General

10M-1-43 (M-4629)

CANADA

IN REPLY PLEASE QUOTE
L.28-M-1117 (JAG)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

HQ MD 1, London, Ont., 13 Apr 1945

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada.

C55-M-1669

STANDING COURT-MARTIAL
A-604674, Pte. George MATISZ
No. 1 District Depot, CA

Enclosed herewith are the proceedings of the m/n Standing Court-Martial which took place at No. 1 District Depot (CA), London, Ontario, 12 Apr 45.

36830

(H.C. Cameron) Lt-Col.,
Pres. Standing Court-Martial MD 1

N.D. 23
500M—10-44 (5769)
M.Q. 1772-101-23

THIS COPY FOR

H.Q. C.55-M-1649
M.D. L.28-M-1118

NRMA

MEMORANDUM - STANDING ~~DISTRICT~~ COURT-MARTIAL

No. A.604674 Name MATISZ, George

Rank Pte Unit No. 1 D.D. CA

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 28-12-44

Date of Arrest 24-3-45 Charge Signed 11-4-45

Orders for D.C.M.

Place and Date of Trial No. 1 D.D. C.A. London Ont 12-4-45

Sentence Det 7 mos; stoppages $5.55

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36830

Date 17-4-45

MEMO Guilty A.W.L.

M.D. 1 - No. 1 D.D.

Absent	Sentence
3 mos.	Det. 7 mos

R.J. Ryan Lt

for Judge Advocate General

(OM-1-45(M-4429)

No serious irregularities observed

[illegible] Lt.

19 Oct. 45.

H.Q.C. 55-M-1650

CONFIDENTIAL

N.F.B. 1938

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MCMANIMAN. PATRICK JAMES H.23652 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1650

CENTRAL REGISTRY	DATE	P.A. OR S.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute"		
APR 23 1945			cancelled	J. A. G.	NEW FILE C.R.		APR 16 1945
					With Papers C.R. APR 30 1945	JK	
MAY 2 1945	2/5/45			JAG			
				JCM	To note, pls.		1-5-45
MAR 13 1947	13/3/47			W. G. Perron			
					JUL 12 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC.55-Mc-1650 (JAG/D)

1 May 45

District Officer Commanding,
Military District No. 10,
WINNIPEG, Man.

Standing Court-Martial

H.23652, Pte. McMANIMAN, P.J.

Receipt is acknowledged of your W.44-Mc-3009 (J) dated 26th April, 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

/AB

E.L.M.
Capt
for (R.J. Orde), Brigadier,
Judge Advocate-General.

L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
MAY 2 1945

IN REPLY PLEASE QUOTE
No. W.44-Mc-3009 (J)

310154

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba, 26th April 1945

JUDGE ADVOCATE GENERAL'S DIRECTORATE
CONFIDENTIAL
APR 30 1945
File C.55-Mc-1650
Chgd. to
Referred to JAG

Judge Advocate-General,
Department of National Defence (Army),
OTTAWA, Ontario.

STANDING COURT-MARTIAL
H-23652, Pte. McMANIMAN, P.J.

Reference H.Q.C.55-Mc-1650 (JAG/D-9) dated 23rd April, 1945.

2. The proceedings of the marginally-noted Court-Martial, having been reviewed, are returned herewith. M.F.M. 268 is notrequired in this case, and no administrative action deemed necessary.

E.A. Fletcher
(E.A. Fletcher) Major,
Assistant Judge Advocate-General,
M.D.No.10.

vea
enc.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-W1-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Headquarters, Shilo Camp, Manitoba,

on the 4th day of April 1945 at 1000 hours,

for the trial of: No. H.23652, Private Patrick James McMANIMAN
Number Rank Full Name

A15 Canadian Infantry Training Centre, C.A.
Unit Attachment, if any

PRESIDENT: Major F.J.Killeen, District Headquarters, M.D. 10

PROSECUTOR: Captain D.R.Chapman, District Headquarters, M.D. 10
Rank Full Name Unit Attachment, if any

~~DEFENCE~~ DEFENDING OFFICER: Lieutenant R.S. Knox, A15 Canadian Infantry Training Centre, C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused, No. H.23652, Private Patrick James McMANIMAN, A15 Canadian Infantry Training Centre, C.A., not guilty of the charge.

7/14

~~DEFENCE~~

Signed at Shilo Camp, Manitoba this 4th day of April 1945

F J Killeen
(F.J.Killeen) Major
President, Standing Court-Martial.

Extracts entered as No. 36832 in the Record of Courts Martial kept in the Office of the Judge Advocate General this 23 day of April 1952

M.F.B. 1486
25M-6-44 (4326)
H.Q. 1772-99-2290

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to No. H.194904, CSM(A/WO11) H.R. Maltby, District Headquarters, M.D. 10 as shorthand writer ?

Answer: No, Sir.

The shorthand writer is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ?

Answer: No, Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the charge against you, which you have heard read ?

Answer: Not guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B2"

F.J. Gillies Major
President, S.C.M.

2

CHARGE SHEET

The accused, No. H.23652 Private Patrick James McMANIMAN, A-15 Canadian Infantry Training Centre, C.A., a G.S. soldier of the Canadian Army, placed on Active Service, is charged with:

CHARGE
Sec. 9(2)
Army Act.

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

at Shilo Camp, Manitoba, at approximately 2105 hours on the 31st day of March, 1945, did not leave the A-15 Canadian Infantry Training Centre Canteen when ordered to do so by H.19873 Regimental Sergeant Major A.L. Campbell, A-15 Canadian Infantry Training Centre, C.A.

Shilo Camp, Manitoba,

2nd April, 1945

P.H.K. Coupland
(P.H.K. Coupland), Lt.-Col.,
T/Commandant,
A-15 Canadian Infantry
Training Centre, C.A.

F.J.G.

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. No. H.19873, Regimental Sergeant-Major Arthur Leonard CAMPBELL, A15 Canadian Infantry Training Centre, C.A., being duly sworn, is examined by the Prosecutor.

Question Will you give the Court your regimental number, rank, name and Unit ?

A H.19873, RSM Arthur Leonard Campbell, A15 Canadian Infantry Training Centre, C.A.

Q Do you know H.23652, Private Patrick James McManiman ?

A I do, Sir.

Q Where is he now ?

A Sitting here with his hat off, Sir (pointing to the accused).

Q When did you see him recently ?

A I saw Private McManiman at approximately 2045 hours on the night of the 31st of March, 1945.

Q Where did you see him ?

A In the Wet Canteen, A15 C.I.T.C.

Q That is at Shilo Camp ?

A Yes, Sir.

Q Well what was the occasion of you being at the Canteen ?

A I was there to supervise the discipline in the Canteen, Sir.

Q Was there anything particular about that day -- any particular reason why you should have been there ?

A Yes, Sir.

Q What was the reason ?

A There had been a report of some trouble the night before in the Canteen and the Commandant of A15 asked me to go down and make a personal --

By the Court:

Q You went to the Canteen on instructions, is that what you did ?

A Yes, Sir.

By the Prosecutor :

Q When was the last pay day at A15 ?

A Pay day was on the Friday, Sir, -- Good Friday.

Q That same day ?

A No, Sir, Friday was the 30th, Sir.

Q The day before ?

A Yes, Sir.

Q Then go on to say what you saw at about 2045 hours ?

A I went to the Canteen where I saw Sergeant McAllister, who is the Canteen Sergeant. I told him what I was there for and I told him I was going --

By the Court:

Q Never mind what you told him. What did you do ?

A I went through the Canteen to check up on the amount of beer that was on the tables at that time. I found that everybody who was in the Canteen had sufficient beer on the table to last them until approximately 2110 hours, at which time the Canteen closes and everybody must get out.

By the Prosecutor:

Q What is the set hour for closing the Canteen ?

A The bar, Sir ?

Q Yes ?

A 2100 hours and the men get ten minutes to finish the beer they have and go back to their quarters.

Q You said you saw the accused at about 2045 hours ?

A Yes, Sir. As soon as I came back to the bar the accused came up to me and ordered some more beer. I told him that he couldn't get any more beer, that he had sufficient at his table and that no more beer was being served.

Q How did you know that he had sufficient beer at the table where he was sitting ?

A I asked him where he was sitting and I had also seen him sitting at the table, Sir.

Q What did the accused say then ?

A He replied "You get all the beer you want in the Sergeants' Mess. I want the same privilege here".

Q Did you say anything more to him then ?

A I said "You will not get any more beer. Go back and sit down".

Q What did he say or do ?

A He went back and sat down.

Q What happened after that ?

A After that I went over to the door, the exit door, where the Orderly Sergeant was stationed, that is Sergeant Price. I told

Sergeant Price --

By the Court:

Q The accused was not with you then was he ?

A No, Sir.

By the Prosecuter :

Q Just tell us what you did ?

A I gave instructions to Sergeant Price and while I was talking to Sergeant Price the accused came over and again insisted on getting more beer.

Q What did he say at that time ?

A He said something to the effect "I don't see why I can't get some more beer".

Q What other words do you remember him using ?

A I said to him then "I have already told you you can't get any more beer. The bar is closed". The accused then said "You don't have to be a prick about it".

Q Anything else ?

A I then ordered the accused to leave the Canteen.

Q You said it was about 2045 hours when you first saw him. About what hour was it he came to the exit ?

A About 2100 hours, Sir.

Q How long did the conversation at the exit last between you and the accused ?

A I would say not more than two minutes.

Q You say you gave him a command ?

A I opened the door and ordered the accused to leave the canteen.

Q And what did the accused do in response to that ?

A He didn't do much. He just stood there, Sir, and made no attempt to leave. I again ordered him to leave the Canteen. He said he was going back to talk to his chum. I said"If you don't leave the Canteen immediately I shall be forced to place you under close arrest.

Q Did he say anything more then ?

A Yes, Sir.

Q What did he say ?

A He said "You can get a couple of guys to put me in the digger but if you do somebody is going to get hurt".

Q What would you say that the accused knew of your position and rank ?

A The accused knew who I was, Sir.

Q Why ?

A He has seen me on several occasions, Sir. He knows who I am. He spoke to me and he knew who I was. I am definitely certain of that.

Q How did he address you ?

A When he first came up to the bar he addressed me as "Sir".

Q How were you dressed at the time ?

A Exactly as I am now, Sir.

Q Would you just put that in words for the record ?

A I was in roll call order with badges of rank on my tunic.

Q Now you say the accused said that some people would be hurt if he was placed under arrest. What happened in regard to that ?

A I called in two Regimental Policemen who were patrolling the outside of the Canteen and ordered them to place the accused in the Guard Detention Room, Sir. I had no further trouble, Sir.

Cross-examined by the Defending Officer:

Q Sergeant-Major, on the night this incident occurred about what time did you arrive at the Men's Canteen ?

A Approximately 2045 hours.

Q Where were you previous to that ?

A At my quarters, Sir.

Q And in regard to the night before when there was apparently trouble, were there any names taken in regard to that ?

A Not to my knowledge, Sir.

Q Can you tell us exactly what happened that previous night ?

A I can't swear to what happened, Sir. I wasn't there. I only know a report was put into the Colonel and the Colonel sent for me.

Q When you went down there on the Saturday night what was your object in going down there exactly ?

A To see that there was no repetition of the night before if the report was correct.

Q Do you think you were looking for trouble perhaps ?

A No, Sir.

Q Just how much beer would you say it takes to make a man drunk ?

A I haven't the slightest idea, Sir.

Q How much beer would you say was sufficient beer ? -- You mentioned the words "sufficient beer" two or three times.

A It would depend on how long the men had to drink it, Sir.

Q Don't you think it would depend on the man ?

A Possibly, Sir.

Q Then just about how much beer would you say was sufficient ? -- Do you think you are in a position to say how much beer is sufficient for a group of men around a table ?

A Yes, Sir.

Q Why do you say that ?

A I take in all the surroundings and the general run of things, Sir.

Q And on those grounds you were able to say whether a group of men had sufficient beer on the table to last them some considerable time ?

A Yes, Sir.

Q When did you first notice the accused ?

A Very shortly after I went to the Canteen, Sir.

Q When ?

A He came up to the bar to order some more beer.

Q You mentioned you had seen him previous to that ?

A I said I had seen him on several occasions previous, but I didn't want to elaborate on that.

Q Why did you notice him particularly at the table before he was speaking to you ?

A I didn't notice him particularly.

Q You said you saw him before he came up to the bar ?

A I know the man very well, Sir, and I remember seeing him sitting at the table . He was sitting at a table very close to the bar and it was one of the last tables I inspected.

Q Perhaps you were watching for this man ?

A No, Sir. I went all around the Canteen.

Q Would you say he was drunk that night ?

A No, Sir.

Q Now where did this conversation take place when you ordered him to leave the Canteen ?

A At the exit door, Sir.

Q And were there many other soldiers around that particular spot ?

A No, Sir. There is a clearing there where there are no tables. There is a passageway right through to the bar.

Q When you ordered him to leave was he properly dressed ?

A What do you mean, Sir ?

Q Did he have his hat on ?

A He was properly dressed for the Canteen, Sir.

Q Did he have his hat on ?

A No, Sir.

Q It was reasonable to expect that he would have a hat with him in the Canteen wasn't it ?

A Not necessarily, Sir.

Q When soldiers move around the Camp they normally have their hats ?

A Normally, Sir.

Q Did you think perhaps the man, when you ordered him to leave, was returning to pick up his hat ?

A No, Sir.

Q Why not ?

A He made no mention of any hat, Sir.

Q In carrying out the order he wouldn't have to say "May I get my hat" would he ?

A He would, Sir. If I ordered him to leave the Canteen immediately it was his duty to leave regardless of a hat.

Q When he spoke to you he spoke to you with all due respect ?

A No, Sir.

Q You mentioned he addressed you as "Sir". He addressed you with respect ?

A He called me,"Sir". He also stated "You can get all the beer you want at the Sergeants' Mess. I want the same privilege here".

Q When you called in the Regimental Police what did they do ?

A They went over to the table where he was.

Q He was sitting at the table ?

A Yes, Sir.

Q What was he doing ?

A He was sitting there and picked up a bottle of beer and drank it.

Q What did the Regimental Police do then ?

A They went over to him and I don't know what they said to him. I didn't go near the men. I contacted the Regimental Police, pointed the man out to them and said "Place that man in the Guard Detention Room".

Q Was there any trouble after that ?

A He stopped at the door and started arguing with the Orderly Sergeant. I took no part in it whatever. As far as I was concerned I had handed the man over to the Regimental Police.

Re-examined by the Prosecuter :

Q What did you say the accused did or where did he go after you had given him the command at the exit ?

A He went off to the table, Sir, that he had previously occupied.

Q How long did it take him to go back there and do what he did before the Regimental Police went over to get him ?

A I would say approximately three minutes, Sir. It could be anywhere from one to three minutes. I would say three minutes, Sir, because I had to get the Regimental Police from outside. I had to send outside for them.

Q What hats or greatcoats or raincoats did you see around there then ? It was suggested that he could have wanted his hat. Where would his

hat be ? Where did you see anything like that ?

A He didn't say anything like that.

Q It was suggested by the Defending Officer that he may have wanted his hat. Where would his hat be ?

A It could have been at the table. It could have been anywhere. He came out with a hat, Sir.

Q When did he come out with a hat ?

A After the Regimental Police picked him up.

Questioned by the Court:

Q Are there any hatracks in the Men's Canteen ?

A No, Sir.

Q Now just exactly what order did you give the accused ? -- Just what were the words of your order ?

A I said "McManiman, leave the Canteen" and I opened the door.

Q Then you ordered him again ?

A He didn't go out and I said "I am ordering you to leave the Canteen immediately".

Q Then why did you say to him "If you don't leave the Canteen I will have to put you under arrest" ?

A Because after giving the second order he still didn't leave and said "I want to go back and see my chum". Then I told him "If you don't leave immediately I shall be forced to place you under close arrest".

Q Was there a sergeant in charge of the discipline of the Canteen ?

A Yes, Sir,. A sergeant and a corporal, Sir.

Q You say you had instructions to attend as well ?

A Yes, Sir. As a matter of fact it is my duty as RSM to check on the discipline in all the canteens. I do so occasionally.

Q This was a special occasion ?

A Yes, Sir.

Q You were specially instructed to attend on this occasion ?

A Right, Sir.

The witness withdraws.

Second Witness for Prosecution) No. H.17871, Sergeant W.V. PRICE, A15 Canadian Infantry Training Centre, C.A., being duly sworn, is examined by the Prosecutor :

Q Will you tell the Court your regimental number, rank, name and unit ?

A H.17871, Sergeant Price, W.V.

Q You belong to A15 Canadian Infantry Training Centre, C.A., do you ?

A That is right, Sir.

Q Do you know H.23652, Private Patrick James McManiman ?

A I do, Sir.

Q Where is he now ?

A Right here in between the two escorts, Sir (pointing to the accused).

Q What was your duty on the 31st of March, 1945 ?

A I was Camp and Regimental Orderly Sergeant, Sir, for the day.

Q Camp Orderly Sergeant ?

A Camp and Regimental both.

Q The Regimental was for A15 C.I.T.C. was it ?

A Right, Sir.

Q It was at Shilo Camp, Manitoba, was it ?

A Right, Sir.

Q Did you see the accused that day ?

A I seen him that night, Sir.

Q At what time ?

A Approximately 2100 hours.

Q Where were you then ?

A I was in the A15 C.I.T.C. Wet Canteen, Sir.

Q What did you observe about the accused at that time ?

A I was standing at the door, Sir, and Mr. Campbell, the RSM was standing by my side when the accused came up and spoke to him.

Q What did the accused say ?

A He said to the RSM, "You don't have to be a prick about it". That was the first I noticed, Sir.

Q You had heard no previous discussion between the accused and the Sergeant-Major ?

A No, Sir.

Q Did he say anything more then after saying "You don't have to be a prick about it" ?

A Yes, Sir. The RSM told him to leave the Canteen and he said -- he ordered him to leave twice and he said "If you don't leave I'll get a couple of escorts and take you out. He said "Go ahead and get a couple of guys--"

Q Who said that ?

A The accus ed.

Q He said what ?

A "Go ahead and get a couple of guys to take me to the digger but if you do somebody will get hurt".

Q What did he do after saying that ?

A He turned around and went down to his table where he had been.

Q You say the Sergeant-Major gave him a command twice ?

A Twice.

Q After his first command what did the accused do ?

A He turned around and started towards the table and the RSM said to leave the Canteen immediately, -- "Get your hat and leave the Canteen immediately".

Q When did he say this you have just mentioned ? -- That was the second time was it ?

A The second time.

Q Where was the accused when this second command was given ?

A He gave him a command to leave the Canteen and the accused turned around and went towards his table and he said "Leave the Canteen --

Q I want to get this straight. You said the Sergeant-Major gave him a command to leave the Canteen and the accused then turned towards his table. Where was he when anything else was said ?

A Approximately two yards away from the RSM, Sir.

Q What did the RSM do then ?

A He called for the Regimental Police.

Q I think you say he repeated something to the accused ?

A He told him if he didn't leave he would fall in a couple of fellows or a couple of guys to take him out and have him placed under close arrest.

Q What did the accused do then ?

A He then turned towards the RSM and said "You can get a couple of fellows,-- or a couple of guys to take me to the digger but if you do somebody will be getting hurt".

Q He was standing then was he ?

A Yes, Sir.

Q What did the accused do after that ?

A The accused turned and went down to his table.

Q What did he do at his table ?

A He sat down.

Q How far away from him were you at that time ? -- How far was his table away from where you were ?

A Approximately on the other side of the room, Sir.

Q How far would that be ?

A Approximately eight yards, Sir.

Q So he was sitting down and what did he do after that ?

A The Regimental Police were called in and were told to take him out and they went over to him and he stood up them.

Q He stood up and then what happened ?

A He stood up and what they said to him I don't know, Sir.

Q What did they do ? -- How long did they stay at his table ?

A They would be there approximately two or three minutes, Sir.

Q Then what happened ?

A Then he started to come out towards the door with them.

Q How or why did he come out to the door ?

A I don't know, Sir, unless they asked him or told him to come out with them. I don't know for sure.

Q Did you see where they went then ?

A They came out to the door and went right out.

Q Now when the Sergeant-Major first told the accused to leave the Canteen what did he do towards leaving ? --Towards complying with the command ?

A He turned and went towards his table, Sir.

Q And what was to prevent him from obeying the command and going out ?

A Nothing as far as I seen, Sir.

Q How much time was he given to comply ?

A Approximately forty-five seconds to a minute, Sir.

Q How was the RSM dressed at the time ?

A Properly dressed, Sir.

Q Describe what he had on ?

A Battle dress with a beret.

Q What badges ?

A He had his badge of rank on his wrist here, Sir, on each arm.

Q And how had the accused addressed the Sergeant-Major when he came up to where he was ?

A Well the first I noticed, Sir, he came up to him and stood directly in front of him and said "You don't have to be a prick about it". That is the first I noticed, Sir.

Q What did he say to the Sergeant-Major to show recognition of his authority ?

A He walked straight up to him and stood at attention when he stated his statement to the Sergeant-Major.

Cross-examined by the Defending Officer :

Q Sergeant Price, were you in the Men's Canteen all night ?

A I was in there from approximately 6.30 until 7.30 and then I had to go out to lower the flag and I went back immediately after lowering the flag, which would be 2000 hours, until the Canteen closed, Sir.

Q When the Sergeant-Major allegedly ordered the man to leave the Canteen did the man answer back directly ?

A No, Sir. He turned and walked off.

Q Where was he walking to ?

A Towards the table, Sir.

Q You said the Sergeant-Major said "Get your hat and leave". Is that right ?

A Yes, Sir.

Q Did you think that the man was going to get his hat ? -- Was that understood by his movements ?

A That I wouldn't say, Sir.

Q He was going back where ? -- Where was he going when he turned around ?

A He was going over towards his table.

Q Where do you think his hat would be if he had a hat ?

A It would be at his table.

Q Are there any hat racks in the Men's Canteen ?

A No, Sir.

Q So his hat would be at his table ?

A Right, Sir.

Q Now when the Regimental Police were waiting at the man's table what was he doing ?

A He was standing there.

Q A minute ago you said he sat down ?

A He sat down and when the Regimental Police came over he stood up.

Q What was he doing when he was standing ?

A He was standing looking at them, Sir.

Q When the man sat down what did he do ?

A That I didn't notice, Sir.

Q Did you notice how he sat down ? -- Did he just sit down on the edge of his chair or did he sit back as if he was going to stay there ?

A He sat down normally on his chair, Sir.

Q Did he talk to anyone at the table ?

A That I wouldn't be sure of, Sir.

Q How many were there at the table ?

A Three.

Q How much beer was on the table ?

A That I didn't notice, Sir.

Q Can you give a rough estimate of how much beer there was on the table ?

A No, that I can't, Sir.

Q Was there beer on the table ?

A There was beer on the table, Sir.

Q Now could you give us the RSM's exact words when he allegedly ordered the man to leave ?

A He told him "Get your hat and leave the Canteen immediately".

Q And the man turned towards his table ?

A Right, Sir.

Q What did the RSM say then ?

A He gave him another order to leave and said "If you don't leave I'll get two men and take you out and place you under close arrest".

Q Then did he give the man time to pick up his hat and leave ?

A Hardly, Sir.

Q In other words the man didn't have his hat in his possession ?

A No, Sir.

Q And how many men were sitting around the table again ?

A Three.

Q And about how far away was the table from where you were standing ?

A It would be approximately eight yards.

Q How wide is the Canteen there ?

A Just offhand I don't know, Sir.

Q Were you standing right up by the door jamb or close to it ?

A Close to the door.

Q How far away from the door ?

A I would say approximately two feet away.

Q From the door itself ?

A Yes, Sir.

Q Was there very much noise in the Canteen at the time ?

A Not such a great deal, Sir.

Q And was it possible for everyone to hear what was going on -- not everyone but those in the immediate vicinity-- say within six or seven yards of the spot ?

A That I wouldn't be sure of, Sir.

Q Were you talking loud enough so the man could hear ?

A Yes, Sir.

Q About how far away was the man the second time he was spoken to ?

A Approximately two or three yards, Sir.

Q When the Regimental Police were with the man was there any trouble at all on the way out ?

A He stood at the door and asked one of his friends to go with him.

Q Did you hear that ?

A I did, Sir, when he was going out the door.

Q Did he make any attempt to resist ?

A No, Sir, other than he turned and went towards his table. When he got to the door he didn't make any attempt to resist.

Q When the Regimental Police came he went right with them ?

A Right, Sir.

The Prosecutor declines to re-examine.

Questioned by the Court:

Q How many people were in the Canteen on Saturday night ?

A I wouldn't know the approximate number, Sir, but it was pretty well filled.

Q This was around 2100 hours ?

A Yes, Sir.

Q That is just about closing time is it ?

A Just about closing time, Sir.

Q Have you been in that Canteen very frequently ?

A I have been in there several times on duty, Sir.

Q How much noise is there in the Canteen ?

A Saturday night I would say it was quiet to what it has been some other nights.

Q They were all talking ?

A They were all talking, Sir.

Q Did you ever walk down the main road of the Camp beside the Canteen ?

A I have, Sir.

Q Did you hear the noise out on the road ?

A Sometimes, not always, Sir.

Q When the Sergeant-Major, when Mr. Campbell gave the accused the order "Get your hat and leave the Canteen immediately" you say the accused left the presence of Mr. Campbell and went towards his table ?

A That is right, Sir.

Q What did Mr. Campbell do ?

A He gave him another order to get his hat and leave the Canteen immediately.

Q What did Mr. Campbell do then ?

A The second time he gave the order he said if he didn't leave he would get an escort and have him taken out.

Q Where was the accused at that time ?

A He would be approximately two or three yards away from Mr. Campbell and myself.

Q Doing what ?

A Going towards his table.

Q He was going towards his table when Mr. Campbell gave him the second order ?

A Right, Sir.

Q That was after he gave him the order to get his cap ?

A Right.

Q By the time the accused got to his table what did Mr. Campbell do ?

A He brought in the R.P.s and told them to take him out.

Q Did he call the R.P.s before the accused got to his table or after ?

A It would be about the time he got to his table, Sir.

The witness withdraws.

The Prosecution have no further witnesses.

7-14

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. No, Sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. Yes, Sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No, Sir.

7/14

First Witness for Defence } No. H.18774, Private (Lance-Corporal) H. SMITH, A15 Canadian Infantry Training Centre, C.A., being duly sworn, is examined by the Defending Officer:

Q Will you tell the Court your regimental number, name and unit and your business at Shilo ?

A H.18774, Private (Lance-Corporal) Smith, H., A15 C.I.T.C., Shilo Camp, Manitoba. I am employed at a Regimental Policeman at A15 C.I.T.C.

Q What was your particular employment on the night of the 31st of March, 1945 ?

A I was detailed for duty at A15 Wet Canteen, Sir.

Q Where were you at approximately 2100 hours on that night ? -- Or say from 2045 hours ?

A I was patrolling the Canteen.

Q Inside or outside ?

A Outside, Sir.

Q Will you tell us from when you were brought into the case ? -- Tell us what went on from the time Sergeant-Major Campbell called you into the Canteen ?

A At approximately 2100 hours RSM Campbell called me into the Canteen and pointed out Private McManiman and told me to take him to the Guard House. I walked over to Private McManiman and told him he was being placed under close arrest and to come with me. He had a bottle of beer and asked if he could drink it. I said "Yes, if you make it fast". He drank it up and then he asked if he could go and get his hat. His hat was a little ways from the table where he was sitting. It was on the windowsill in the Canteen. He went down there and got it and proceeded to go out of the Canteen, Sir.

Q Is that all that happened ? -- On the way to the Guard Room was there any trouble at all ?

A No, Sir.

Q What did you do when you arrived at the Guard Room ?

A I just turned him over to the Lance-Corporal in charge, Sir.

Q During all that time is that the only conversation you held with McManiman ?

A Yes, Sir. I just told him to come along.

Q And had no trouble whatever ?

A No, Sir.

Cross-examined by the Prosecutor :

Q Corporal, when you first came into the Canteen under instructions from Mr. Campbell you went to the table where the accused was ?

A Yes, Sir.

Q What was the accused doing them ?

A He was sitting down talking to some other pals that were around the table with him.

Q So he was not on his way to get his hat ? -- He was sitting there talking was he ?

A So far as I know, Sir.

Q You didn't see him making any move to get his hat ?

A I just came in and RSM Campbell pointed him out and I walked over.

Q When you walked over the accused was sitting there ?

A Yes, Sir.

Q What beer did he have on the table ?

A I believe it was one bottle, Sir.

Q Was he touching it ?

A No, Sir.

Q Hw was just talking to somebody with him ?

A Yes, Sir.

Q His hat was somewhere else -- not at the table ?

A It was on the windowsill.

Q How far was that from the table ?

A It would be about twelve feet, Sir.

Q And who first suggested anything about getting the hat in your presence, did he or did you suggest it ?

A No, Private McManiman suggested it. He said "Can I get my hat", and that was after he drank his beer.

Q Before saying anything about his hat he asked if he had time to drink his beer did he ?

A Yes, Sir. He stood up and gulped it right down.

Q Did you see him arrive at his table or was he already sitting when you first came in ?

A He was already at the table.

Q How long did it take you to arrive at his table from the time you first got into the Canteen yourself ?

A Oh about a quarter of a minute to half a minute.

Q How long had it taken Sergeant-Major Campbell to get you into the Canteen from where you were ?

A It would be less than half a minute, Sir.

Q You were close to the door were you ?

A Yes, Sir.

Q Had you seen what took place at the door when the accused was there with Sergeant-Major Campbell ?

A No, Sir.

The Defending Officer declines to re-examine.

Questioned by the Court:

Q What did you say the accused when you arrived at his table ?

A I told him he was being placed under close arrest and to come along with me.

Q Did he ask what for ?

A Yes, Sir. I told him I didn't know but that the RSM had told me to place him under arrest. He said "Can I drink my beer?" and I said "Yes, if you make it fast", and he stood up and drank his beer.

Q Where were you with relation to the door when the RSM contacted you ?

A I was patrolling outside. The fellows were sneaking beers out the windows and I was there to watch for that.

Q Could the RSM call you from the door or did he have to go outside ?

A He came out just outside the steps.

Q How many steps are there ?

A I believe there are two, Sir. He was half on the steps and half off.

The witness withdraws.

Second Witness for Defence } No. H.28891, Private John PENNER, A15 Canadian Infantry Training Centre, C.A., being duly sworn, is examined by the Defending Officer :

Q Will you tell the Court your regimental number, rank, name and your training company here ?

A H.28891, Private Penner, John.

Q Which company are you with ?

A C Company, Sir.

Q Do you know Private McManiman ?

A I know him since we were in C Company.

Q Can you point him out ?

A Right there, Sir (pointing to the accused).

Q Now on the night of the 31st of March, 1945, where were you ?

A I was in the Wet Canteen.

Q What were you doing there ?

A I was off duty and I was going to have a couple of bottles of beer, Sir.

Q Did you see McManiman that night ?

A Yes, Sir.

Q Were you drinking with him ?

A Yes, Sir.

Q About how long were you with him ?

A I was with him about a quarter of an hour, Sir.

Q Did you meet him there ?

A Yes, Sir.

Q Now what I would like you do to is to describe to the Court what you saw transpire between the RSM and Private McManiman that night ?

A McManiman went up to the bar to order some more beer. I don't know what happened there because I was at the table. Anyway they closed the bar in front of him. He came back to the table and we walked to the door. He asked the RSM there how come the bar closed so soon and then the RSM told him to never mind and to get out. So he went back to get his hat. He had his hat about half ways up the hall and as he went past the table one of the fellows told him to drink his beer. I sat at the table and he took his beer and the RSM called the R.P.s and pointed him out and told them to take him away.

Q You walked up to the door with McManiman ?

A Yes, Sir.

Q What went on at the door ?

A Just McManiman asked how come the bar was closed so soon.

Q What did the RSM say again ?

A He said "Never mind", and to get out.

Q What did McManiman do then ?

A He just turned around and went back.

Q Where was he going ?

A He was going to his hat.

Q When he passed the table what happened again ?

A One of the fellows told him to drink his beer that he had on the table.

Q What did McManiman do then ?

A He took the bottle of beer.

Q Did he sit down to drink it ?

A No, Sir.

Q How long was it from the time the accused had been talking to the RSM until the R.P.s came up to the table ?

A About a minute, Sir.

Q Did you notice whether the Canteen as a whole was centred on what was going on ?

A Yes, Sir.

Q Was there much noise in the Canteen ?

A Yes, Sir.

Q Did they quieten down when they heard what was happening ?

A Yes, Sir.

Q You were in a position to hear all that was being said at the door of the Canteen, is that right ?

A Yes, Sir.

Q You didn't hear anything that was said at the bar ?

A No, Sir.

Cross-examined by the Prosecutor :

Q What time did you go into the Wet Canteen that evening, the 31st of March, 1945 ?

A Eight o'clock, Sir.

Q And who went in with you ?

A I was alone, Sir.

Q And about what hour did you first see the accused in the Canteen ?

A It was around a quarter after eight, Sir.

Q Where was he when you first saw him ?

A He was at the table sitting down.

Q What table ?

A Right in front of the bar, Sir.

Q Not at the same table you were at ?

A I came in there and sat at a different table.

Q You came in at eight o'clock and the accused came in at a quarter past ?

A He was there already.

Q He was there before eight o'clock. Didn't you say he came in about fifteen minutes after you did ?

A I seen him at about a quarter past eight.

Q Where were you sitting when you first saw him ?

A Sitting at the left end, Sir.

Q You saw the accused at a table near the bar ?

A Yes, Sir.

Q What did you do then ?

A I walked over and spoke to him, Sir.

Q Where did you go then ?

A I went and bought a bottle of beer for him, Sir.

Q You didn't go and sit with him then ?

A Yes, Sir.

Q You said you were with him for only fifteen minutes didn't you ?

A Yes, Sir.

Q You went to see him at a quarter past eight and he left at nine o'clock. That was more than fifteen minutes ?

A That is according to my watch, Sir.

Q What was according to your watch ?

A The time I seen him, Sir.

Q What time was he taken out by the Regimental Police ?

A It was before the bar should have closed according to my watch.

Q Wasn't it nine o'clock then ?

A Not according to my watch.

Q What time was it ?

A Around half past eight, Sir.

Q Don't you keep the correct time on your watch ?

A I don't know. Sometimes it loses and sometimes it gains. It just depends, Sir.

Q So at the time that the accused went to speak to Sergeant-Major Campbell you and the accused had been sitting at the same table, is that right ?

A Yes, Sir.

Q This table was near the bar ?

A Yes, Sir.

Q How far from the bar ?

A About ten feet, Sir.

Q How far is the bar from the door which is the exit ?

A About twenty feet, Sir.

Q And how far was the table from that exit ?

A About half ways, Sir.

Q The table was not just between the bar and the exit ?

A No, Sir. It was just over to the left where I was sitting.

Q How far was it from the windowsill ?

A You mean where his hat was, Sir ?

Q Yes ?

A It was quite a ways up, Sir.

Q How far ?

A About half ways up to the other end of the room, Sir.

Q His hat was not near the exit, is that what you mean ?

A Yes, Sir.

Q Can you say how far in feet or yards this windowsill was from the exit ?

A Possibly about twenty feet, Sir. -- From the table, Sir.

Q You saw the accused go up to the bar just as the bar was closing ?

A No, it was still open when he went up, Sir.

Q Just while he was there they closed it did they ?

A Yes, Sir.

Q Where was Sergeant-Major Campbell then ?

A He was behind the bar, Sir.

Q Did you notice the accused speaking to Sergeant-Major Campbell ?

A Yes, Sir.

Q Where was Sergeant-Major Campbell when the accused was speaking to him ?

A Behind the bar, Sir.

Q You didn't hear what he said ?

A No, Sir.

Q After that little conversation where did the accused go ?

A He came back to the table, Sir.

Q He had some beer on the table did he ?

A He had one bottle of beer there, Sir.

Q You had some as well ?

A I had one, Sir.

Q Anybody else at the table with you ?

A There was one other fellow there and another came later.

Q The bar was closed and the accused went and spoke to Sergeant-Major Campbell again did he ?

A Yes, Sir.

Q Where was the Sergeant-Major then ?

A At the door, Sir.

Q That is the exit ?

A Yes, Sir.

Q Did you see Sergeant Price, the Orderly Sergeant ?

A Yes, Sir.

Q Where was he ?

A He was beside the Sergeant-Major, Sir.

Q Right by the exit ?

A Yes, Sir.

Q Did you go with the accused to the door at that time ?

A Yes, Sir.

Q Then you heard what was said did you ?

A Yes, Sir.

Q What was said ?

A McManiman asked the Sergeant-Major how come the bar closed so soon.

Q And what did the Sergeant-Major say ?

A He told him to never mind and to get out.

Q And the accused said "Don't be a prick about it" or something to that effect did he ?

A No, Sir.

Q What did he say ?

A He didn't say nothing.

Q What did he say ?

A He just went back to the table.

Q If he didn't say nothing did he say something ?

A No, Sir, he didn't say nothing.

Q He didn't say anything ?

A No, Sir.

Q Did the Sergeant-Major say anything to him at that time ?

A No, Sir. He turned and he went back to get his hat to go out.

Q When did he decide to go out ?

A The RSM told him to go out.

Q The RSM did say something to him then. He told him to leave the Canteen didn't he ?

A Yes, Sir. He went back to get his hat and they stopped him at the table and told him to finish his beer

Q Who told him to finish his beer ?

A The fellow who was at the table with us.

Q And the accused sat down at the table ?

A No, Sir. He took his beer, Sir.

Q The Corporal of the Regimental Police who came in to get him has testified that when he came in there to get the accused he was sitting at the table. What do you say about that ?

A I never noticed him.

Q You wouldn't deny that the accused was sitting down then would you ?

A No, Sir, I wouldn't deny it.

Q The accused had gone right to his table ?

A He had to pass that table to get his hat, Sir.

Q You said the table was half way across the floor so it would be half way between the wall where the windowsill was and the wall where the bar was ?

A Yes, Sir.

Q The table was not on the way to the window ?

A He went through the crowd there and --

Q The direct way to the windowsill would have been different ?

A It would have been right straight to the bar and along the wall, Sir.

Q The bar is on the inside wall of the Canteen ?

A Yes, Sir.

Q What side of the building are the windows ?

A On the inside of the building there was windows.

Q What would the windows look out at ?

A It looks towards the other way, Sir.

Q What other way ?

A North to the wing, Sir.

Q Into the other wing to the north ?

A Yes, Sir.

Q And on the outside wall of the Canteen there are more windows ?

A Yes, Sir.

Q You say the accused's hat was not on the windowsill on the outside wall ?

A No, Sir.

Q And how long did the accused remain at the table there drinking beer after you had heard Sergeant-Major Campbell order him out?

A He was ordered out and right away, about a minute after that, the R.P.s came.

Q He was there about a minute was he ?

A Yes, Sir.

Q And he asked the Regimental Police if he could finish his beer did he ?

A Yes, Sir.

Q After that he asked if he could get his hat, is that right ?

A Yes, Sir.

Q Do you remember the words used by RSM Campbell when he ordered the accused to leave ?

A He just told him to get out, Sir.

Q Just to get out, to leave the Canteen ?

A Yes, Sir.

Q The RSM didn't tell him to get his hat did he ?

A No, Sir.

Q Now what about a great coat or a raincoat, did the accused have any ?

A No, Sir.

Q And why did you go to the door where the RSM was at the time the accused went there ?

A I just happened to go around with him. I didn't know what was going to happen.

Q Were you not interested in drinking the beer you had ?

A I had finished mine, Sir, already.

Q And did you go back to the table when the accused went then ?

A Yes, Sir.

Q You sat down at the table after you got back ?

A Yes, Sir.

Q And the accused was with you ?

A Yes, Sir.

Q Didn't you start to drink some beer then ?

A No, Sir. I didn't have any more, Sir.

Q But the accused had ?

A He had one bottle of beer there.

Q He sat down to drink his beer did he ?

A Yes, Sir. They ordered him to drink his beer. They told him he could finish his beer.

Q It wasn't an order. They gave him permission to drink his beer ?

A Yes, Sir.

Re-examined by the Defending Officer :

Q You mentioned that the distance from the table to the window was approximately twenty feet, is that right ?

A Yes, Sir.

Q And the distance from the table to the bar was how far ?

A Fifteen feet, Sir.

Q Now the way the tables are arranged in that Canteen his most logical way to go to the window in question would be by the table you were sitting at ?

A Direct to the bar and then along the window.

Q The table was right by the bar ?

A Not far from the bar. Just a little to the right.

Q And therefore you would have to go by that table to go by the bar ?

A Yes, Sir.

Q How many rows of tables are there in the Canteen ?

A Two rows, Sir.

Q The row you were sitting in was it the closest to the bar or closest to the wall ?

A Closest to the bar, Sir.

Q Your table was the closest to the bar in that row ?

A No, Sir. There was one table a little to the left of that table.

Q The other table was closer to the bar ?

A It was to the left hand side. They all go in a row, Sir. It was closer to the bar.

Q Your table was closest to the bar ?

A No, Sir.

Q The other table was closest ?

A Yes, Sir.

Q Along the wall that the accused had to walk along to get his hat ?

A Yes, Sir.

Q The accused could go from the entrance to the Canteen straight across to the bar and then along the wall to the window ?

A Yes, Sir.

Q Or he could go between the two rows of tables and over to the window ?

A Yes, Sir.

Q In either case he would have to pass the table where he had been sitting ?

A Yes, Sir.

Questioned by the Court:

Q Now witness, when the party sitting at the table spoke to the accused about his beer what length of time elapsed between the time this man said to the accused 'Drink up your beer' and the arrival of Lance-Corporal Smith ?

A One minute, Sir.

Q Do you know how long a minute is ?

A Yes, Sir.

Q How long is it ?

A Sixty seconds, Sir. It is not very long.

The witness withdraws.

At 1200 hours on the 4th day of April, 1945, the Court adjourns until 1400 hours on the 4th day of April, 1945.

On the 4th day of April, 1945, at 1400 hours, the Court reassemble pursuant to adjournment.

By the Defending Officer:

Sir, the accused has reconsidered his previous decision and has expressed his desire to give evidence on his own behalf. I would therefore request permission to call the accused at this time.

By the Prosecuter :

Before the accused gives evidence, Sir, he should be warned of his position as set out in Note 3, Rule of Procedure 41, in the Extracts from Manual of Military Law, which reads as follows: "The accused is entitled to give his evidence at any time during the hearing of the evidence for the defence, although he has previously stated that he does not apply to give evidence himself. He should, however, usually give his evidence before any other witnesses for the defence, and should be warned that if he gives his evidence after hearing that of the other witnesses for the defence, the value of it may be considerably discounted."

By the Defending Officer:

The accused is aware of those conditions, Sir, and is still desirous of giving evidence.

By the Court:

The accused may give his evidence at this time.

Third Witness for Defence) The Accused, No. H.23652, Private Patrick James McMANIMAN, A15 Canadian Infantry Training Centre, C.A., being duly sworn, is examined by the Defending Officer :

Q You have heard the evidence as placed before the Court so far and all I want you to do is to merely tell the Court what happened so far as you are concerned ?

A Well I was sitting down. My friend called me over for a beer there -- Private Penner, and I sat down and had a beer with him and then I came up to the bar there and asked the Sergeant-Major -- I didn't ask the Sergeant-Major, I asked the bar-tender and he told me to ask the Sergeant-Major if I could have more beer. The Sergeant-Major said I couldn't have any. I said "You sergeants in the Sergeants' Mess can have all you want there. Why can't we have it here?" I don't know whether he told me to go back and sit down but I went back to my table. I just happened to get up and walk around. I wanted to see what the score was at some of the other tables. I bumped into the Sergeant-Major and he started to mumble something and I asked him why the beer had been shut down. I thought it was only shut down for a while and was going to open again. He said "Never mind. Go back and sit down". "Go get your hat" or something. I don't know what he said. I went back to the table where this kid was sitting. I stopped at another table. A friend called me over I was drinking with previously at the time I met this kid. He said "Finish your beer before you get your hat". My hat was on the windowsill. You could reach across the table and get it practically. I had to get up from about here to the corner of the table. I sat down and get up again with the bottle. I drank it as fast as I could. I mean the R.P. came. He saw me sitting down. He came down and I asked if I could drink the beer and he said "Yes", and about a quarter of a minute after that I got my hat and walked out again.

Q About what time did you go to the Wet Canteen on Saturday ?

A I don't know for sure, Sir. I guess it was pretty well open by then. Near seven o'clock.

Q And you were sitting down at one table drinking with a group of the boys ?

A Just a couple of other fellows. I happened to go to the toilet and I met this kid out in front.

Q You met whom ?

A Private Penner.

Q And after that what did you do ?

A Went and had a beer with him.

Q You had a beer with him and then what did you do ?

A I had a beer with him and the bar started to close. The bar didn't start to close but there was a rumour it was going to close. He told me to go up and get some more beer and gave me a dollar.

Q What did you do ?

A I went up to try and get some more and that is where it started.

Q Which table was Penner sitting at ?

A That is the table he mentioned.

Q Which one was that ?

A That was one pretty close to the bar there.

Q Which table had you been sitting at previously ?

A I had been sitting down near where my hat was.

Q Which was where ?

A Half way down the Canteen.

Q Where was that from the bar ?

A From the bar that would be about fifteen or twenty feet.

Q That was the original table you were sitting at ?

A Yes, Sir.

Q How close to the bar was the table you were sitting at with Penner?

A Just about where he said.

Q Which was what -- about ten feet was it ?

A About ten feet.

Q Your hat was near the table you had originally been sitting at ?

A Yes, Sir. He told me to get it. That is what I understood and I went to get my hat and keep going. That is when the boys stopped me and said I had a beer to drink.

Q Did you hear the Sergeant-Major tell you to get out of the Canteen ?

A Yes, Sir.

Q What did you do then ?

A I went to get my hat. I mentioned about my hat. I had to get my hat. I just turned around and buzzed off.

Q To where ?

A To get my hat.

Q Did the Sergeant-Major tell you to go and get your hat ?

A It was understood, Sir, by me to get my hat. I don't know whether it was the Sergeant-Major or the Orderly Sergeant told me. I think it was the Sergeant-Major.

Q You left the Sergeant-Major and went to get your hat ?

A Yes, Sir.

Q What did you do on your way to the window to get your hat ?

A I had to go by the table where I was originally sitting and the boys stopped me and said "There is a beer here for you".

Q Was Penner up there with you ?

A He wasn't at that table.

Q Was he with you when you were talking to the Sergeant-Major ?

A Yes, I remember he came up.

Q Did you both walk back together ?

A I don't know, Sir. I didn't wait for anybody. I didn't notice anything.

Q You understood the Sergeant-Major's command did you ?

A Yes, more or less. I understood I was supposed to get out.

Q And you were going to go ?

A Yes, Sir.

Cross-examined by the Prosecuter :

Q Now why were you going back to get your hat ? -- You said you were going back to get your hat after you had been at the door of the Canteen. Why were you going back to get your hat ?

A I was going out.

Q Why were you going out ?

A The Sergeant-Major told me to go out.

Q He had definitely given you a command to leave the Canteen had he ?

A Yes, Sir.

Q And you knew the Sergeant-Major all right didn't you ?

A Yes, Sir.

Q You knew what his rank was ?

A Yes, Sir.

Q You even knew him by name ?

A Yes, Sir. -- I didn't know him by name but I knew what he was and what he stood for.

Q And it was about 2100 hours or 9.00 p.m. when he told you to leave the Canteen ?

A I don't know what time it was, Sir.

Q Do you know what time the Canteen usually closes ?

A Nine o'clock, Sir.

Q It was about that time was it not ?

A I don't know, Sir.

Q It was on the 31st of March, 1945 ?

A I know that, Sir, but I thought it was before nine o'clock.

Q And it was at A15 Wet Canteen, Shilo Camp, was it ?

A Yes, Sir.

Q You were sitting at the same table with Private Penner just before you went up to see if you could get more beer ?

A Yes, Sir.

Q And was that table about the second table away from the bar ?

A It was in the first row.

Q What do you mean the first row ?

A The row nearest the bar.

Q And it was about the second table from the bar ?

A About ten feet away.

Q How far was the table where you had been sitting earlier in the evening ?

A About twenty feet.

Q You had left your hat near the table where you had been sitting earlier ?

A Yes, Sir.

Q But when you left the Sergeant-Major and you say you were going to get your hat you stopped at the table closer to the bar where you had been sitting with Private Penner didn't you ?

A I don't think I did, Sir.

Q Where did you stop ?

A I may have stopped a second. Just hovered for a minute and then I got going to the other one.

Q Where was it you drank some beer ?

A That was at the table where my hat was, twenty feet from the bar. That is where he stopped me.

Q Who stopped you ?

A A friend of mine sitting down there.

Q It wasn't Private Penner ?

A No, Sir.

Q You know that Private Penner said at that time you stopped at the table where he had been sitting ?

A I may have stopped and hovered for a second.

Q He said you sat down there and drank a beer ?

A No, Sir. He meant the other one.

Q It is not what he meant. That is what he said. That he didn't drank at that time, that he had no more beer but that you had ?

A You remember, Sir, he also said he didn't see whether I sat down or stood up.

Q But he said you drank beer at his table ?

A That was before I went to the bar, Sir.

Q Perhaps you don't remember whether you stopped at Penner's table or not ?

A I know for sure I didn't.

Q So if he testifies you did you don't believe his testimony ?

A If he says I did I don't believe his testimony.

Q But you had been sitting at his table before you went up to the bar to see if you could get some more beer ?

A Yes, Sir. That was after I had been sitting at my original table.

Q You suggested you noticed the bar was closing ?

A No, Sir. I never actually suggested that. There was a rumour it was going to close.

Q You saw the RSM up there at the bar did you ?

A Yes, Sir.

Q So you thought he was there for the purpose of closing the bar didn't you ?

A Not at that time, Sir. I went up to ask the bartender for more beer.

Q Your beer was not all done. You still had some more on the table didn't you ?

A There was about three-quarters of a bottle of beer, Sir.

Q Were you getting it by the bottle or by the glass ?

A By the bottle.

Q The only reason you wanted to get more beer was because you thought they were going to close and wouldn't be selling any more ?

A Yes, Sir, you could put it that way.

Q So when Sergeant-Major Campbell told you no more beer was being sold you were not surprised ?

A I was in a way, Sir, because it seemed to be around twenty to nine or twenty-five to nine or eight thirty by Penner's watch.

Q How did you know what his watch said ?

A Because there was no watch on the bar.

Q How did you know what his watch said ?

A He had a watch on him. He was the one that gave me the money to get the beer.

Q Where was your watch ?

A I haven't got one, Sir.

Q So after you had been at the bar and found you couldn't get any beer you went back to the table where Penner was ?

A Yes, Sir.

Q And after that you saw RSM Campbell at the outside door of the Canteen did you ?

A Yes, Sir, towards the entrance there.

Q So then you went over there to speak to him ?

A After the bar closed, Sir.

Q What did you say to him then ?

A I asked him why it shut down.

Q And you said "You needn't be a prick about it" ?

A No, Sir.

Q "Don't be a prick about it" ?

A No, Sir.

Q What did you say ?

A I didn't say anything of the sort, Sir.

Q When did you make the remark to him that the sergeants could get all the beer they wanted in their mess and you thought you should ?

A I said that at the bar.

Q You had been thinking about that remark when you went and sat down at the table ?

A Not exactly. It was when the bar closed down. I thought it was only closed down for a while. They usually do that sometimes.

Q You went up to ask Mr. Campbell about the beer situation ?

A I asked why it was shut down.

Q The only reason he asked you to leave was because you had used some words he didn't like, isn't that right ?

A No, Sir.

Q Why did he tell you to leave the Canteen ?

A Probably, Sir, because I started to argue with him.

Q Because you had used some words he didn't like, is that true ?

A I didn't use any words.

Q You heard the Sergeant-Major and Sergeant Price say you used some words about "Don't be a prick" ?

A Yes, Sir, I heard that.

Q You don't believe their evidence either ?

A I deny that, Sir.

Q And then when Sergeant-Major Campbell told you to leave the Canteen you told him you didn't want to leave the Canteen didn't you ?

A Not definitely, Sir. I put it in the way that I would like to go back and talk to my friends.

Q So after he ordered you to leave the Canteen you started back to talk to your friends ?

A I started back to get my hat, Sir.

Q After he had first given you the order to leave the Canteen you walked away from him a little towards this table ?

A Not that I remember. When I started walking I kept on walking.

Q Why did he order you the second time ?

A It was during the argument.. He seemed to be doing all the talking. I was trying to get a few words in edgewise. I did try to get some and finally I got something about the hat in. I don't know whether it was him or the sergeant who told me to get the hat.

Q After the second time he told you if you didn't leave he would have to place you in close arrest did he ?

A I didn't hear that. I was going by them. I was going back.

Q Why did you tell him he could get a couple of guys to put you in the digger but there would be somebody hurt if he did ?

A I don't remember that.

Q You don't remember saying that ?

A I don't remember I did, Sir.

Q You remember you said words to that effect ?

A No, Sir.

Q You are bigger than the average man around camp ?

A Yes, Sir.

Q You feel you are good and strong ?

A Yes, Sir.

Q You feel if anybody is going to interfere with your liberty you are able to resist ?

A It all depends on the situation. If I feel I am in the right and being imposed upon.

Q That evening you felt you were within your rights ?

A As far as feeling that way I did feel inclined that way.

Q You felt if anybody was going to put you out you were going to resist being put out ?

A No, Sir.

Q You said something to that effect to the Sergeant-Major ?

A I didn't say it. I didn't resist being put out.

Q But you did say to the Sergeant-Major that you would resist or that some people would be hurt in trying to put you out ?

A No, Sir, I never said any words like that.

Q Had you said anything to Sergeant Price, who was the Orderly Sergeant ?

A I don't think I had, Sir.

Q Maybe you mentioned something about getting your hat to him ?

A I mentioned getting my hat in front of quite a few people.

Q In front of Sergeant Price particularly ?

A In front of the Sergeant-Major.

Q The Sergeant-Major's order to you was to leave the Canteen was it not ?

A To get my hat, Sir.

Q The Sergeant-Major didn't say to get your hat ?

A He said "Get your hat".

Q I suggest that the Sergeant-Major told you to leave the Canteen and that you said something about getting your hat ?

A Yes, Sir. I said something about getting my hat and he said to get it.

Q The Sergeant-Major had just ordered you to leave the Canteen ?

A And to get my hat too, Sir.

Q And so you say you went not to the table where Private Penner and you had been sitting but you went to a table that was further off ?

A Yes, Sir. Where I was originally sitting in the first place where my hat was.

Q Instead of getting your hat immediately you stayed there and drank what was left of the bottle of beer ?

A I just sat down and got right up.

Q While you were sitting down you drank the beer ?

A No, Sir.

Q What did you sit down for ?

A A kid said to sit down. I remembered I had to get out.

Q You were ready to obey the kid whoever he was. When he said sit down you sat down ?

A I got right back up again, Sir.

Q Although the Sergeant-Major had told you to leave you were not obeying him so readily as this fellow who told you to sit down ?

A I didn't exactly sit down at all, Sir. I just sat down to grab the bottle. The R.P. came in and I asked if I could drink it. If he had said no I would have gone right out. He gave me permission to drink it which I did as fast as I could.

The Defending Officer declines to re-examine.

Questioned by the Court:

Q When the RSM told you to leave the Canteen the second time what did you say to him ?

A He told me to get my hat, Sir. I just turned around and went.

Q Did you suggest to him you should get your hat ?

A That is what I was suggesting to him all along more or less but I couldn't seem to get it in.

Q Did he tell you to get your hat and get out or he would put you under arrest ?

A Yes, Sir.

Q Now you are quite certain that you didn't make a reply to that ?

A I am certain, Sir.

Q How long were you at the table before Lance-Corporal Smith came and told you to come with him ?

A I guess maybe it may have been a half a minute or a quarter of a minute. We were out of there in three-quarters of a minute.

Q From the time you left the Sergeant-Major at the door ?

A He told me to get out or something like that. You can judge for yourself. By the time I was at my table he was in the door. The R.P. was coming in the door when I got to the table. When I got to the table I sat down. He must have been coming in the door then for all I know. He came over to where I was and he said "You will have to go out. You are under close arrest".

The witness resumes his seat.

By the Defending Officer:

That is the case for the Defence, Sir.

The Court in accordance with Rule of Procedure 86(d) recalls No. H.19873, Regimental Sergeant-Major Arthur Leonard CAMPBELL, who on his former oath states in reply to the President as follows:

Q When you first told the accused to leave the Canteen where was he standing in relation to the door ?

A In front of the door, Sir, facing south. The door is on the south and he was facing the door.

Q What did he do when you first ordered him to leave the Canteen ?

A He made no attempt to go, Sir.

Q You told him a second time ?

A Yes, Sir.

Q What did he do then ?

A I explained to him, Sir, the reason why he couldn't get any more beer and he said "You don't have to be a prick about it". I opened the door and ordered him to leave the Canteen immediately.

Q What did he do ?

A He walked away and said "I am going to see my chums", sat down at the table and drank a bottle of beer.

Q Was anything said about a cap ?

A No, Sir, not when I opened the door. Definitely not.

Q Did you tell him to go and get his cap and get out of the Canteen ?

A No, Sir.

Q Did the Orderly Sergeant tell him to get his cap and get out of the Canteen ?

A Not to my knowledge, Sir.

Q When you summonsed the Regimental Police how did you do that ?

A I despatched the Orderly Sergeant out for them.

Q You yourself didn't go out the door and down a couple of steps and call him ?

A I did not, Sir. I did not see the Regimental Police until they entered the Canteen from the duty they were performing outside, Sir.

Q Which table did the accused go to -- the table he was sitting at when he came up to the bar in the first instance ?

A To the best of my knowledge, Sir, he went to the table he had been sitting at, which was about three tables from the bar.

Q When you sent for the Regimental Police had the accused reached the table or did you send for the Regimental Police before he got there ?

A As soon as he started to walk back to the table I ordered the Orderly Sergeant to get the Regimental Police, Sir. The accused had no knowledge of my calling the Regimental Police. Had he left the Canteen I should not have had to call them. When he walked back to the table in a defiant manner --

Q While the accused was on the way from the door to the table was the time you called the Regimental Police ?

A Yes, Sir.

Q And you are quite positive you didn't tell the accused, "Get your hat and leave the Canteen immediately" ?

A If I did do so, Sir --

Q The Court want to know. The Court want you to be positive whether you gave him that order or not ?

A In the last instance I definitely did not, Sir.

Q Did you see the accused get his hat and if so how far was it from the table ?

A I saw him get his hat after the Regimental Police went to the table where he had been drinking beer. It was approximately the third window.

Q Did you think the man was going to get his hat at the time you called the police ?

A No, Sir.

Q What did he do ?

A He went to the table, sat down and drank a bottle of beer.

Q Were the Regimental Police there while he was drinking the beer ?

A I think so, Sir. I am practically certain that he may have been drinking beer when they went up to him. But he definitely went back to the table and sat down after I had ordered him to leave the Canteen, picked up a bottle of beer and started to drink it.

The witness withdraws.

The Defending Officer makes a Closing Address.

The Prosecutor makes a Closing Address.

74.

PRECIS OF EVIDENCE

in the case of

H.23652 Private Patrick James McMANIMAN, A-15 Canadian Infantry Training Centre, C.A. a G.S. soldier of the Canadian Army, placed on Active Service.

CHARGE: WHEN ON ACTIVE SERVICE DISOBEYING A COMMAND GIVEN BY HIS SUPERIOR OFFICER.

TO PROVE THE CHARGE, verbal evidence is available, as follows:

FIRST WITNESS: H.19873 R.S.M. A.L. CAMPBELL, A-15 Canadian Infantry Training Centre, C.A., who will testify that in pursuance of his duty he inspected the wet canteen at 2050 hours on 31 March 1945 and finding that the men had plenty of beer on tables then ordered that no more beer be sold there that day; whereupon the accused came up to him and stated that he wanted to buy more beer and said: "Oh don't be a prick", so that R.S.M. Campbell deemed it advisable to order the accused to leave the canteen, and at 2105 hours did give him a command to that effect; which the accused disobeyed; and that the accused then said to R.S.M. Campbell: "You can get a couple of guys to put me in the digger but there will be some people hurt if you do", or words to that effect. R.S.M. Campbell then had the accused placed in close arrest.

SECOND WITNESS: H.17871 Sgt. W.V. PRICE, A-15 Canadian Infantry Training Centre, C.A., who was Orderly Sergeant of A-15 C.I.T.C., Shilo Camp on 31st March, 1945 and witnessed the incident at the wet canteen when the accused was given a command to leave by R.S.M. Campbell but did not leave, though given plenty of time to do so.

NOTICE

TAKE NOTICE that I propose to present No. H.23652 Private Patrick James McMANIMAN, A-15 Canadian Infantry Training Centre, C.A., for trial by the Standing Court-Martial at 1000 hours on Wednesday the 4th day of April, 1945, at Shilo Camp, Manitoba.

Shilo Camp, Manitoba,

2nd April, 1945.

P.H.K. Coupland

(P.H.K. Coupland), Lt.-Col.,
T/Commandant,
A-15 Canadian Infantry
Training Centre, C.A.

REPRESENTATION FOR ACCUSED

I, No. H.23652 Private Patrick James McMANIMAN, ~~desire~~, ~~do not desire~~ desire, that an Officer be assigned to represent me at my trial by Standing Court-Martial.

Signed at Shilo Camp, Manitoba, this 2nd day of April, 1945.

P.J. McManiman

(P.J. McManiman) Pte.

MEDICAL OFFICER'S REPORT

I certify that No. H23652 Pte. McManiman P.J.
of A.15 C.I.T.C. is in a good state of health,
and fit to undergo Trial by Court martial.

W Fleer Capt R.C.A.M.C.
Medical Officer
A15 C.I.T.C., C.A.

Station Shilo Camp, Man.

Date 4th April 1945

M. F. B. 246
50M—12-43 (3222)
H.Q. 1773-46-180

H.Q.C.55-M-1650 (JAG/D-9)
Your W.44-Mc-3009 (J)

23 Apr 45

The District Officer Commanding,
Military District No. 10, Winnipeg, Man.

Staning Court-Martial
H.23652 Pte. Patrick James McManiman,
A-15 C.I.T.C., C.A.

Receipt is acknowledged of the proceedings of the m/n Standing Court-Martial which were forwarded by the President named therein.

2. It is noted that the accused was found Not Guilty of the charge and Released.

3. The proceedings are forwarded herewith for you to note. After this has been done, may they please be returned to this office for custody.

(R.J.Orde), Brigadier,
Judge Advocate-General.

RMM/MM

THIS COPY FOR H.Q. C.55-M-1650
M.D. W.44-Mc-3009

G.S. MEMORANDUM - ~~[illegible]~~ STANDING COURT-MARTIAL

No. H.23652 Name McMANIMAN, Patrick James

Rank Pte Unit A 15 C.I.T.C. CA

Charge A.A. 9 (2) - Disobeying a lawful command ...

Date of Crime 31-3-45

Date of Arrest 31-3-45 Charge Signed 2-4-45

Orders for D.C.M.

Place and Date of Trial H.Q. Camp Shilo Man 4-4-45

Sentence Accused released

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36632

Date 17-4-45

MEMO Not Guilty

for for Judge Advocate-General

10M-1-45(M-4629)

- - - -

W.44-Mc-3009 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Winnipeg, Manitoba.
11th April, 1945.

Judge Advocate-General,
Department of National Defence (Army),
OTTAWA, Ontario.

C.55-M-1650

STANDING COURT-MARTIAL
No. H.23652, Pte. McMANIMAN,
A15 C.I.T.C., C.A.

Herewith, for review, are the proceedings of the marginally-noted Standing Court-Martial.

56832

F. J. Killeen Major,
President, (F.J. Killeen)
Standing Court-Martial.

H.Q.C. 55-M-1651 CONFIDENTIAL

M.F.R. 3/9

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MAXEY. ARTHUR MONTGOMERY A.110782 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1651

CENTRAL REGISTRY	DATE	P.A. OR S.T.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
APR 20 1945				J. A. G.	NEW FILE C.		APR 16 1945
MAY 18 1945				JAG	PER B.F. MAY 19 1945		
MAY 29 1945				JAG	PER B.F. MAY 30 1945		
				JAG	With Papers B.F. JUN 1 1945		
JUN 5 1945				C.R.C. of	With memo	E.L.M.	4/6/45
				JAG	— " —	C.R.	5-6-45.
JUN 5 1945	6/6/45			L.C.	L.C.M. To note	E.L.M.	5-6-45
JUN 7 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1651
(JAG/D)

OTTAWA, 5th June 5

District Officer Commanding,
Military District No.1,
LONDON, Ont.

Standing Court-Martial
A.110782 Pte. Arthur Montgomery MAXEY
No.1 D.D., C.A.

Reference your L.28-M-1310(AJAG) dated 30th May 1945. The proceedings of the marginally named Standing Court-Martial which were forwarded to this Headquarters under cover of your above numbered letter dated 25th May 1945, have now been received.

E.L.M. Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

WBB:ELM

Noted
L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
JUN 7 1945

Copy of memo 5th June 1945
(on H.Q.405-M-37004)

J.A.G.

Herewith court-martial proceedings in the case of this soldier which were forwarded by the D.O.C., M.D.1, with covering letter at folio 18 in connection with a matter for this Directorate. As the confidential file has been charged to you since 1st June 45 the proceedings are being passed on the open file.

(Sgd.) L.W. Gardiner Lt
for D. Adm.

IN REPLY PLEASE QUOTE No. L. 28-M-1310 (A4)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

405-M-37,004

Hq MD 1, London, Ont., 25 MAY 45.

Director of Records
A. G. Branch.
MAY 28 1945
Nat. Defence Hqr
Ottawa, Canada.

(15).

Secretary,
Department of National Defence,
OTTAWA, Ont,

A.110782 - Pte. MAXEY, Arthur Montgomery
No. 1 D.D.

1. The m/n Soldier was tried by [illegible] on 2 APR 45 on a charge of A.W.L.

2. During the trial, the defence brought out certain evidence in respect to instructions issued by the Canadian Army Representative, Detroit.

3. It appears that Pte. Maxey enlisted in the Canadian Army on 1 JUL 44, after being turned down by the American Army. While on enlistment leave, parental pressure was brought to bear on him, and he did not return. About the end of Feb 45, the Soldier received a letter from the Canadian Military Representative in Detroit, Major N.L. LeSueur (Exhibit "J" att to S.C.M. proceedings), which advised him that if he would pay a small kit deficiency charged to him, his discharge would be given to him when he called at the office to pay same.

4. He visited Major LeSueur's office and was interviewed by A.99227, S/Sgt. C.J. Bobier, to whom he stated that he was willing to pay the deficiency, but that he wanted to be reinstated in the Canadian Army without punishment, if that could be done. S/Sgt Bobier told the Soldier that he would have to consult Major LeSueur and would 'phone the Soldier. He did this, and, from the evidence brought out, it would appear that S/Sgt Bobier led the Soldier to believe that if he returned he would not be punished but would be placed in a Unit for training at once. The 'Phone call was confirmed by a letter from S/Sgt Bobier to Pte. Maxey (Exhibit "K" att to S.C.M. proceedings).

5. It is considered that the Canadian Army Representative, Detroit, Mich, should not have made any promises to this Soldier regarding punishment, or otherwise. May this be brought to the attention of Military Attache, Washington.

.....P.T.O.

29 May 45
Consider no action required as para 5
W. H. Hackman for Adm
May

NAT. DEF. B. 440
300M-4-44 (4320)
H.Q. 1771-39-787

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No.1 District Depot, CA London, Ont.

on the 2nd day of April 19 45 at 1030 hours,

for the trial of: A.110782 Pte Arthur Montgomery MAXEY
Number Rank Full Name

No.1 District Depot, CA
Unit Attachment, if any

PRESIDENT: Lt-Col H.C.Cameron,M.C.,President Courts-Martial MD 1
Rank Full Name Unit Attachment, if any

PROSECUTOR: Major D.R. Nairn, E.D.,Permanent Prosecutor MD 1
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Lieut D.W.Loan,No. 1 District Depot, CA
Rank Full Name Unit Attachment, if any

FINDING: Guilty.

SENTENCE: to undergo detention for a period of one day, and to be placed under stoppages of pay until he has made good the sum of $1.85 in respect of cost of apprehension and return to his depot.

Extracts entered as No. 36832 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 17 day of April 1945.

Signed at London Ontario this 9th day of April 194 5

(H.C.Cameron) Lt-Col

President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2298

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No,Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer:

Question to the accused. Do you object to A.99632 SM(WO I)Hagen,G.B.,CMSC HQ MD 1 as shorthand writer ?

Answer: No,Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No,Sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes,Sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Not Guilty, Sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

Answer.

~~(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

B2.

Cameron DAJ
Pres. SGM

CHARGE SHEET

The accused No. A.110782 Pte Arthur Montgomery MAXEY, No.1 District Depot CA., London, Ontario; an G.S. soldier of the Canadian Army placed on Active Service, is charged with:

Charge
Section 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

IN THAT HE

At London, Ontario on the 10th day of July 1944 absented himself without leave from No.1 District Depot CA, London, Ontario from 0700 hours on the said 10th day of July 1944 until surrendering to Canadian Military Representative, Detroit Michigan USA at 1230 hours 15 March 1945 dressed in civilian clothes. Cost of apprehension and return to this Depot being $1.85

H L Petrie

(H.L. Petrie) Lt.Col.,
C.O. No.1 District Depot, C.A.

NO.1 District Depot, C.A.
London, Ontario
27 MAR.45

C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No,Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. Capt William Lawrence KRESS
No.1 District Depot,CA
being duly sworn, is examined by the Prosecutor.

Question Q Will you give your rank, full name and appointment?

A Capt William Lawrence Kress, C.C. Legal Section, No. 1 District Depot, officer having custody of original document/s

Q I produce this document from your custody. Will you identify it?

A M.F.B. 375, Record of Declaration of Court of Inquiry, relating to the accused.

MFB 375, READ, MARKED EXHIBIT "G" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

Q I produce this document from your custody. Will you identify it?

A M.F.M. 216 , Certificate of apprehension by or surrender to service authorities, relating to the accused.

MFM 216, READ, MARKED EXHIBIT "H" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

Q I produce this document from your custody. Will you identify it?

A M.F.B. 1481, Certificate of cost of transportation, relating to the accused.

MFB 1481, READ, MARKED EXHIBIT "I" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE

THE WITNESS WITHDRAWS.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I apply to give sworn evidence

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, Sir.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

1st witness for Defence

The Accused, A.110782 Pte Arthur Montgomery MAXEY, No. 1 District Depot, CA, being duly sworn is examined by the Defending Officer:

Q Will you go ahead with your statement?

A I will go ahead, Sir. Before I came into the Canadian Army I tried to enlist in the American Army, but I was placed in 4-F. I wanted to do something, so I took the Canadian Army as the second best. Before leaving for Canada I asked my mother for permission to join the Canadian Army, and she told me that she didn't want me to join the army, for the fact that I had never left home - I had never been without her, and she hadn't been without me; but if that is what I wanted for me to go ahead and take it. She said she didn't want me to go; I might run into something that I wouldn't be able to take care of. I told her I thought I was man enough to take care of myself. So I came and joined the Canadian Army. I had been in for five or six days, and I had my enlistment leave; and when I got back home my Dad told me that he needed an operation, and that it was up to me to go and work, and take care of the family. I told him that I was in the army, and I had to go back. He said "When you are on your own American soil, you would not have to go back over there." He said, "Besides, your mother has been heart-broken because you have left." So I agreed with him, that I would go to work. I got my job, and started bringing the money home. It seemed he was going to have an operation...I asked my parents, could I go back, but every time I asked them could I leave, they objected for the very fact that when my uniform was sent for by the Military Police they told me "Never go on

A (cont'd) " Canadian shores again, because if you do they will give you plenty - they will do plenty to you." My father and mother and brothers were afraid for me to go back here. Every time I tried to leave they objected to it, and their friends objected to it. So I stayed. I had a letter from the Canadian Representative in Detroit, from the Military Attache in Washington, offering me a discharge if I paid the deficiencies of kit, which was $14.83. I told him that I would like to go back in service in Canada; I would like to get in the fight with the boys overseas, but if I went back I wouldn't want to be punished for something that I had no control over. I said I would like to meet some people in Canada, probably a young girl, or something like that, and go to my own choice of church in Canada, and get acquainted with the kind of people that live there, as well as go and fight with the Canadians. I told him I would like to continue where I left off. He advised me that he wouldn't tell me to go back now; he would try and find out from headquarters. It wasn't the Major that talked to me, it was the S/Sgt; and he said he would find out from the Major, "Major LeSueur"; he would get in touch with headquarters, and he would call me up the next day and let me know. The next day he called me up and said it was perfectly all right for me to return to Canada, they would take me back. I came down a week or so after he had talked with me, and he brought me over to the Canadian Military Police in Windsor, and from there here, Sir.

CROSS-EXAMINED BY PROSECUTOR

Q When you went away from the Depot in July on your enlistment leave, was your leave up on the 10th day of July?

A Yes, Sir.

Q And that was the time you were supposed to return?

A Yes, Sir.

Q After that time you remained in Detroit ?

A That is right.

Q Did you remain at the home of your people?

A Yes, Sir.

Q And is that home at 2634 East Vernor Highway, Detroit, Mitchigan?

A That is right.

Q Were you visited by the Military Police, either the United States Shore Patrol or the Canadian men, at that address?

A I was visited by - not the military, but the detectives, and later on by the Shore Patrol.

Q When was it that there was somebody took your uniform away from you?

A The first time the detectives came to my house they brought me down to the police....I wasn't home at the time, but they asked my father if he would bring me down to headquarters, and he did.

Q Which headquarters, the police headquarters?

A The police headquarters. And from there I was taken to the Military Police Headquarters.

Q The American Military Police?

A The American Military Police Headquarters, and they took my uniform, and I had my civilian clothes there, and they sent me back home.

Q What did he tell you there?

A He told me there, never to come back on the Canadian shores, or I would be given plenty for that.

Q When was that?

A That was in August.

Q When did you first contact the Canadian Authorities in Detroit?

A I didn't contact them until I received a letter from the Military Representative. I didn't know that there was a Representative in Detroit; I thought it was in Windsor.

Q About what time was it you received this letter from Washington, from the Military Attache?

A The 1st of March or the last part of February.

Q Of this year?

A Yes, Sir.

Q Have you that letter?

A No, Sir; it is at home now.

Q What did the letter say?

A It said I had a deficiency in kit which netted $14.83, and for me to bring the money down and fill out the necessary papers, which was at the Canadian Representative's office in Detroit, for my discharge.

Q It stated your discharge was at headquarters?

A My necessary papers for discharge was.

Q As a result of that letter did you go down to headquarters?

A Yes, Sir; I made an appointment with the Major.

Q What happened there?

A When I got in there the Major wasn't there, but the S/Sgt was there, and he was the one that talked to me.

Q Did you remain at the headquarters?

A At the Represenative's office?

Q Yes?

A No, sir.

A (cont'd) I asked him to be taken back, and he said he would let me know the next day.

Q They didn't tell you you would be under arrest?

A No,Sir, they didn't at all.

Q And the following day did they get in touch with you?

A Yes, Sir.

Q What did they tell you at that time?

A It was the Sergeant, he told me it would be perfectly all right for me to return to Canada. I would be taken back and put into a unit here.

Q Then you were handed over to...?

A The Military Police.

Q In Windsor?

A At Windsor.

Q During the time you were in Detroit were you working?

A I had a choir of 20 boys and girls like myself, and most of the time I was singing at different churches, troupes, over the radio programmes, and so forth; and the other part of my time I was working at Hudsons.

Q Were you helping your people at home?

A Yes, Sir; I was bringing in money.

Q Was your father working during this time?

A Yes, Sir; he was.

Q He didn't undergo this operation you mentioned?

A No, Sir.

Q You are an American citizen?

A Yes, Sir.

Q You have never been naturalized as a Canadian?

A No, Sir.

RE-EXAMINATION BY DEFENDING OFFICER

Q The four or five days you were in this Depot did you receive any sort of training?

A No, Sir.

Q Did you have any lectures on Military Law?

A No, I did not, Sir.

Q While you were home, was it the influence of your parents alone that kept you there?

A Yes, Sir.

Q What exactly was your Dad threatened with, the operation?

A The operation was all, and the fact my mother was heart-broken, and didn't want me to be in the army. That kind of hit me hard.

Q This '4-f' you mentioned in your category. Do you know what that was on?

A When I had my examination they said I had a bad heart; but I didn't believe that, because I had been to several doctors in the City, and they examined me, and said I was perfectly all right. I thought the fact they said I had a bad heart was because I tried to get into the Marine Corps in the States, and the negroes were not being allowed in the Marine Corps at that time.

QUESTIONED BY PRESIDENT

Q You were turned down as 4-f?

A Yes, Sir.

Q On your application to the Marine Corps did you receive a medical examination then?

A Yes, Sir.

Q Were you turned down t that time?

A Yes, Sir, I was.

Q This letter that you say you received sometime at the end of February or first of March of this year, was

that from the

Q (cont'd) Military Representative in Detroit?

A It was from the Military Attache in Washington, through the Military Representative in Detroit.

Q Was it addressed to you personally?

A Yes, it was.

Q You say that letter is at home?

A Yes, it is.

Q The gist of that letter is, as I understand it, if you paid the amount of deficiencies that you would receive your discharge, is that right?

A That is right.

Q And when you went to see the Military Representative in Detroit were you willing at that time to pay the deficiencies?

A I was, Sir.

Q But as I understand it you also wanted to get back into the Canadian Army, is that right?

A That is right.

Q Was anything said about being punished for being absent, at the time you were talking to the Representative or to the S-Sgt?

A I don't know if there was exactly of being punished, but they said I would probably serve three months...I didn't know whether that was three months in gaol. I told them I wouldn't like to be punished for something like that, because of my parents. I said I would like to meet some folks in Canada and go to a proper church.

Q What I want to know is, what did they explain to you as to what would happen to you when you came across to this country?

A I would be put in a unit.

Q And they said something that you might have to serve

Q (cont'd) three months?

A That was before I told them I wouldn't want to... They said it would be perfectly all right for me to come back.

Q What did you take from that statement, it would be perfectly all right for you to return to Canada? What did you take from it?

A That I wouldn't serve any time; that I would be put at a basic training centre, and get the training over, and be transferred overseas.

Q You said you had a letter at home that offered you a discharge if you would pay for the deficiencies, is that right?

A That is right.

Q Would that letter be available? Would it be possible to get that letter from your people?

A I believe so, Sir.

THE WITNESS RESUMES HIS SEAT.

PRESIDENT: It appears that this matter should be further investigationed, in view of the statement which has been made by the accused. I consider that in the interest of justice it would be very advisable that this case be adjourned for one week, so that the statement of the accused can be checked, and if possible corroborated. If you consent, Mr. Loan and Major Nairn, I will adjourn the case until 9 Apr 45, at 1000 hrs.

DEFENDING OFFICER: No objection.

PROSECUTOR: No objection.

AT 1130 HRS 2 APR45 THE COURT ADJOURNED UNTIL 1000 HRS 9 APR 45. AT 1000 HRS 9 APR 45 THE COURT REASSEMBLED PURSUANT TO THE SAID ADJOURNMENT.

PRESIDENT: Major Nairn, I understand that as a result of investigation that has been made you have a statement that you wish to make to the Court.

PROSECUTOR: Yes, Sir. As a result of investigation that has been made since the Court was adjourned certain evidence has come into my possession, which is in the interest of the accused, and I would like permission of the Court file it under Rule of Procedure 60., which says the whole transaction should be placed beore the Court by the Prosecutor. The first document I would like to file is a copy of a letter dated 20 Feb 45, from Major N.L. LeSueur, Canadian Military Represenative, to Mr. A.M. Maxey, 2634 East Vernor Highway, Detroit, Michigan.

LETTER DATED 20 FEB 45, READ, MARKED EXHIBIT "J" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

PRESIDENT: That copy was obtained from whom?

PROSECUTOR: From Major N.L. LeSueur, Canadian Military Representative in Detroit, Michigan. I would also like to file a statement from A.99227 S/Sgt C.L. Bobier, who is a S/Sgt at the Canadian Military Representative, at 525 Book Building, Detroit, Michigan.

STATEMENT DATED 6 APR 45, READ, MARKED EXHIBIT "K" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

THE PROSECUTOR MAKES A CLOSING ADDRESS

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, Sir.

I would like a chance to prove to the Court and the Army that I can do my work in the army without being A.".L. or deserting; I just want a chance to prove to my parents, and be a good soldier and a smart soldier, Sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"G" [illegible] Orig. S.B.M

RECORD of the Declaration of a Court of Inquiry assembled at Wolseley Barracks, London, Ontario, the 4th day of August 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A-110782 Pte. MAXEY, Arthur Montgomery, No. 1 District Depot, (CA) London, Ontario.

DECLARATION

The Court declare that No. A110782 (Reg'l No.) Private (Rank) MAXEY, Arthur Montgomery, No. 1 District Depot, (CA) London, Ontario. (Full Name) (Unit) illegally absented himself without leave from No. 1 District Depot, (CA) London, Ont. (Place) at 0700 hours on the 10th day of July 1944, that he is still so absent, and that on the 4th day of August 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE
CLOTHING DIVISION "A"		
Dressings First Field	1	.22
CLOTHING DIVISION "B"		
Boots Ankle	prs 1	4.37
Caps Field Service	2	1.05
Drawers Cotton Short	prs 2	.63
Jackets Khaki Drill WOC	1	2.57
Puttees	prs 1	.73
Shirts Khaki Cotton	3	3.47
Shirts Undercotton	2	.65
Shoes Canvas	prs 1	1.72
Shoes Leather Black	prs 1	3.63
Socks	prs 1	.35
Trousers Khaki Drill	prs 1	1.35

ARTICLES		VALUE
Trousers Khaki Drill Short	prs 1	.99
CLOTHING DIVISION "C"		
Belts Waist Web 1½	1	.19
Bags Kit	1	.96
Brass Cleaning	1	.03
Brushes Cloth	1	.13
Brushes Hair	1	.30
Brushes Shaving	1	.32
Brushes Tooth	1	.07
Combs Hair	1	.03
Forks Table	1	.06
Holdalls	1	.17
Housewives	1	.27

RECORD of the Declaration of a Court of Inquiry assembled at Wolseley Barracks, London, Ontario.

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ARTICLES		VALUE	ARTICLES	VALUE
Cont'd				
Knives Table	1	.14	TOTAL	$26.50
Neckties Black	1	.19		
Pins Collar Safety	1	.06		
Socks Black	2	.56		
Razors	1	.32		
Spoons Table	1	.06		
Towels Hand	1	.24		
CLOTHING DIVISION "D"				
Badges Cap	1	.07		
Buckles Brass	1	.06		
SECTION "A-1"				
Bags Ration	1	.03		
Sun Helmet	1	.51		

(SIGNED) W. L. KRESS (Name) Capt. (Rank) President (Unit)
(W. L. Kress) No. 1 District Depot, (CA)
Member
Member

Signed at London, Ontario.

this 4th day of August 1944.

Signature of Commanding Officer H. L. Petrie Lt. Col.
C.O. No. 1 District Depot, (CA)

Certified true copy (W. L. Kress) Capt.
(W. L. Kress) O.C.
(Signature of Officer having custody of original record)
Legal Section, No. 1 District Depot, (CA) London, Ontario.
Officer having custody of original record.

M.F.B. 175
A.F.B. 115
100M—10-41 (8530)
H.Q. 1773-19-257

"H" [illegible] Actg. SQM.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major G. A. Walker, Windsor Detach., No. 30 Coy., C.Pro.C.
(Number) (Rank) (Name) (Unit)

hereby certify that A-110782 Pte. MAXEY, Arthur Montgomery
(Number) (Rank) (Name in full)

of the No. 1 District Depot, London, Ontario.
(Unit and attachment, if any)

Strike out words not applicable } [redacted] (surrendered to) A-99227 S/Sgt.
(Number) (Rank)

Bobier, C. L., Can.Mil.Rep., Detroit, Michigan.
(Name) (Unit or appointment)

at [redacted] Detroit, Mich. at 1230 hours.
(Place) (Hour)

on the 15th day of March 19 45

and at 1330 hrs. 15 Mar.45. was taken into custody of this Detachment at Orderly Room, 455 Ouellette Ave., Windsor, Ont. on arrest.

Strike out words not applicable [redacted] absentee without leave), and that at the time of his arrest he was [redacted]

Strike out words not applicable [redacted] (dressed in civilian clothes).

Dated at Windsor, Ontario this 15th day of March 19 45

(G. A. Walker) Major, Officer in Charge,
(Signature, Number, Rank, Unit or appointment)

Windsor Detach., #30 Coy., C.Pro.C.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (886)
H.Q. 1772-39-1436

M.F.B. 1691
115M-10-43 (2306)
H.Q. 1772-59-1851

L. [illegible] SBC.
Pts. S.C.M.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. E.J. Orendorff, Issuing Officer For DS & TO MD #1.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~(authorized)~~ the hereinafter itemized transportation for escort

Complete — to proceed from Windsor Ont. (Place) to London Ont. (Place)

and return to ..... (Place) for the purpose of escorting

Full description of soldier being escorted — A/110782 (Number) Pte. (Rank) Maxey, A.M. (Name in Full)

#1 D.D. (Unit) London Ont. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(the transportation required)~~ and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	Cost of Transport Warrant # C-867192 d/16-3-45 Covering the following transportation.	
	One 2nd class single to London Ontario	1.85
	Escort travelling on pass.	
	The cost of above is recoverable from A/110782 Pte. Maxey, A.M. #1 D.D., London Ont.	
	TOTAL	$ 1.85

Dated at Windsor Ont. this 16th day of March A.D. 19 45.

E J Orendorff Lieut.
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~(authorizing transportation)~~
Strike out description not applicable

Issuing Officer For DS & TO MD #1.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1432.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

COPY "J" Pres. L.L.M.

525 Book Building,
Detroit 26, Michigan.
20 February 1945

Mr. A.M. Maxey,
2634 East Vernor Highway,
Detroit 7, Michigan.

Dear Sir:

We have been instructed by the Military Attache, in Washington, to contact you concerning your discharge from the Canadian Army.

It appears that you have a slight deficiency of kit amounting to $26.50 and a credit balance on your last Pay Certificate of $11.70. This would net $14.80 owing by you. Upon the payment of this amount, and the completion of the necessary forms which we are holding in this office until we hear from you, your discharge papers will be completed.

It would be appreciated if you would call into this office for an interview at your earliest convenience. If you wish to call for an appointment, our telephone number is CAdillac 8481.

Very truly yours,

(N. L. LeSueur) Major,
Canadian Military Representative.

"Ex K." Cameron 800 Chas. LSM

IN REPLY PLEASE QUOTE No. D.129-2

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

525 Book Building,
Detroit 26, Michigan.
6 April 1945.

Lt. Col. H.C. Cameron, M.C.,
President, Court Martial,
London, Ontario.

A.110782 Pte. Arthur Montgomery MAXEY

I have today read a statement of the evidence in connection with the Court Martial of Maxey for absence without leave.

I told Maxey that he would be punished, but I did not emphasize it and I feel that he could have very easily understood from the conversation that there would be no punishment and that the story as outlined in his evidence could very easily have been the complete story in his mind.

I am enclosing herewith a copy of letter sent out from this office under the signature of Major N.L. LeSueur suggesting discharge, and in view of the fact that Maxey had been in the Army only for a period of about 15 days I felt that this was virtually a reenlistment rather than the return of a deserter and I treated him in that manner.

S/Sgt C.L. Bobier

A.99227 S/Sgt. C.L. Bobier.

NAT. DEF. B. 440
1 Million—10-42 (6656)
H.Q. 1772-89-767

"Y" Pte Cameron SPR Pte LSM

M.F.R. 355
MM—5-42 (5002)
H.Q. 1772-39-630
A.F.R. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A.110782	Pte.	Arthur Montgomery MAXEY	No.1 District Depot, CA.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ---------- beginning on the ---------- day of ----------~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 18 days in military custody, making a total of 18 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~recruiting~~ attestation paper is 20 years 3 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 1 July 1944

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~service~~ military decoration, or ~~military~~ military reward (or is in ~~possession of or entitled to). State any air force decoration or reward.~~

~~10. (If the accused is a warrant officer). The accused before he was made a warrant officer last held the regimental rank of~~ Air Force

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of April 1945 (W.L. Kress) Capt. O.C. Legal Sect. No.1 ID, CA
Officer having custody of Orig. Docs.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.B. 122)
500M—11-41 (2400)
H.Q. 1773-38-1402

No. 110782

Name MACKY Arthur Montgomery

No. and date of last drunk

Sqn., Battery, or Company

Corps No. 1DD (AF) CIC

Period not reckoning towards freedom from extra line

Date of enlistment 1 JUL. 44

G.C. Badges

Sheet No. One

Signature O.C. Company, etc. F.E.Renn Lt

Tradesmen's Rates of Pay

Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Lachine, Ont.	10 44 JUL	Pte		SOC des by Ct. of Inq. AWL from 0300 hrs 10 JUL.44-4 Aug.44 Deficiencies of Pay $26.50					
				CERTIFIED TRUE COPY (W.L. Kress) Captain O.C. Legal Section #1 D.A.A. CA Officer i-c Original document					

P.T.O.

Claimed Feb 20
Pte E.M.

MEDICAL OFFICER'S REPORT

I certify that No. A.110782 Pte. MAXEY, A.M.

of No.1 D.D. is in a fit state of health,

and able to undergo Trial by Court martial.

D.J. Broadwell Capt.
Medical Officer
(D.J. Broadwell) Capt.
M.O. No.1 D.D.

Station No.1 District Depot, CA
London, Ontario.

Date 2 Apr 45

M. F. B. 246
50M—5-45 (254)
H.Q. 1772-30-490

Tomorrow AM
Pres. S.G.M.

MEDICAL OFFICER'S REPORT

I certify that No. A-110782 PTE. MAXEY, A.M.

of No. 1 D. Depot is in a fit state of health,

and able to undergo Trial by Court martial.

D J Broadwell Capt
Medical Officer
D.J. Broadwell, Capt.
M.O. No.1 District Depot

Station #1 District Depot

Date 9 April 45

M. F. B. 246
50M—12-43 (3223)
M.Q. 1773-39-480

4-6-45

Memo for C.R.(Conf.):

May a search be instituted for the proceedings referred to in the letter one folio down, please.

E.L.M.
for J.A.G.

JAG

Sorry, we have no record of proceedings of above's trial.

For your information

Thank you

C.R. (Conf.)
5/6/45

IN REPLY PLEASE QUOTE
No. L.28-M-1310 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

318484

H.Q. MD 1 London, Ont., ~~30 May 45~~

CENTRAL REGISTRY Army
C.O.T.F. SEC.
JUN 1 1945
File C55-M-1651
Chgd. to
Referred to JAG

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada.

STANDING COURT-MARTIAL
A.110782 Pte. Arthur Montgomery MAXEY
No. 1 District Depot, C.A.

Reference H.Q.C. 55-M-1651 (JAG/D) d/29 May 45.

2. The proceedings of the m/n Standing Court-Martial were returned to National Defence Headquarters, 25 May 45 in letter under above file addressed "Secretary" National Defence Headquarters, Ottawa, Ontario.

3. May we be advised please, if these papers have not been received.

for (P. Earnshaw), Brigadier
D.O.C. M.D. 1.

N.D. 23
300MM—10-44 (3769)
H.Q. 1772-101-23

H.Q.C.55-M-1651
(JAG/D)

OTTAWA 29th May 5

District Officer Commanding,
Military District No. 1,
LONDON, Ont.

Standing Court-Martial
A.110782 Pte. Arthur Montgomery MAXEY
No.1 D.D., C.A.

If the proceedings of the marginally noted Standing Court-Martial have served the purpose for which they were forwarded to you under cover of this Headquarters above numbered letter dated 19th April 1945, may they be returned to this Headquarters for custody.

E.L.M.
Capt
for (R.J. Orde), Brigadier,
Judge Advocate-General.

WBB:KLM

HQC.55-M-1651 (JAG/D-7)
Your File L.28-M-1310

19 Apr 45

District Officer Commanding,
Military District No. 1,
LONDON, Ontario.

STANDING COURT-MARTIAL

A.110782, Pte. Arthur Montgomery MAXEY
No. 1 D.D., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde), Brigadier,
Judge Advocate-General.

LJR/AB

THIS COPY FOR H.Q. C.55-M-1651
M.D. L.28-M-1310

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. A.110782 Name MAXEY. Arthur Montgomery

Rank Pte Unit No. 1 D.D. C.A.

Charge A.A. 15 (1) - A.W.L.

Date of Crime 10-7-44

Date of Arrest 15-3-45 Charge Signed 27-3-45

Orders for D.C.M.

Place and Date of Trial No. 1 D.D. C.A. London Ont 2-4-45

Sentence Det 1 day; stoppages $1.85

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36832

Date 17-4-45

MEMO

M.D. 1 - No. 1 D.D.

Absent	Sentence
8½ mos	Det 1 day

for Judge Advocate-General

10M-1-45(M-4629)

No serious irregularities observed

D. Bryan Capt

19 Apr. 85

IN REPLY PLEASE QUOTE
No. L.28-M-1310 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

H.Q. MD 1 London, Ont., 13 Apr 1945

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada

SSC M-1651

STANDING COURT-MARTIAL
A.110782 Pte. Arthur Montgomery MAXEY
No. 1 District Depot, C.A.

Enclosed herewith are the proceedings of the m/n Standing Court-Martial which took place at No. 1 District Depot, 9 Apr 45.

H.C. Cameron Lt Col

(H. C. Cameron), Lieut-Col.,
Pres. Standing Courts-Martial
M. D. 1

36832

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

H.Q.C. 55-1-1652 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MACDONALD. CLARENCE ALEXANDER G.32262 PTE.

CONFIDENTIAL
H.Q.C. 55-1-1652

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and "Note" Minute)		
				J. A. G.	NEW FILE	E.R.	APR 17 1945
				Admin	Per request; file return	CKM	17-4-45
MAY 2 - 1945	2-5-45	P.A.	[illegible]	JAG	returned	WOF	28.4.45.
JUL 26 1945	JUL 25 1945	P.A.	[illegible]	16 M			
				C.M.P.	PER REQUISITION CR SEP 10 194		
				AG	—	[illegible]	22/10/45
OCT 23 1945	31-10-45	B.F.	BC	Adm	Passed pls	GBS	30-10-45
OCT 31 1945	7-11-45	B.F.	GBS	Admin	PER B.F. OCT 31 1945		
				JAG	PER Papers C.R. NOV 5 1945	[illegible]	
NOV 7 - 1945				Pers	Secret	fm	6-11-45
NOV 5 - 1945	8-11-45	[illegible]	GBS	Adm 3	To note remission	[illegible]	7/11/45
JUN 1 1946	10-6-46	[illegible]	[illegible]	LO RCB	PER REQUISITION C.R. MAY 10 1946		
MAY 3 - 1947	3/4/47	P.A.	[illegible]	W.A.R.	PER REQUISITION CR MAR 24 1947		
JAN 16 1948	16/1/48	P.A.	[illegible]	Adm A-1(a)	PER REQUISITION CR JAN 10 1948		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G32262 Pte Clarence Alexander MacDonald

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd	Guilty	Guilty	
4th	Guilty	Guilty	
5th	Guilty	Guilty	
6th	Not Guilty	Not Guilty	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 153, and in loss of kit see RP 44 fn 6.)

~~As present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 38 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two years

(Sgd) N/A — Judge-Advocate, if any. 7 Oct 44 — Date awarded. (Sgd) "A M Russell Maj" — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED "EWH"

~~I direct that the accused be not committed to prison or detention barracks until further order.(1)~~

(1. AA 57A. Delete if not used.)

(Sgd) "E W Haldenby" Brig

Date 10 Oct 44 — Commanding Cdn Base Rft Grp. — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

G32262 Pte MacDonald C A 13-10-44 "Vincent C Keenan" Lt-Col Officer Comm. 1 Bn 1 CBRD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY
G. Owen Capt.
CDN JC GHQ 2 ECHELON AAI

RECORDED AT CMHQ IN AB 160 4C-105

CFA86 (In lieu of AF43) 41/P.R.S/1658 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier E.W. Haldenby DSO MC Comd 1 Cdn Base RFT Gp CMF dated 1 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G32262	Pte		Clarence Alexander	MacDonald	1 Bn 1 CBRD

Proceedings Reviewed. 25 Oct 44. J. W.P. Taylor Maj Judge Adv. See GHQ 2 Ech AAI.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 6,7 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.) 'AMR'

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1350 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elects to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.) 'AMR'

A5. ~~President to accused: Do you object to XXXXXXXXXXXXXXXXXXXXXX as interpreter? Ans XXX~~

~~The interpreter is sworn.(1) Do you object to XXXXXXXXXXXX XXXXXXXX as shorthand writer? Ans XX~~

~~The shorthand writer is sworn.(1)~~ 'AMR'

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A.M. Russell (CIC)	1 Cdn 1 CBRD
Member	Capt	T Hulme (CIC)	2 Bn 1 CBRD
Member	Capt	T.G. Blackstock (CIC)	3 Bn 1 CBRD
Judge-Advocate			
Prosecutor	Lieut	T.L. Rinn (CIC)	1 Bn 1 CBRD
Defending Offr	Lieut	J.H. Pelletier (CIC)	1 Bn 1 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea "AMR" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule. "AMR"

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....Yes.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides ~~(not)~~ to advise accused to change his "AMR" ~~(their)~~ plea~~(s)~~ of Guilty to Not Guilty on.....Sixth.....charge~~(s)~~. The accused is ~~(are)~~ so informed, and he ~~(they)~~ change(s) his ~~(their)~~ plea~~(s)~~ on.....Sixth.....charge~~(s)~~. Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

"AMR" B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex I, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

"AMR"

C2. The charges on which accused pleaded GUILTY are read to him ~~(them)~~ again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....No.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

"AMR" D2. The Prosecutor makes ~~(no)~~ (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission~~ "AMR" ~~is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
"AMR" Ans.....No..... Do you intend to call witnesses on your behalf ?
Ans.....No..... ~~Are they witnesses as to character only ? Ans.....~~
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding~~(s)~~ of the Court is ~~(are)~~ recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

"AMR" D8. The President announces the finding~~(s)~~, if any, of Not Guilty, and states to the accused that the finding~~(s)~~ of the Court on the 1-2-3-4-5- charge~~(s)~~, being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....No.....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement~~(s)~~ as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet~~(s)~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier~~(s)~~ having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex K and Ex L respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement~~(s)~~ and Conduct Sheet~~(s)~~, and in mitigation of punishment ?(1) Ans.....Yes by defending officer.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused , G32262 Pte MacDonald, Clarence Alexander, 1 Cdn Base Reinforcement Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with:-

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

First Charge A.A. Sec 15 (1) In the Field, in Italy did absent himself without leave from 0630 hrs. 28 Jan 44 until surrendering himself at 0900 hrs. 9 Feb 44. (Absent:- 12 days, 2 hrs, 30 mins.)

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT LEAVE.

in that he,

Second Charge A.A. 15(1) In the Field, in Italy, did absent himself without leave from 1745 hrs, 18 Feb 44 until being apprehended at 1600 hrs. 4 Apr 44. (Absent:- 46 days, 15 Mins.)

Third Charge A.A. Sec 15(1) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, did absent himself without leave from 1815 hrs. 7 May 44 until surrendering himself at 2000 hrs. 11 May 44. (Absent:- 4 days, 1 hrs., 15 mins.)

Fourth Charge A.A. Sec 15 (1) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the field, in Italy, did absent himself without leave from 0230 hrs. 26 Jun 44 until surrendering himself at 1330 hrs. 29 Jun 44. (Absent:- 3 days, 5 hrs.)

(Cont'd on Page 2)

Charge Sheet on G32862 Pte. MacDonald, C.A. (Cont'd)

Fifth Charge
A.A. Sec 15 (1)

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, did absent himself without leave from 0800 hrs. 15 Aug 44 until apprehended in SAVIANO at approximately 1245 hrs, 16 Aug 44.
(Absent 1 day, 4 hrs, 45 mins.)

Sixth Charge
A.A. Sec 24(2).

WHEN ON ACTIVE SERVICE,
LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES,

in that he

In the Field, in Italy, on the 16 Aug 44 was deficient of articles of kit as under:-

		100%	75%
Anklets, web	1	.99	.74
Blouse, battle D.	1	5.25	3.93
Boots, ankle	1	5.46	4.09
Drawers, Cell	2	.86	.64
Socks, Wrs.	2	.74	.54
Trousers, B.D.	1	5.39	4.04
Kit Bag	1	1.02	.75
Braces	1	.28	.21
Shaving Brush	1	.37	.27
Brush, tooth	1	.11	.08
Caps, Comforter	1	.34	.25
Holdall	1	.19	.14
Housewife	1	.17	.12
Knife, clasp	1	.86	.64
Razor, safety	1	.06	.04
Vest, cotton	2	.72	.54
Towels, Hand	2	.64	.48
Belt, web	1	.67	.50
Tins, mess	1	.35	.26
Blankets	2	6.14	4.60
Shirts, bush	1	1.76	1.31
Trousers, denim	1	2.51	1.88
Sheets, K.D.	1	1.34	1.00
Hose Tops	1	.43	.32
		$36.44	$27.37

"Vincent McKenna" Lt-Col
(VINCENT McKENNA)
Officer Commanding
1 Cdn Base Rft Bn., 1 C.B.R.D.

In the Field
22 Sep 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"E.W. Haldenby"
(E W Haldenby) Brigadier)
Comd 1 Cdn Base Rft Gp
Cdn Army CMF

In the Field
In Italy
1 Oct 44

"AMR"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G32262	Pte		Clarence Alexander	MacDonald	1 Bn 1 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 1 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ". "EWH"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~) "EWH"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ "EWH" *(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)*

~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ "EWH"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	AM R USSELL (CIC)	1 Bn 1 CBRD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	T HULME (CIC)	2 Bn 1 CBRD
Capt	T G BLACKSTOCK (CIC)	3 Bn 1 CBRD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	J J MURPHY (CIC)	2 Bn 1 CBRD

~~JUDGE ADVOCATE~~. "EWH"

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
~~Maj~~		

On Active Service in the Fd

in Italy (Country.) — " E W Haldenby " (Signed personally. RP 105 fn 2.) — Brigadier (Rank.)

Date 1 Oct 44. — (E.W. Haldenby) Commanding 1 Cdn Base rft Gp CMP — Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAS6 (In lieu of AFAS) 40/P & S/1697 (4933)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

Ant

I hereby certify that I have this day examined

No G32262 Rank Pte Name MacDonald C. A.

and in my opinion is fit to undergo trial by

Field General Court Martial

Date 6-10-44

" John M Fraser" Capt

(Medical Officer)

"[redacted]"

MEDICAL OFFICER'S CERTIFICATE

I hereby certify that I have this day examined

No. G32262 Rank Pte Name MacDONALD C.A.

and in my opinion is fit to undergo trial by

Field General Court Martial

Date. 7-10-44

"John M Fraser" Capt.

(Medical Officer)

"AMR"

Statement by the accused with reference to Charge 6

When I went away on the night of the 14 Aug I had no intention of staying away and therefor I left my kit on my bed.

ADJOURNMENT

At 1500 hrs the court adjourn until 0930 hrs on the 7 Oct 44

On the 7 Oct 44 at 0930 hrs the court re-assembles pursuant to adjournment present the same members as on the 6 Oct 44

"A M Russell" Maj

PRESIDENT

8

Evidence in the case of

G32862 Pte MacDonald C.A. 1 CBR BN 1 CBRD

(Sixth Charge)

First Witness for the Pros. G17815 Sgt Richard J.A. 1 CBR BN 1 CBRD

having been duly sworn states

On 15 Aug 44 at 0800 hrs I called the roll of number 2 Coy and found Pte MacDonald C.A. whom I now recognize as the accused now in court, absent. I marked him absent as of 0800 hrs 15th Aug 44. The next time I saw the accused was in the company-orderly-room but I cannot remember the date I saw him there. I take all parade roll calls of number 2 Coy. That is I take reveille and tattoo-roll-calls. The accused has not been present for any roll-call since 15 Aug 44. When a soldier is found to be absent his kit is turned in Q.M. stores on the following day to be inventoried. This was done with the accused kit.

Cross-exam

In the CYR quarters there is a guard system. The responsibility of the hut-orderly is to guard the men's kits and he is held responsible for any kit that is found to be missing. When a man is evacuated to hospital his kit is immediately turned into Q.M. stores. When a man is A.W.L. we give him one day to get back. If he does not come back then, we put his kit in Q.M. stores.

By the Court

The accused's kit was inspected on the 16 Aug 44. I know the kit was inspected because I saw the C.Q.M.S. start the inspection. I reported to the C.Q.M.S. that the accused was absent then on 15 Aug . I turned in his kit.

D-3 (2) AMR

(R.P. 83 B has been complied with)

Second Witness for the Proc G19037 C.Q.M.S. ~~Hamilton~~ HAMBLIN A.W.R. 1 CBR Bn 1 CBRD

having been duly sworn states:

I am C.Q.M.S. of number 2 Coy 1 CBRBn. Number 2 Coy is the C.Y. company. On the 16 Aug 44 the company orderly sergeant reported to me and as a result of his report he and I picked up the kit of Pte MacDonald whom I now identify as the accused in the court. We picked the kit up on 16 Aug 44. When I inspected the kit I found the articles listed on this sheet of paper. Prosecution submits list of clothing and equipment marked Exhibit "J".

When I inspect soldier's kit I make up a list of articles actually missing at that time and when he returns I rule out the articles he brings back with him. This was done in the case of the accused. On 30 Aug 44 I made a check of the arteiles brought back by the accused. On that date I took the accused to the Q.M. stores and exchanged the clothing he was wearing. Prior to 15 Aug 44 the accused was to the best of my knowledge and according to my records fully equipped.

D-3. (3) AMR

Cross-Exam

When a soldier comes to 1 CBR Bn he is put through Q.M. Stores and equipped. The accused came to 1 CBR Bn before I.

morning; I have no record of Saturday Kit inspection

There was no report to me of any kit deficiency in the case of the accused. The company holds a kit inspection every Saturday. I only keep a record of kit-shortages handed in to me by the N.C.O. carrying out the kit inspections. I have a book showing the scale of issue for each soldier and this book was used when I checked the accused's kit. This book showed the Summer scale of issue. The accused was A.W.L. when I made the first inspection. The second inspection is made when a soldier returns. This was done in the case of the accused.

By the Court

I have the soldier's kit signature on M.F.M. 513.
(R.P. 83 was complied with)

R.P. 86(d) C.Q.M.S. ~~Hamilton~~ HAMBLIN recalled by court and questioned
Exhibit "J" is a list of articles found deficient on 30 Aug 44 which is the same list as made on 16 Aug less articles returned by the accused.
(R.P. 83 was complied with)

Def. address to the court

D.b. The accused is charged with losing by neglect his clothing and equipment. With the evidence already heard I firmly believe that he is unjustly charged. From the witness' statements I gather that less care is taken of the kit of a man who is A.W.L. in comparison with a man who is evacuated as sick. I don't see why this should be. Both men have the same kit and all articles are Goverment Property which should be looked after in the same manner whether a man is evacuated sick, wounded or is A.W.L.

If the accused had not been previously inspected up until 16 Aug I ask myself, "How did the C.Q.M.S. know the accused was missing or was over in kit, and therefore how could he issue a just kit to this man."
When the kit inspection was done on the 16 Aug it could be very probable that the accused had washing outside barracks.
Another thing that amazes me is that the kit-inspection was done by the C.Q.M.S. where there were no witnesses and the accused was not present. To sum up, I believe that the kit-inspection was unjustly done and that the accused did not lose by neglect his clothing and equipment.

" J H Pelletier Lieut"

Pro address to the court

The company knows that when a man goes to hospital his kit will not be needed immediately. Soldiers in reinforcement bns are reported A.W.L. often when they are engaged elsewhere, also short absences are common. The C.QMS is a busy enough man in a reinforcement company and there must be a time lapse to establish the fact that a man is definitely absent. A lapse of one day is not too long. I submit that the prosecution has established a case of losing by neglect. The accused went A.W.L. on 15 Aug leaving his kit laid out on his bed. That in itself establishes a case of losing by neglect without reference to Military Law.

" W J S Rimm Lieut.

Therefore it is picked up at the first opportunity

AMR

PLEA IN MITIGATION

G32262 Pte MacDonald C.A. joined the Canadian Army on Sept 5th 1939. He came overseas Dec 19 1939 and the came to Italy to join his regiment in Nov 1943, at Campobasso.
the Carleton & York Regiment

F-3

With his regiment he was through the heavy fighting for Ortona and on that front proved himself to be a brave soldier in the attacks-patrols-or when holding the line.

Pte MacDonald married in England where his wife still lives. He has a step-son who is now serving the Merchant Navy.

Alcohol has always been the causeof all his troubles - as whenever he would overstay a leave and stay A.W.L. This does not date from just yesterday. He had the misfortune of being born of alcoholic parents and today he suffers from this -

I recommend him to the clemency of the Court and ask that you do anything in your power so that this man has a reboard so as to readjust him to a sphere where he can better do his duty.
be under the influence of liquor he would.

"J W Jolletier Lieut"

Exhibit J 16/8/44

AMR

Kit Deficiencies of G.32262 Pte MacDonald C

D-3

			100%	75%
1 Anklets prs			.99	.74
1 Blouse B D			5.25	3.93
1 pr Boot Ankle			5.46	4.09
2 Drawers Cel			.86	.64
2 Prs Socks			.74	.54
1 Trousers B D			5.39	4.04
1 Kit Bag			1.02	.75
1 Pr Braces			.26	.21
1 Shaving Brush			.37	.27
1 Brush Tooth			.11	.08
1 Caps Comforter			.34	.25
1 Holdall			.19	.14
1 Housewife			.17	.12
1 Knife Clasp	100%	- 36.44	.86	.64
1 Razor	75%	- 27.47	.06	.04
2 Vests Cotton			.72	.54
1 Belt Webb			.67	.50
1 Tins Mess			.35	.26
2 Blankets			6.14	4.60
1 Shirt Bush			1.75	1.31
1 Trousers Denim			2.51	1.88
1 Shorts K D			1.34	1.00
1 Hose Tops			.43	.32
		Total	36.44 .64	27.37 .48

2 Vests hand.

I am familiar with vocabular prices and certify the above correct. This list covers total deficiencies as of 30 Aug 44 when rekit inspected.

"A Hamblin"
"COQUO "C" Coy"

Note: The above does not include items men was wearing on return of AWL.

"AMR"

KRC 495

SUMMARY OF EVIDENCE Exhibit I

IN the case of

G.32262 Pte Clarence Alexander MacDonald, a soldier of the Canadian Army Overseas, placed on Active duty. All evidence to be taken under oath by order of the Commanding Officer.

1st WITNESS: C.65572 Cpl Richards R E having been duly sworn states: I am C.65572 Cpl Richards R E, Orderly Room Clerk of 1 Bn 1 CBRD. I produce Part II Order Carleton & York Regt No 12 dated 18 Feb 44, which states that G.32262 Pte MacDonald C A was AWL from 0630 hrs 28 Jan 44 and returned at 0800 hrs 9 Feb 44. I also produce Carleton & York Regt Part II Order No 22 dated 25 Mar 44 in which G.32262 Pte MacDonald C A is SOS as Deserter 11 Mar 44 having been declared illegally absent from 1745 hrs 18 Feb 44 by a Ct of Inquiry. I now produce Carleton & York Regt Part II Order No 26 dated 14 Apr 44 showing G.32262 Pte MacDonald C A TOS on apprehension from Desertion at 1800 hrs 4 Apr 44. I also produce Carleton and York Regt Part II Order No 42 dated 8 June 44 showing G.32262 Pte MacDonald C A as AWL from 1815 hrs 7 May 44 and returned from AWL 2000 hrs 11 May 44. I also produce X List Carleton & York Regt Part II Order No 74 dated 5 Jul 44 showing G.32262 Pte MacDonald C A as AWL from 0830 hrs 26 Jun 44, and returned from AWL at 1330 hrs 29 Jun 44. I produce also a certificate of apprehension in accordance with AA Sec 163 (d)(ii) showing G.32262 Pte MacDonald C A was arrested at Saviano at 1245 hrs 16 Aug 44 and properly signed by DAPM, Commanding 69 Special Investigation Section CMP. These exhibits are marked in order of production "A" "B" "D" "E" "F" & "G". These documents reached me through regular military channels.

"Cpl Richards R E"

The accused declines to question the witness.

2nd WITNESS: G.17815 Sgt Richards J A having been duly sworn states: I am G.17815 Sgt Richard J A C.O.S. No 2 Coy (Carleton & York Regt) 1 Bn 1 CBRD. On the 15 aug 44 at 0800 hrs I fell in the Carlt & York Coy and called the roll. I found G.32262 Pte MacDonald C A absent. I marked him absent as of 0800 hrs 15 Aug 44. Since that time Pte MacDonald has not been present at any reveille parade or tattoo roll call. The next tme I saw Pte MacDonald was in Coy Orderly Room 25 Aug 44. I recognize Pte MacDonald as the accused in question.

"Sgt Richards J A"

The accused declined to question the witness.

3rd WITNESS: G.19037 CQMS Hamblin A W R having been duly sworn states: I am CQMS No 2 Coy (Carleton & York) 1 Bn 1 CBRD. I examined the kit of G.32262 Pte MacDonald C A on 16 Aug 44 and again on his return from being an absentee and found on the second inspection on the 30 Aug 44 that he was deficient of Articles of Clothing, equipment and Regimental necessaries to the value of $36.44 being the 100% vocab value and $27.47 being the 75% vocab value. I produce as Exhibit H a list of Pte MacDonald's kit deficiencies.

"CQMS Hamblin A W R"

The accused declines to question the witness.

The Part II Order No 12 (Carlt & York Regt) dated 18 Feb 44, the Part II Order No 22 (Carlt & York Regt) dated 25 Mar 44, Declaration of a Ct of Inquiry, the Part II Order No 26 dated 14 Apr 44, Carlt & York Regt, the Part II Order No 42 dated 8 June 44 of Carlt & York Regt, the Part II Order X List Carlt & York Regt No 74 dated 5 Jul 44, the Certificate of Arrest dated 16 Aug 44, referred to by the Witness Cpl Richards J E and also Deficiencies of Kit list, referred to by CQMS Hamblin A W R, these have all being produced, read over, shown to the accused and marked Exhibits "A" "B" "C" "D" "E" "F" "G" & "H", respectively and initialled by myself and attached to the Summary.

"J A MacDonald Capt"
Officer detailed to take Summary.

Question to the Accused

Do you wish to make any statement or to give evidence under oath? You are not obliged to do so, but any statement you make or any evidence you give will be taken down in writing and may be given in Evidence.

Answer by the Accused
I reserve my defence

I certify that the foregoing Summary of Evidence of 3 pages was taken down by me in the presence of the accused and that rules of procedure 4(c)(d)(e)(f) and (g) have been complied with.

In the Field
21 Sep 44

"J A MacDonald Capt"
Officer detailed to take the Summary of Evidence.

Exhibit "A" "JAM" "AMR"

Last Order No. 11 13 Feb 44

CARLETON & YORK REGIMENT
PART II ORDERS ISSUED BY
CANADIAN SECTION G.H.Q. 2nd ECHELON - CMF

No 12 18 Feb 44

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"B" OTHER RANKS

6. ABSENT WITHOUT LEAVE
(b) AWL from 0630 hrs 28 Jan 44. Still AWL at 0630 hrs 5 Feb 44 (8 days) Ceases to be AWL at 0900 hrs 9 Feb 44
G.32262 Pte. MacDonald, C.A.

Exhibit "B" "JAM"

Certified True Copy
"N H Laughlin Lt"
(J.E. Campbell) Captain,
for Officer i/c.,
Cdn Sec GHQ 2 Ech AAI.

Note para 3 (c) "AMR"

Last Order No. 21 24 Mar 44

CARLETON & YORK REGIMENT
PART II ORDERS ISSUED BY
CANADIAN SECTION G.H.Q. 2nd ECHELON- CMF

This Order No. 22 25 Mar 44

3. STRENGTH DECREASE "B" OTHER RANKS
(c) SOS as des 11 Mar 44 having been dec illegally absent from 1745 hrs 18 Feb 44 by a C of I Deficiencies of Kit - unknown.
G23479 Pte Amos A.C.
G32262 Pte MacDonald C.A.

Exhibit "D" "JAM"

Certified True Copy
"N H Laughlin Lt"
for (J.E. Campbell) Capt,
for Officer i/c.,
Cdn Sec GHQ 2 Ech AAI.

Note para 6 (J). "AMR"

Last Order No. 25 5 Apr 44

CARLETON & YORK REGIMENT
PART II ORDERS ISSUED BY
CDN SEC GHQ 2 ECH A.A.I.

This Order No. 26 14 Apr 44

-3-

6. STRENGTH INCREASE
(J) TOS on app from des 1800 hrs 4 Apr 44
G.23479 Pte. Amos, A.C.
G.32262 Pte. MacDonald, C.A.

Exhibit "E" "JAM"

Certified True Copy.
"N H Laughlin Lt"
for (J.E. Campbell) Capt,
for Officer i/c
Cdn Sec GHQ 2 Ech AAI.

Note para 5(b) "AMR"

Last Order No. 41 6 Jun 44	CARLETON & YORK REGIMENT PART II ORDERS ISSUED BY CDN SEC GHQ 2nd ECH - AAI	This Order No 42 8 Jun 44

"B" OTHER RANKS -2-

5. ABSENT WITHOUT LEAVE

(b) AWL from 1815 hrs 7 May 44. Ret. from AWL 2000 hrs 11 May 44
G.32262 Pte MacDonald, C.A.

Exhibit "F" "JAM"

Certified True Copy
"N H Laughlin Lt"
for (J.E. Campbell) Captain,
for Officer i/c
Cdn Sec GHQ 2 Ech AAI.

Last Order No 73 4 Jul 44	X LIST CARLETON & YORK REGIMENT PART II ORDERS ISSUED BY CANADIAN SECTION G.H.Q. 2nd ECHELON AAI	This Order No 74 5 Jul 44

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9. ABSENT WITHOUT LEAVE

(a) AWL from 0830 hrs 26 Jun 44 Still AWL 0830 hrs 27 Jun 44
(1st day)
G-32262 Pte. MacDonald C.A.

(c) AWL from 0830 hrs 26 Jun 44 Ret from AWL 1330 hrs 29 Jun 44.
G.32262 Pte. MacDonald C.A.

"J.E. Campbell"
(J.E. Campbell) Lieut.
for Officer i/c
Canadian Section GHQ 2 Echelon AAI

Exhibit K

"JAM" ARMY FORM B.206.

"JAMR"

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
O 32262	Lte.	MacDONALD, C.A.	1 C.F.R.Bn., 1 C.F.R.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not accepted to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, permission being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness, omit the entries for drunkenness and insert separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 15 (1)	1 times	4 times.
For A.A. Sec 40	1 times	1 times.
For A.A. Sec 15 (3)	1 times	1 times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~ X "JAM"

or

~~There are no entries in the conduct sheet of the accused~~ "JAM"

2. ~~The accused has not been previously convicted, or~~ X "JAM"

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ "JAM"
XXXX

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused. "JAM"

No. G32562 Rank Pte Name MacDONALD C.A. of 1 CBKBn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	Field 11 Mar 41	A.A. Sec 15 (1) AWL from 2-9-40 until 1445 hrs. 25-9-40	6 mos Detn	90 [illegible]
		A.A. Sec 15 (1) AWL from 1910 hrs. 28-11-40 until 1[illegible]-1-41.		
		A.A. Sec 15 (1) AWL from 8 Oct 40 until 2245 hrs 22 Nov 40.		
FGCM	Field 11 Nov 41	A.A. Sec 22 When in confinement escaping from #2 Guard Room at 1400 hrs. 20 Mar 41.	9 mos Detn.	
		A.A. Sec 15 (1) AWL from 1400 hrs. 20-3-41 until 2300 hrs. 16 Jul 41 (Abs: 118 dys, 9 hrs.)		
FGCM	Field 16 Oct 42	AA Sec 15 (1) AWL From 2300 hrs. 14 Jun 42 until 0945 hrs. 8 Sep 42. (Abs: 85 dys. 10 hrs. 45 mins. AA 24 (A). A.A. 22; A.A. 15 (1) AA 15 (1)	18 Mos Detn.	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

"J A MacDONALD, Capt"

Signed this 22 day of Sep 1944

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

Date of Promotion.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Exhibit "G"
"A/W"

Amis"

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT 163(1)(iii)

I certify that

No G.32262 Rank Pte Name MACDONALD C A

of the CARLETON YORKS. (Canadian Army

was arrested at SAVIANO at 12.45 Hrs

on the Sixteenth. day of August 1944

Signature of P.M., A.P.M., or other Officer into whose custody the above named person was taken on arrest } "J Wilkinson Capt"
Rank Captain

Appointment (if any) D.A.P.M.
Commanding 69 Special Investigation Section, C.M.P.

Date 18 Aug 1944

PS82 967 5M 7-44

Exhibit L

MFM 6
(AFB 122)
40/P&S/136 (3438)

Previous Sheet Destroyed "C.O. Huggard Capt"

No G32262 Name MacDONALD C A | Sqn. Battery or Company | Corps C I C | Date of enlistment 5-9-39 | OC Badges | Service of Proficiency Pay | Character "AMR"

Company Conduct Sheet Date of last entry in N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc "C O Huggard Capt"

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order deferring with trial	By whom awarded	Remarks
Field	22-3-40	Pte		AA Sec 15 (1) AWL from 2300 hrs 22-3-40 until 0600 hrs 1-4-40 (Absent: 9 days, 7 hrs)	L/C Murdock Cpl Connors	8 dys Detn		Capt Swan	forf 18 days pay
Field	19-6-40	Pte		AA Sec 15 (1) AWL from 2300 hrs 19 Jun 40 until 2300 hrs 22 Jun 40 (Absent: 3 dys)	Sgt Peters Sgt Connors	Deprived of 14 dys pay FR&I 149(1)(c)		Capt Sway	forf 3 days pay 149(1)(a)
Field	13-7-40	Pte		AA Sec 15 (1) AWL from 1300 hrs 13-7-40 until 2400 hrs 30 Jul 40 (Absent: 17 days, 11 hrs)	Sgt Peters Sgt Connors	14 Days Detn		Capt Sway	forf 6 mos pay forf 43 dys pay FR&I 149(1)(a)&(b)

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2-9-40	Pte		AA 15 (1) AWL from 2-9-40 until 1445 hrs 25-9-40 (2) absented from 8/9-10-40 until 2245 hrs 22-11-40 (3) AWL from 1910 hrs 28-11-40 until 18-1-41		10 mos Detn but 4 mos remitted by Brig F L Page HQ/CBU	11-3-41	FGCM	forf 376 days pay
Field	20-3-41	Pte		(1) AA 22 When in confinement, escaping from #2 Guard Room at about 1400 hrs 20-3-41. (2) AA 15 (1) AWL from 1400 hrs 20 Mar 41 until surrendered to Civil Police at Norbury at 2300 hrs 16 Jul 41 (Time Absent: 118 dys, 9 hrs)		8 most Detn Released from Detn Bks Aldershot on 12 May 43 Rem earned/ 90 dys.	11-11-41	FGCM	forf 118 dys pay

No G32262 Name MacDONALD C A Sqn. Battery or Company

Corps CIC

Company Conduct Sheet Date of last entry in N/A

No and date of last drunk N/A

Period not reckoning towards freedom from extra fine N/A

Date of enlistment 5-9-39

GC Badges

Sheet No 3

Service or Proficiency Pay N/A

Signature OC Company, etc "CO Huggard Capt Adjuter

MFM 6 (AFB 122) 40/Pam/130 (3458) "AMR"

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14-6-42	Pte		(1) AA 15 (1) AWL from 2300 hrs 14 Jun 42 until 0945 hrs 8 Sep 42 (Abs 85 dys, 10 hrs, 45 mins) (2) AA Sec 24 (2) (3) AA Sec 22 (4) AA Sec 15 (1) AWL from 0610 hrs 16 Sep 42 until 2205 hrs 24 Sec 44 (Abs 8 days 15 hrs 55 mins)	L/S Thomas L/C Hayward CSM Shields	18 mos Detn	16 Oct 42	FGCM	forf 95 dys FR&I 149(1)a forf 30 dys FR&I 149(1)c1 forf £10-19-1 FR&I 158(2) forf £2-8-6 FR&I 172(8)
Field	6-12-43	Pte		AA Sec 15(1) AWL from 0900 hrs 6 Dec 43 until 0800 hrs 7 Dec 43 (Time absent 23 hrs)	Sgt Pelletier J.A. Cpl Krafchek				

(Ttl)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Field	24-12-43	Pte		(a) WOAS Was in Foggia without a pass until apprehended at 1515 24 Dec 43 (Sec 15 (3) AA (b) WOAS Conduct to the prej etc on 24 Dec 43 did have a bottle of wine in his possession. Sec 40 AA	Doct'y	14 dys F.P. 14 dys pay FR&I 149(2)	11 Jan 44	Lt Col W P Bristowe	18 dys pay while in Close arrest Transferred from supp sheet 25 Aug 44 H L Frape Capt"

CERTIFIED TRUE COPY
FROM REGIMENTAL BOOKS IN MY CUSTODY "J A MacDONALD Capt"
Offr i/c Regt'l books

AMR

STATEMENT BY THE ACCUSED

I certify having received free of charge, a copy of the Summary of Evidence, list of Witnesses, list of Exhibits and Charge Sheet.

I desire the services of an Officer to represent me at the trial.

Date 25 Sep 44 "C A MacDonald"

CHARGE SHEET

Correspondence to be PINNED here.

33.Q

Army Form A.3.

3rd Can. Inf. Div. C.A.O. 17 OCT P.M. ORDERLY ROOM

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 14th day of October, 1942.

Whereas it appears to me, the undersigned, an officer in Command of

, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reasons specified thereon]~~ (

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named. (

*~~[I am unable to appoint~~ (

*~~(1) Three Officers to form the Court~~ (

*~~(2) A First Officer as President~~ (

*~~(3) Three Officers having more than one year's service~~ (

for the following reasons, namely:—] (

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

PROCEEDINGS REVIEWED

Reviewing Officer (Corps) 30 Oct 1942

142

President.

Rank.	Name.	Regiment.
Major	P.H. Stehelin	West N.S.R.

Members.

Rank.	Name.	Regiment.
Capt	E.M. Crouse	West N.S.R.
Capt	A.F. Cannon	R 22e R
Capt	J.B. Jalbert	R 22e R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding R.C.A. Corps Ar.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G32262 Pte McDonald, C.A. Carlt & York R	1st Charge:- Sec 15 (1) A.A.	Guilty	Guilty	Finding and sentence confirmed. Charles Foulkes Brigadier. Comd. 3 Cdn. Inf. Bde. 14 October 1942
	2nd Charge:- Sec 24 (2) A.A.	Guilty	Guilty	
	3rd Charge Sec.22 A.A.	Guilty	Guilty.	
	4th Charge Sec. 15 (1) A.A.	Guilty	Guilty.	
	See charge sheet attached.		Sentence: To undergo detention for a period of eighteen months and to be put under stoppages of pay until he has made good the sum, thirteen pounds, eight shillings and five pence in respect of lost equipment, 75% & cost of return. 16 Oct 42. P.H. Stehelin Maj Pres	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) Charles Foulkes Brigadier, Comd. 3 Cdn. Inf. Bde. — *Commanding Convening Officer (e)*

(Signed) P.H. Stehelin Major. Wel. R.S.R. — *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of October 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 16th day of October 1942.

P. H. Stehelin Major.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 14th day of October 1942

Charles Foulkes
Confirming Officer Brigadier
Comd. 3 Cdn. Inf. Bde.

Promulgated and extracts taken in the case of

(a) (Dated) 21 Oct 42 (Signed) F. W. Tyrrell Lt Col Comd. Carlt & York Regt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(21758) Wt. 40119—833 200m 1/40 P. St. G. 620

Charge Sheet

S 2. [illegible]

The accused, G32262 Pte. McDonald, C.A. Carlt & York R a soldier of the Canadian Army (Overseas) in the Field, is charged with:

First Charge
Sec 15 (1) A.A.

When on Active Service absenting himself without leave

in that he

In the Field absented himself without leave from 2300 hrs 14 Jun 42 until surrendering himself to the Civil Police at Leicester at 0945 hrs 8 Sep 42, cost of return to the Unit being one pound, eighteen shillings, two pence. (£1 - 18s - 2d)

Second charge
Sec 24 (2) A.A.

Losing by neglect his equipment and regimental necessities

in that he

In the Field on 9 Jul 42 was deficient the following articles:

No of Articles	Article	Price £	Price s	Price d	75% of value £	75% of value s	75% of value d
1 pr	Anklets, web		3	5½		2	7½
1	Badges, cap		1	0			9
1	Bags, kit		5	3		3	11
1	Blouse Battle dress	1	7	8	1	0	9½
1	Trousers " "	1	7	11	1	0	11
1 pr	Boots, ankle	1	1	6		16	[illegible]
1	Braces		1	3½			11½
1	Brushes, shaving		1	4		1	0
1	" tooth			4½			3½
1	Cap comforter		1	1½			10½
1	Cap, FS		3	8		2	9
1	Comb, hair			2			1½
1	Dressing, first field		1	1			10
1	Holdall			9			6½
1	Housewife		2	3		1	8
1	Jersey, pullover		6	9		5	2
1	Knife, clasp		5	2½		3	11
1	Blouse, denim		12	9		9	7½
1	Trousers "		11	9		8	9½
1	Razors, safety		1	10½		1	5
2	Shirts, flannel khaki		18	4		13	9
1 pr	Shoes, canvas		2	3		1	8
3 "	Socks		5	0		3	9
2	Towels, hand		1	11		1	5
2	Vests, gym		3	0		2	3
2	Shorts "		3	10		2	10½
1	Bags, ration			1½			½
1	Helmets, steel		9	0		6	9
1	Respirator, complete	1	1	5½		16	1
		10	2	1	7	11	7

Also on 29 Sep was deficient the following articles: in addition to above

1	Belts, waist WE pat 37	5	8½	4	3½
1	Bottles, water Mk V	2	11	2	2½
1	Carriers, water bottle	3	3	2	5
1	Frogs, bayonet	1	6	1	1½
1	Haversacks, WE pat 37	10	5	7	9
1	Packs, WE pat 37	10	6½	7	10
2	Pouches, basic	8	8	6	6
1	Sling, rifle web	1	4	1	1
2	Straps, shoulder haversack Left	3	4	2	6
	Right	3	4	2	6
2	Straps, web supporting	2	2	1	8
1	Tins, mess, rectangular	3	1	2	
1	Bottles, oil Mk IV	1	0		

No of Articles	Article	Price £	s	d	75% of value £	s	d
1	Pullthrough, single			6			4½
1	Sheets, ground Mk VIII		10	9		8	7½
1	Blankets, G.S.		16	4½		12	3½
2	Braces, WE pat 37 left		3	3		2	5
	right		2	11½		2	3
		4	11	2	3	8	4

Third Charge
Sec 22 A.A.A.

When in Confinement escaping

in that he

In the Field at approximately 0610 hrs on 16 Sep 42 when in confinement at the Carlt & York R Guard Room escaped.

Fourth Charge
Sec 15(1) A.A.

When on Active Service absenting himself without leave

in that he

In the Field absented himself without leave from 0610 hrs 16 Sep 42 until surrendering himself to the Civil Police at Staines at 2205 hrs 24 Sep 42, cost of return to the unit being ten shillings and four pence (10s 4d)

In the Field

Date 30 Oct 42

F. D. Tweedie Lt Col.

(F.D. Tweedie) Lt-col.,
Comd Carlt & York Regt

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

Brigadier

In the Field

14 Oct 42.

(~~Charles Foulkes) Brigadier,~~
~~Commanding 3 Can Inf Bde.~~

P. H. Stokes major
DAA

E. S. 3
D.V.I. Eskilstuna
Pay

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 552.

I certify that I have this morning examined

No. G 32262 Pte Macdonald C.A.

of Carleton & York Regiment and in my opinion he is fit ~~unfit~~

to undergo Trial by Court Martial.

A. Wellin Capt.
Medical Officer

In the Field

Trial of G.32262 Pte. Clarence Alexander McDonald
Carlton and York Regt. Canadian Army(Overseas).
16th Oct.42.

The President,Members and Waiting Member are present.

The accused is brought before the Court.

The trial commences at 1400 hrs. Medical certificate marked G S. 3

Certificate:
I have satisfied myself that none of the Officers detailed as membersof this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the second charge before this Court. Martial. (Amd. R.9 .1939)

R. H. Schulman Major
President.

16th Oct.

G 32262.
Pte. Clarence Alexander McDonald.
Carlton York Regt.

Lieut. J.L.McKenna, Carl.York R.
Lieut A.J.McKenzie. Carl.York R.

N . A.

No.

x x x

Witness for the prosecution:(After Plea of guilty has been given)

Lieut J.L.McKenna,Carl.&York Regt.having been duly sworn states:
"I am lieut J.L.McKenna C.& Y.Regt. I herewith produce the following exhibits:

Ex.S 4 Certificate of surrender to police as A.W.L. at Leicester 8 Sep.42 at 0945.

Ex.S 5 Certificate of surrender to police at Staines 1005 hrs. 24th sep.42 A.W.L.

Ex.S.6 Certificates covering costs of return to Unit From Leicester. £1-18s-2d.

Ex.S.7 Certificate covering cost of return to Unit from Staines. 10S-4d.

Ex.S.8 Record of Declaration of a court of inquiry on the illegal absence of the accused.

J.H. [illegible]
8/10

The Accused does not wish to make any statement on the charge and does not wish to give or call character evidence.

Lieut J.L.McKenna Carlt.York Regt.having been duly sworn states:
I am Lieut J.L.McKenna Carlt York Regt,the prosecutor herein.I herwith produce Ex. S.9 being A.F.B.296,a statement as to character and particulars of Service of the accused. Also I produce Ex S.10 being M.F.M.6 of the accused. The accused is the person named in said exhibits,and I have compared the contents of the above statement and M.F.M6 with the Regimental books.They are extracts from the said regimental books.

~~The accused does not wish to produce witness as to character.~~

The defending Officer makes the following plea in mitigation of sentence."The accused gave himself up after having been absent without leave.He has been in this Country with the Regiment since it came over,I ask for leniency on his behalf."

T.W. [illegible] Major
President

E/S.4
T.H.S. [illegible]

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

---

* Stations of Units and Depôts are shown in the Monthly Army Lists.

[16000] Wt.37639/757 50,000 9/40 A.& B.W.Ltd. Gp.695 Forms/O.1617/13

I CERTIFY that the man whose personal description is given below surrendered himself to* PS 13. EDWARDS

at LEICESTER at (hour) 9.45 a.m. on the 8th day of SEPTEMBER 1942 as being No. G. 32262.

(Rank and Name) PRIVATE CLARENCE ALEXANDER MACDONALD CARLTON YORK REGIMENT. 1st CANADIAN DIVISION

a deserter (or absentee without leave) from WHITLEY - SURREY.

and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 32 Height 5 Feet 11 Inches

Complexion Fresh Hair Dark brown Eyes Hazel

Marks None.

In uniform or plain clothes UNIFORM.

Probable Date and Place of Attestation	5.9.39. St John New Brunswick Canada
Probable Date of Desertion or beginning of absence, and from what place	9.7.42 Whitley - Surrey.

Signature of Officer of Police in charge of } J. Gabbitas

LEICESTER CITY. Station.

8th September 1942 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

IMMEDIATE.

PART I.

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In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depôts are shown in the Monthly Army and Air Force Lists.

[18371] Wt.16874/186 15,000 6/41 A.& E.W.L.L. Gp.698 Forms/O.1617/13

I CERTIFY that the man whose personal description is given below surrendered himself to* W.R.M.54"T" Waite

at Staines police Station at (hour) 10-5 p.m. on the 24th. day of September, 1942 as being No. G.32862

(Rank and Name) Private Macdonald,

a deserter (or absentee without leave) from C.Y. Regt.

and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word " to " to be inserted the name and rank of the police officer concerned.

Age 32 Height 5 Feet 11 Inches

Complexion Fair Hair Fair Eyes Hazel

Marks None.

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	
Probable Date of Desertion or beginning of absence, and from what place	10th. September, 1942. Seaford, Sussex.

S.P.S.96"1"

Signature of Officer of Police in charge of Staines Station.

24/9/42 Date of Signature.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. G-32262 Rank P6 Name MacDonald A.L. Unit Cal & Lpt

The following expenses were incurred in apprehending and returning the M/N Soldier to his ~~Unit~~ From London from Leicester

Date	Particulars	Amount		
10 Apl 47.	Escorts return fare from LONDON To Leicester		15	0
	Prisoners single fare to LONDON From Leicester		7	6
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		8	0
	Total £	1	10	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/452

Expense Voucher Re—:

Ref: K.R. & O. (Can) 539

Reg. No. G 32262 Rank Pte. Name MacDonald, C.A. Unit Can Inf

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
10 Sept 42	Escorts return fare from LONDON To Lewes (½ portion)		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Lewes		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

Lieut.

C.M.H.Q. 1000:55

AREA

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. G-32212 Rank Pte Name MacDonald Unit Can L Inf

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
18 Apr 42	Escorts return fare from LONDON To Lewes (Cl Junction)		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Lewes		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

H. W. Cowling Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/F & S/483

Expense Voucher Re—:

Ref: K.R. & O. (Can) 539

Reg. No. 63262 Rank Pte. Name MacHowell Unit Can 6 Pro

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit~~ ~~Pom~~ London from Hampton

Date	Particulars	Amount		
26 Sept 42	Escorts return fare from LONDON To Hampton		1	9
	Prisoners single fare to LONDON From Hampton			11
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		2	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R. W. Cowling Lieut.

Officer Issuing Railway Warrant and Expense money
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
60/P & S/483

E.S.8 D.H. Stratton Sergt Pay.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 9 day of July 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. G32262 Pte McDonald, C.A. - Carleton & York Regiment.

DECLARATION.

The Court declare,

(1) That G32262 Pte McDonald,C.A. did absent himself without leave at 2300 hrs14 Jun 42 and that he is still absent.

(2) That he was and still is deficient the following articles on 9 Jul 42.

Anklets,web		3	5½	Blouse, denim		12	9
Badges,cap		1	0	Trousers, denim		11	9
Bags,kit		5	3	Razors		1	10½
B.D., Blouse	£2	15	4	Shirts,flannel(2)		18	4
B.D.,Trousers	£2	15	10	Shoes,canvas,P.T.		2	3
Boots,ankle	1	1	6	Socks (3 pr)		5	0
Braces		1	3½	Towels,hand		1	11
Brushes,shaving		1	4	Vests,gym(2)		3	0
Brushes,tooth			4½	Shorts,gym(2)		3	10
Cap,comforter		1	1½	Bags,ration			1½
Caps, F.S.		3	8	Helmet,steel		9	0
Comb,hair			2	Respirator,complete	£1	1	5½
Fd Dressing 1st		1	1	Total	£12	17s	8d
Holdall			9				
Housewife		2	3				
Jersey,pullover		6	9				
Knife,clasp		5	2½				

75% of vocabulary price is £9-13-3.
(Ref R.O.(O/S) 1398 d/17 Dec 41).

Names of President and Members

President - Lieut D.C. Kennedy
Members - G20065 Sjt Connick, D.A.
- G18028 Sjt Barr, E.W.

Signature of Commanding Officer J.D. Tweedie Lt.-Col., Comd Carleton & York Regt

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record. Capt & Adjt

(12281) Wt.34318/1822 75,000 10/39 A.& E.W.Ltd. Gp.698 Forms/B/115/55

Summary of Evidence in the case of G32838 Pte. McDonald G.A. Carlt & York R a soldier of the Canadian Army (Overseas) in the Field.

By direction of the Commanding Officer the summary is taken under oath.

First Witness for prosecution

G80025 L/Sjt. Thomas, D.A. of "A" Coy., Carlt & York R having been duly sworn states as follows:-

I am and was at all times pertinent hereto G80025 L/Sjt Thomas, D.A. of "A" Company Carleton & York Regiment.

On Jun 14th 1942 I was Orderly Sergeant of "A" Company Carleton & York Regiment. At Tattoo Roll at 2300 hrs 14 jun 42 Pte. McDonald was absent, and to the best of my knowledge, he has never been back to the company since. I saw him for the first time this morning 14 Sep 42.

D. A. Thomas.

Sgd G80025 L/Sjt. Thomas, D.A.
Carleton & York Regiment.

Accused declines to cross-examine the witness.

Second witness for prosecution

G17666 C.Q.M.S. Shields, A.L. of "A" Company Carleton & York Regiment, having been duly sworn states as follows:

I am and was at all times pertinent hereto G17666 C.Q.M.S. Shields, A.L. Company Quartermaster Sergeant of "A" Company, Carleton & York Regiment.

On 9 Jul 42 I checked the kit of the accused and found him to be deficient of the following articles:

No of Articles	Article	Price £	s	d	Wgt of value £	s	d
1 pr	Anklets, web		3	5½		2	7½
1	Badges, cap		1	0			9
1	Bags, kit		3	5		3	11
1	Blouse, battle dress	1	7	8	1	0	9½
1	Trousers " "	1	7	11	1	0	11
1 pr	Boots, ankle	1	1	5		14	1½
1 "	Braces		1	5½			11½
1	Brushes, shaving		1	4		1	0
1	" tooth			4½			5½
1	Cap comforter		11	1½			10½
1	Cap FS		3	8		2	9
1	Comb, hair			2			1½
1	Dressings, first field		1	1			10
1	Holdall			9			6½
1	Housewife		9	3		1	8
1	Jersey, pullover		8	9		5	8
1	Knife, clasp		5	5½		3	11
1	Blouse, denim		12	9		9	7½
1	Trousers "		11	9		8	9½
1	Razors, safety		1	10½		1	8
2	Shirts flannel khaki		13	4		13	9
1 pr	Shoes, canvas		2	3		1	8
3 "	Socks		5	9		3	9
2	Towels, hand		1	11		1	3
2	Vests, gym		3	0		2	3
2	Shorts, gym		3	10		2	10½
1	Bags, ration			1½			2
1	Helmets, steel		9	0		6	9
1	Respirator complete	1	1	8½		16	1
		10	8	1	7	11	7

P. N. Chisholm Maj
Pay

A. L. Shields

Sgd G17666 C.Q.M.S. Shields, A.L.
Carleton & York Regiment.

Accused declines to cross-examine the witness

Third witness for prosecution

G20003 Cpl. Fleming, R. of H.Q. Company Carleton & York Regiment, having been duly sworn states as follows:-

I am and was at all times pertinent hereto G20003 Cpl. Fleming, R. of H.Q. company Carleton & York Regiment.

I relieved the Regimental Police at approximately 1800 hrs on 15 Sep 42. I checked the prisoners soon after taking over and found that they were all present according to the list furnished me by the Regimental Police. The prisoner's name was on the list and he was in the Guard Room. I checked the prisoners again at approximately 0610 hrs on 16 Sep 42 and found that Pte. McDonald was absent. I found that two bars had been removed from the window and a blanket had been tied to the other bar, ~~which no doubt McDonald had used as a means of escape~~.

Q Were the bars sawed off?

A No, the bars were forced so that they split the 2 X 4 and they could easily be pulled out.

Q Where were the sentries stationed?

A There was only one sentry on duty at the top of the stairs on the landing outside the door. The other two reliefs were downstairs asleep.

Q Were there more prisoners than McDonald in that room?

A Yes, at least four more.

R Fleming

Sgd G20003 Cpl. Fleming, R
Carleton & York Regiment

Accused declined to cross-examine the witness.

Second witness for prosecution recalled

G17666 C.Q.M.S. Shields, A.L. of "A" Company Carleton & York Regiment having been duly sworn states as follows:-

I am and was at all times pertinent hereto G17666 CQMS Shields, A.L. Company Quartermaster Serjeant of "A" company Carleton & York Regiment.

After having been informed that Pte. McDonald, C.A. had escaped from the Regimental Guard Room I found on inspection that the following items were missing from his kit on 29 Sep 42, in addition to articles deficient on 9 Jul 42.

No of Article	Article	Price £	s	d	75% value £	s	d
1	Belts, waist		5	8½		4	3½
1	Bottles, water Mk V		2	11½		2	2½
1	Carrier water bottle		3	5		2	5
1	Frog, bayonet		1	6		1	1½
1	Haversack, WE pat 37		10	5		7	9½
2	Pouches, basic		10	6½		7	10
1	Slings, rifle web		8	8		6	6
2	Straps, shoulder haversack Left		3	4		1	1
	Right		3	4		2	6
2	Straps web supporting		2	2		2	6
1	Tins mess rectangular		3	1		1	8
1	Bottles, oil Mk IV		1	0		2	3½
1	Pullthrough, single			6			9
							4½

P.H. Schulman
Major
President

No of Articles	Article	Price £	s	d	75% value £	s	d
1	Sheets, ground, Mk V111		10	9		8	½
1	Blanket. GS		16	4½		12	3½
2	Braces WE pat 37 Left		3	3		2	5
	Right		2	11½		2	3
		4	11	2	3	8	4

Sgd G17666 C.Q.M.S. Shields, A.L.
Carleton & York Regiment

Accused declines to cross-examine the witness.

The accused, having been duly cautioned in accordance with Rule for Procedure 4 E elected not to make a statement.

Certified that rule procedure 4 E (C) (D) (F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused, in the field, this twenty ninth day of September 1942.

G. F. Foster Capt.

List of Exhibits in the case of G32262 Pte. McDonald, C.A. Carleton & York Regiment

1. Certificates of Apprehension Army Form C.1617

2. Certificates of cost of return to unit.

3. Record of the declaration of a Court of Inquiry on the illegal absence of a soldier (A.F.B. 115)

List of witnesses in the case of G32262 Pte. McDonald C.A. Carleton & York Regiment

FOR THE PROSECUTION

Name	Unit	Address
G17666 CQMS Shields, A.L.	Carlt & York R	In the Field
G20025 L/Sjt. Thomas, D.A.	Carlt & York R	In the Field
G20003 Cpl. Fleming, R.	Carlt & York R	In the Field

FOR THE DEFENCE

N I L

Defending Officer in the case of G32262 Pte. McDonald, C.A. Carleton & York Regiment

I G32262 Pte. McDonald, C.A. desire the services of Lieut. B.A. Kennedy.

P. N. Lehulugi Capt.

C. A. McDonald

Abstract of Evidence

In the Case of G32262 Pte McDonald, C.A. - Carlt & York R

Take notice that Captain G.F. Foster will present at your trial by Field General Court Martial the following exhibits:-

(1) Certificates of surrender to the Civil Police as an Absentee Without Leave at 0945 hrs at Leicester on 8 Sep 42 and again at 2205 hrs at Staines on 24 Sep 42.

(2) Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

(3) Certificates covering cost of apprehension and return to unit. (Forms CMHQ 1000:55).

Capt.

E. S. 9. P. W. Stalag Luft. Prs.

SHORT STATEMENT AS TO PARTICULARS OF SERVICE OF THE ACCUSED.

G32262 Pte McDonald. C. A. — Carleton & York Regiment

(a) The accused has been in confinement awaiting trial on the present charges for NIL days in Civil Custody and 14 days in military custody making a total of 14 days of which NIL were spent in hospital.

(b) The present age of the accused according to his own statement is 27

(c) The date of his attestation specified in his attestation papers is 5 Sep 39

(d) The accused is in possession of, or entitled to no military decoration or military award (or is in possession of or entitled to).

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

J. Louis McKenna, Lieut

24 Jun 42

"BATTALION HEADQUARTERS"

Lt.-Col. F.D. Tweedie

Major W.D. Gorson

A/Capt D.M. Dickson

A/Capt D.L. Giddings

Lieut A.E. Thompson

G21055 R.S.M. Jessome, E.A.

G17070 L/Cpl Kilpatrick, E.L.

Orderly Room
G19094 Sjt Shaw, M.P.
G17695 L/Cpl Giberson, G.T.

Regimental Police
G19056 Sjt Delorey, C.G.
G27355 Cpl White, A.
G17449 L/Cpl Bernard, A.
G27010 L/Cpl Crossman, J.A.

No. 32283 Name McDonald, G.A. Sqn. Battery or Company | Corps Carlt & York R. | Date of enlistment 5-9-39 | G.C. Badges | Service or Proficiency Pay | M.F.M.A. (A.F.B. 122) (Part I, Para. 1) H.Q. 1172-61-16

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley	20-3-41	Pte.		(1)A.A.22 when in confinement escaping from No. 2 Guard Det. Room at Laurenti de camp at about 1400 hrs 20 Mar 41 (2)A.A. 15(1) A/L from 1400 hrs 20 Mar 41 till surrendering to civil police at norbury at 2300 hrs 16 Jul 41		9 Months Det released from detention Barracks ALDERSHOT on 12-5-42 sentence having expired remission earned under rules for Detention barracks and military prisons 90 days Commanders Initials..... certified true copy	11-11-41	F.G.C.M.	forfeits 118 days pay J.L. McKenna Lt

Capt.
O.C. Coy., Carlt & York R.

(P.T.O.)

This is to certify that I have received a free copy of all evidence in respect to charges against myself.

Ole C. A. MacDonald

In the Field

Date 7 Oct 42

R. H. Ichiling major

E.S.10. P.N. Stabler

No. 632262 Name McDonald, O.A. Sqn., Battery, or Company 35 Gdn Inf A/TK Coy. Corps Date of enlistment 5-9-39 G.C. Badges Service or Proficiency Pay M.F.M.E. Pay (A.F.B. 122) Sect. 1 H.Q. 17/5/41 Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with C.M.	By whom awarded	Remarks
Gillemont	22/3/40	Pte.		A.W.L. from 2300 hrs 22 Mar 40 to 0600 hrs 1 Apr 40	L/Cpl. Murdock Cpl. Conners	8 days det forfeits 8 days pay		Capt Swan	
"	19/6/40	"		A.W.L. from 2300 hrs 19 Jun 40 to 2300 hrs 22 Jun 40	Sgt Peters " Conners	Deprived of 14 days pay R.R.I 149(a)(a)		"	
East Horsley	15 Jun 40	"		A.W.L. from 1500hrs 15 Jun 40 to 2400 hrs 30 Jun 40	Sgt. Conners " Peters	14 days det restricted pay for 6 months forfeits 42 days pay under R.R.I. 149 (1)(a) & (a)		Capt. Swan	

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of forfeiture dispensing with trial	By whom awarded	Remarks
Court of inquiry convented in the field at(Caterham) by order of O.O. 3rd Inf Anti-coy. on 24 Sep 40(part 1 O mder No 106 (2) dated 28 Sep 40) resulted as follows The Court declares the GS2262 Pte. McDonald, C.A. Cdn Inf A-TK Coy illegally absented himself without leave when his unit was in the Field on the 2 Sep 40 that he is still so absent & that on the 5 Sep 40 he was deficient in his kit to the sum of $7-5-0½									
						released from det 8 Nov 41 sentence having expired remission earned under rules for Detention Barracks and military prisons 53 days				Commandants Initials.....
Titley Eng		Pte		(1) A.W.L. from 2/9/40 to 1445 hrs 25/9/40 (2) AWL from 8/9/10/40 to 2245 hrs 22/11/40 (3) AWL from 1910 hrs 28/11/40 to 17/1/40		Sentence to 10 months det but 4 months remitted by Brig. L.F. Page D.S.O.	11-3-41	F.G.C.M.	forfeits 376 days pay J.A.L. Legere Lt.

E.S.10. P.N. Stokes

No. 352262 Name McDonald, C. Sqn. Battery or Company #3 Cdn Inf A/TK Coy. Corps

Date of enlistment 5-9-39 G.C. Badge

Service or Proficiency Pay

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No.

Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Gillesmont	29/3/40	Pte.		A.W.L. from 2300 hrs 29 Mar 40 to 0900 hrs 1 Apr 40	L/Cpl. Murdock Cpl. Conners Sgt Peters	8 days det forfeits 14 days pay Deprived of 14 days pay F.R.I 149(c)(a)		Capt Swan "	
"	19/6/40	"		A.W.L. from 2309 hrs 19 Jun 40 to 2300 hrs 20 Jun 40	" Conners				
East Horsley	13 Jun 40	"		A.W.L. from 1300hrs 13 Jun 40 to 2400 hrs 30 Jun 40	Sgt. Conners " Peters	14 days det restricted pay for 6 months forfeits 43 days pay under F.R.I. 149 (1)(a) & (c)		Capt. Swan	

(P.T.O.)

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 3rd day of November, 19 41

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*[illegible]—

*(1. [illegible]

*(2. [illegible]

*(3. [illegible]

[illegible]]

* Omit if not applicable.

PROCEEDINGS REVIEWED

3/12/41 R.C. Dawson Major Reviewing Officer (A.B.)

President.

Rank.	Name.	Regiment.
Major	W.W. Henderson V.D.	No.3 Cdn Inf Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	R.H. Jorgenson	No.3 Cdn Arty Hldg Unit
Lieutenant	B.W.S. Wood	No.3 Cdn Arty Hldg Unit
Lieutenant	A.T. Sesia	No.2 Cdn Inf Hldg Unit

*Signed [signature] Brigadier

Commanding Cdn Base Units, Cdn Army.

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-32262 PTE. MacDONALD, C.A. No.2 Cdn Inf Hldg Unit.	First Charge A.A. sec 22 Second Charge A.A. sec 15(1) See charge sheet attached.	Guilty Guilty	Guilty. 9 months detention	Confirmed [illegible] Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [illegible] Brigadier (Signed) W.W. Henderson Maj

Commanding Cdn Base Units, Cdn Army. *President.*

Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 11th day of Nov., and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter)~~ Capt. Hartland [illegible]
*(4. ~~The officers under instruction)~~ [illegible]

were duly sworn.

* Omit if not applicable.

Signed this 11th day of Nov. 1941.

W.W. Henderson Maj

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 15th day of November 1941.

[illegible] Brigadier.

Confirming Officer.

Promulgated and extracts taken in the case of G. 32262 Pte. MacDonald C.A.

(a) (Dated) 20 Nov 41 (Signed) [illegible] Lieut. Col. Officer Commanding, No. 2 Cdn. Inf. Holding Unit. C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41229) Wt. 40133—895 700 10/40 P.S.D. G. 600

W.A. Henderson Maj.

CHARGE SHEET

The accused, No. G-32262, Private MacDonald, C.A., Carleton & York Regiment reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas), is charged with:

First Charge
Section 52
Army Act.

When in confinement, escaping,

in that he,

at Laurentide Camp, Witley, Surrey, at about 1400 hours on the 20th March 1941, when in confinement at No. 2 Guard-Detention Room, escaped.

Second Charge
Section 15(1)
Army Act.

When on active service, absenting himself without leave,

in that he,

at Laurentide Camp, Witley, Surrey, at about 1400 hours on the 20th March 1941, absented himself without leave from No. 2 Guard-Detention Room until surrendering to the Civil Police at Norbury at 2300 hours on the 16th July 1941.

.....Lieut.-Col.
(F.S. MATHEWSON)
Officer Commanding
No. 2 Cdn. Inf. Holding Unit.

Laurentide Camp,
Witley, Surrey,
29th October 1941.

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Cdn Base Units.

Farnborough, Hants
This 3rd day of Nov 41.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Laurentide Camp ON THE 11th DAY OF Nov 41.

TRIAL OF:- No. G32262 Pte McDonald, C. A. (Carlton York Reinf., No 2 C.I.H.U.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lt. J. E. Fox (Unit) No 2 C.I.H.U.

Defending Officer:- (Name) Lt. J. L. McKenna (Unit) No 2 C.I.H.U.

At 1430 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1.-

The President, members and judge-advocate (if any) are duly sworn.

The officers under instruction are duly sworn.

Q2. Do you object to M15888 Pte / Gottselig, P. acting as shorthand writer?

A2.- No sir.

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Q3. Do you wish to make any statement in mitigation of punishment?

A3.-

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4.- Yes, Lt. J. L. McKenna (No 2 C.I.H.U.)

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER.

Lt. J. L. McKenna having been duly sworn states:

The accused, Sir, I wish to state served 7½ years with the NPAM before the war. At the outbreak of war he was serving with the RCASC, he transferred from that Unit to the St John Fusileers with which he served until he found out that the Fusileers were not going overseas with the first draft. He then transferred to the Carlton York Regt. so he could come to the scene of what we thought was action. Over here he went A.W.L. and was Court Martialed and sent to the Cdn. Det. Bks. While undergoing detention at the Cdn. Det. Bks., he escaped and while he was away at that time - and this refers to the present charge - the accused was married. At the time of his marriage his wife did not know that he was an absentee. When she learnt of this she tried to make the accused give himself up and take his punishment and become a good soldier. However the accused was still going with the man that he had escaped with and this man persuaded him not to give himself up, so they went away again. How ever the accused again returned to his wife and under her persuasion did go to the Norbury Police Station on the 16th of July and surrender himself. There is one point I would like to bring on concerning the accused's MFM 6 and that is the only entries on that sheet are for AWL. The accused has been a good soldier when in camp. His wife has shown herself as having a good influence on him, and the accused has said he is more than willing to soldier because his wife is at present not receiving any Dependent's Allowance, and he is very anxious that she should. I would like particularily to stress that Major G.W. Ball of the C.D.B., has voluntarily given this statement of character regarding the accused Major G. W. Ball has been in direct contact with the accused and says that this man will soldier, and in this case that the strong influence of his wife, and his desire to look after her, that a light sentence would be equally as good, if not better, than a heavy one.

W. W. Hindes

Week

SUMMARY OF EVIDENCE
in the case of

G32262 Private MacDonald, C.A. Carleton & York Regiment Reinforcements, on the strength of No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken under oath by direction of the Commanding Officer.

First Witness Prosecution — F43637 Pte. Keddy, N.E. West Nova Scotia Regt. Company on the strength of No. 2 Cdn. Inf. Holding Unit, having been duly sworn, states:

"On the 20th March 1941, I was a Lance-Corporal of the Regimental Police at #2 Guard Detention Room, Laurentide Camp, Witley, Surrey, where the accused was confined pending disposal. A roll call of the prisoners was made at 1345 hours. They were all present. About 15 minutes later L/C Milberry reported to me that he had just seen two men leave the Guard Room, who might be prisoners. I immediately called the roll and found the accused missing.

Pte Keddy N.E. Pte.
F43637 Pte. Keddy, N.E.

The accused declines to cross-examine this witness.

Second Witness DOCUMENTARY — L/C Conlon, F., Canadian Provost Corps, made the following statement.

"Statement of evidence in the case of G32262 Pte. MacDonald, C.A., No. 2 Cdn. Infantry Holding Unit.
Sir: At London on the 17 July 1941 at about 0230 hours I was on duty at C.P.C. H.Q. and acting on instructions I proceeded to the Norbury Police Station at Norbury where I saw the a/m soldier who had surrendered himself to P.C.Wood at about 2300 hours on the 16 July 1941 as being an absentee. He was handed over to me and I escorted him to C.P.C. H.Q. where he was turned over to N.C.O. i/c of cells to be detained. Statement from Police is attached.
LONDON
17 July 41. (sgd) F. Conlon, L/Cpl
Canadian Provost Corps

Accused does not question the statement of this witness, nor does he require the presence of the witness for cross-examination.

Third Witness Prosecution — Lieut. W.A. Leask, #2 Cdn. Inf. Holding Unit, makes the following statement:

"I am Records Officer of #2 Cdn. Inf. Holding Unit. I certify that on the 11th March 1941, the accused was tried by F.G.C.M. and sentenced to undergo detention for ten months. I produce herewith:
a) Record of Declaration of Court of Inquiry dated 15-5-41
b) A.F.O. 1617 dated 16-7-41
c) A.F.B. 252 dated 17-7-41
All concern the accused whom I recognize.

W.A. Leask Lt

Accused declines to cross-examine this witness.

SUMMARY OF EVIDENCE

in the case of

No. G-32262, Private MacDonald, C.A., Carleton & York Regt (Continued)

The accused having been duly warned under R.P. 4 (e), reserves his defence.

Certified that, owing to the exigencies of the service, having due regard to the expenses involved and loss of time, the attendance of the witnesses, giving documentary evidence, could not readily be procured.

Certified that Rules of Procedure # 4 (c) (d) (e) (f) and (g) have been duly complied with.

Taken down by me in the presence and hearing of the accused this 20th day of October 1941 at Laurentide Camp, Witley, Surrey,

.....Lieut.,
Officer detailed by O.C. #2 C.I.M.U.
to take Summary of Evidence.

Laurentide Camp,
Witley, Surrey,
20th October 1941.

W. A. Henderson

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No. G-32262 Pte. McDONALD C.A.

of Carlton and York Reg't. and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station Laurentide Camp

Date 11-11-41.

Medical Officer

W. Henderson Maj.

Reg.No.G.32262
S.U.S. Macdonald C.A.

1. The a/m S.U.S has been in the Canadian Detention Barracks under sentence of ten months detention dated 11th March 1941.

2. Since his reception here he has been charged in Orderly Room once for infractions of Regulations and forfeited three days remission. This offence took place during the early part of his sentence.

3. From that date until his release, due on the 8th Nov. 1941, his conduct has been excellent and I have every reason to believe that this S.U.S would endeavour to become a good soldier if given the opportunity.

4. I would point out that evidence of character offered on behalf of this S.U.S is not the result of an application from him, I feel that he should be given some opportunity to prove that he can carry out his responsibilities as a soldier and to that end I offered to testify for him at his Court Martial.

G.W. Ball
Major
G.W.Ball. Commandant.

7 Nov. 1941

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C. 82 Charles Wood at Norbury Police Station (hour) 11 pm on the 16th day of July as being No. G 32262 (Rank and Name) Pte C.A. MacDonald a deserter (or absentee without leave) from Witley Camp Surrey and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 24 Height 5 Feet 10½ Inches

Complexion Fresh Hair Auburn Eyes ~~Hazel~~ Grey

Marks Tattoo mark, hand, clasp left arm.

In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	5th Sept. 1939.
Probable Date of Desertion or beginning of absence, and from what place	End of April 1941. Witley Camp, Surrey.

Signature of Officer of Police in charge of: C Wood PC 82

Norbury Station.

W H Henderson Sgt. 16-7-41. Date of Signature.

Withdrawn May

CHARGE

Army Form B 252
(See King's Regulations)

No. 1 Infantry Holding Unit Regiment

Battery / Squadron / Troop or / Company

CHARGE against No. [illegible] Rank Pte

Name MacDonald S.A.

Place London Date of Offence 16-July-41

OFFENCE W.S.A.S. absent without leave from? ..... until he surrendered himself to the Metropolitan Police at Norbury at about 2300 hrs. on the 16-July-41.

[illegible] D.A.P.M.
CANADIAN MILITARY POLICE
LONDON AREA.

Names of Witnesses :—

P.S. 82"Z" Wood Norbury Police Stn

L/cpl Conlon Canadian Provost Corps

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant

P.T.O.

(6539) Wt.W.28440/866. 1,000,000. 10/40. K. & J.L. Ltd. G657147.

Statement of **EVIDENCE** in the case of

G-32262 Pte. MacDonald C.A.
No.2 Infantry Holding Unit

Sir:
At London on the 17-July-41 at about 0230 hrs I was on duty at C.P.C.H.4. and acting on instructions I proceeded to the Norbury Police Stn. at Norbury where I saw the a/m soldier who had surrendered himself to P.C. Wood at about 2300 hrs on the 16-July-41 as being an absentee. He was handed over to me and I escorted him to C.P.C.H.4. where he was turned over to the N.C?O? i/c of cells to be detained. Statemnt from Police is attached.

London
17-July-41

J. Conlon ... L/cpl
(Canadian Provost Corps)

Sir:
I was the N.C.O. i/c of cells at C.P.C.H. 4. when the a/m soldier was brought in to be detained.

London
17-July-41

H.W. Patterson ... L/cpl
(Canadian Provost Corps)

REMARKS

Re m/v Does no complaint
VD cpl

W.H. Anderson Maj.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Witley Camp on the 15th day of May 19 41, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. G32262 Pte MacDonald, C.A., Carlt. & York Regt (# 2 C.I.H.U.)

DECLARATION.

The Court declare that G32262 Pte MacDonald, C.A., Clt. & York Regt. (# 2 C.I.H.U.) illegally absented himself without leave while undergoing sentence by F.G.C.M. at Witley Camp at 1400 hours on the 20th March 1941, that he is still so absent, and that, on the 21st day of March 1941, he was deficient, and is still deficient of the following articles to the value of £5.12.7½:

	£	s	d		£	s	d
1 Bag kit	0.	5.	3	1 Bayonet scabbard	1.	4.	3
1 Blouse serge	1.	2.	6	1 Resp. haversack	0.	9.	6
1 Trousers serge	1.	0.	6	1 Cape A/Gas	0.	11.	9
1 Brush shaving	0.	1.	2	1 Water bottle carrier	0.	1.	9
1 Cap field service	0.	2.	5	1 Frog	0.	0.	10
1 Disc identity	0.	0.	2	1 Helmet steel	0.	7.	0
1 Razor	0.	0.	5½	1 Towel hand	0.	1.	6
1 Belt waist	0.	3.	7				
					£5.	12.	7½

Names of President and Members

President: Lieut. J.A.K. Leger, N.S.R. (# 2 C.I.H.U.)
Members: " D.W. Hay, C. & Y. R (# 2 C.I.H.U.)
" A.J. Blakeney, C. & Y. R (#2 C.I.H.U)

Signed at Witley Camp this 22nd day of May 1941.

Signature of Commanding Officer P.E. Belanger, Major

CERTIFIED TRUE COPY.

J. Louis McKenna, Lieut. Asst Adjt

Signature of Officer having custody of the Original Record.

(12281) Wt.34418/1622 75,000 10/39 A.& E.W.Ltd. Gp.698
(12443) Wt.43725/760 225,000 1/40 " " Forms/B115/56

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order disposing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11 day of Nov 41.

D. Campbell Reid Capt.
Adjutant.
No. 2 Canadian Infantry Training Unit,
C.A. (O.)

W. H. Anderson Maj

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

G32262 Pte. MacDonald, C.A. of the Carleton & York

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 604, K.R., 1935.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For A.A. 15-1	times	3 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, NIL

or,

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted.

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

W1. 4304b,604 50,000 2/40 W. S. Ltd. 51—984

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for 10 months beginning on the 11th day of March 1940

4. The accused has been in confinement, awaiting trial on the present charges

for nil days in Civil Custody,

and 2 days in Military Custody.

Total 2 days.

Of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper is 26

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 9-10-39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is nil.

8. The accused is entitled to deferred pay or gratuity in respect of one years' service.

9. The accused is entitled to reckon two years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [~~or is in possession of or entitled to~~

]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

			Date of Promotion.
In the rank of		years,	
In the rank of		years,	
In the rank of		years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name G32262 Pte. MacDonald, C.A. of the Carleton & York Regiment Reinforcements No. 2 Can. Inf. Holding Unit

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
F.G.C.M.	Witley 11-3-41	A.A. 15(1) A.W.L. 2-9-40 to 1445 hr 25-9-40	10 months detention	4 months remitted
		A.A. 15(1) A.W.L. 9-10-40 to 2245 hr 22-11-40	Stoppages of pay to the amount of £6-18-8	
		A.A. 15(1) A.W.L. 1910 hr 28-11-40 to 17-1-41		

(*Continued overleaf.*)

#3 Cdn Inf A.Tk Coy

No. G32262 Name MacDonald C.A. Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 5004—8-39 (1733) H.Q. 1772-45-16

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Guillemont	22-3-40	Pte		AWL from 2300 hr 22 March 40 to 0600 hr 15 April 40	L/C Murdock Cpl Connors	8 days detention forfeits 18 days pay		Capt Swan	
"	19-6-40	Pte		AWL from 2300 hr 19 June 40 to 2300 hr 22 June 40	Sgt Peters Sgt Connors	Deprived of 14 days pay F.R.I 149(1)(a) forfeits 3 days pay 149(1)(a)		Capt Swan	
East Horsley	13 July 40			AWL from 1700 hr 13 July 40 to 2400 hr 30 July 40	Sgt Connors Sgt Peters	14 dy detention restricted pay for 6 months. Forfeits 43 days pay F.R.I. 149(1)(a)(b)		Capt Swan	

(P.T.O.)

Place	Date of offence	Rank	Corps or regiment	OFFENCE	Names of witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Court of inquiry convened in the Field at Caterham by order of the Officer Commanding the 3rd Canadian Infantry Anti-Tank Coy on 24 Sept 40, Part 1 Order 196 dated 22 Sept 40 resulted as follows: The Court declares that No. G13226? Pte MacDonald C.A. Cdn. Inf. A/Tk Coy illegally absented himself without leave when his unit was in the field on 2 Sept 40, that he is still so absent, that on 3 Sept 40 he was deficient in his kit to the sum of £7-5-9½									
Witley, Eng		Pte		1) AWL from 2-9-40 to 1445/25-9-40 2) AWL from 8-9-10-40 to 2245/22-11-40 3) AWL from 1910/28-11-40 to 17-1-41		Sentenced to 10 mos detention but 4 mos remitted by Brig F.L. Page H.Q. C.B.H.	11-3-41	F.O.C.M.	Forfeits 376 days pay

CERTIFIED TRUE COPY

Lieut.

original

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 8th day of March, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable that the trial~~ ~~should take place within a reasonable time~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~[I am unable to appoint~~ —

*~~(1. The officers mentioned in Class~~

*~~(2. A Field Officer in command~~

*~~(3. Two Officers having more than one year's service~~

~~for the following reason, namely~~ —]

ENTERED IN RECORDS OF C.M.

President.

Rank.	Name.	Regiment.
Major	W.H. Colling	No.1 R.C.A.S.C. Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	A.D. Mann	No.1 Cdn Eng Hldg Unit
Lieutenant	F.B. Jones	No.1 Cdn Sigs Hldg Unit
Lieutenant	E.E. Westcott	No.1 Cdn Arty Hldg Unit

*Signed L. F. Page. Brigadier

Commanding Canadian Base Units, Cdn Army.

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-32262 PTE. MacDONALD, C.A. (3rd Cdn Anti-Tank Company) No.2 Cdn Inf Bldg Unit.	First Charge A.A. Sec.15 (1) as per charge sheet	Guilty	Guilty	
	Second Charge A.A. Sec.15 (1) as per charge sheet	Guilty	Guilty	I confirm the finding & sentence of the Court but remit four months of the sentence L
	Third Charge A.A. Sec.15 (1) as per charge sheet	Guilty	Guilty	
			SENTENCE TO UNDERGO DETENTION FOR A PERIOD OF TEN MONTHS, AND TO BE PLACED UNDER STOPPAGES IN THE SUM OF £6.16.8, COST OF APPREHENSION.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) L. T. Page Brigadier (Signed) W H Walling Major
Commanding Canadian Base Units, Cdn Army. President.
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 11th day of March, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 11th day of March 1941.

W H Walling Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 76z M.M.L. 1939.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ L

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 14th day of 19 March, 1941

L. T. Page Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of G-32262 Pte MacDonald C.A., #2 C.I.H.U.

(a) (Dated) 17 March 41 (Signed) [illegible] Maj
O.C. No. 2 Cdn Inf Bldg Unit.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

CHARGE SHEET

The accused, No. G32262 Private Clarence Alexander MacDonald, 3rd Canadian Anti-Tank Company (No. 2 Canadian Infantry Holding Unit) a soldier of the Canadian Army (Overseas) is charged with:

First Charge
Sec. 15 (1)
Army Act.

When on active service, absenting himself without leave,

in that he,

in the Field, on 2nd September 1940 absented himself without leave from 3rd Canadian Anti-tank Company until surrendering himself to 3rd Canadian Anti-tank Company at 1445 hours, 25th September 1940.
(Total absence 23 days).

Second Charge
Sec. 15 (1)
Army Act.

When on active service, absenting himself without leave,

in that he,

at Louisburg Barracks, Bordon, Hampshire, on the night of the 8th-9th October, 1940, absented himself without leave until surrendering himself to the Civil Police in Northampton at 2245 hours 22nd November 1940.
(Total absence 44 days and several hours)

Third Charge
Sec. 15 (1)
Army Act.

When on active service, absenting himself without leave,

in that he,

at Louisburg Barracks, Bordon, Hampshire, at about 1910 hours 28th November 1940, while in close confinement, absented himself without leave until surrendering to the Corps of Military Police in Edinburgh 17th January 1941, and in so doing incurred expenses to the amount of £6-18-8.
(Total absence 50 days)

(P.E. NEWANGER) Major
Commanding
No. 2 Cdn. Inf. Holding Unit

Camp 102
Witley, Surrey
21st February 1941

To be tried by Field General Court Martial

Bordon, Hants
This 8th day of March 41.

.....Brigadier
Commanding Can Base Units.

Major

MEDICAL OFFICER'S CERTIFICATE

I certify that No. G.32263 ..... Rank ... Pte .....

Name. Mac Donald C.A ..... Regiment C.Y.P. .....

is ... Fit .....

to undergo trial by Court-Martial.

Date 11 Mar. 41.

R.E. Boutilier Maj

M.O. Signature.

Retire.

W/Hb

G 32262 Pte. Macdonald, C.A., No. 2 Cdn Infantry Holding Unit, Tried by Field General Court-Martial at Aldershot Camp, on 11 Mar 41.

The order convening the Court, the charge sheet and the summary of evidence are laid before the Court.

Prosecutor: Lieut. M. MacPherson, No. 2 Infantry Holding Unit.
Defending Officer: Lieut. K. J. Cameron, Carleton & York.

At 1000 hours the Trial commences.

The names of the President and members of the Court are read over to the Accused, and they severally answer to their names.

Q1 - Do you object to being tried by me as President, or by any of the officers whose names you have heard read over?
A1 - No, sir.

The President and Members are duly sworn.
Officers under Instruction are duly sworn.
Q2 - Do you object to B 88581 Sgt. James Lonergan, Royal Canadian Artillery, C.A.M.C., acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is duly sworn.

The charge sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge inthe above-mentioned charge sheet.

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?
A3 - Guilty, sir.
Q4 - Are you guilty or not guilty of the second charge against you, which you have heard read?
A4 - Guilty, sir.
Q5 - Are you guilty or not guilty of the third charge against you, which you have heard read? A5 - Guilty, sir.
R.P. 35(B) is complied with.

Q6 - Do you wish to give evidence in mitigation of punishment?
A6 - No, sir.
Q7 - Do you wish to call any witnesses as to character?
A7 - No, sir.

The Prosecutor is duly sworn.
Q8 - Have you any evidence to present as to the character and personal particulars of the accused?
A8 - I produce the A.F.B. 296 and A.F.W. 6 of the accused.
Q9 - Is the accused the person named in the statement which you have heard read?
A9 - Yes, sir.
Q10 - Have you compared the contents of the above statement with the regimental books?
A10 - Yes, sir.
Q11 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A11 - Yes, sir.
The accused declines to cross-examine.

Q12 - Do you wish to address the court?
A12 - The accused served 4½ years in R.C.A.M.C. and has been on active service for 18 months. At first he had a perfect crime sheet and then became interested in transferring to a transportation Unit, which was denied him. He then became disheartened and he claims that's the reason he went away.
The Court was closed for consideration of the sentence.

WH

SUMMARY OF EVIDENCE

in the case of

G32262 Private Clarence Alexander Mac Donald, 3rd Canadian Anti-Tank Company (No. 2 Canadian Infantry Holding Unit), a soldier of the Canadian Army (Overseas).

Evidence taken on oath by order of the Commanding Officer.

First Witness for Prosecution. Lieut. I.H. MacIntosh, being duly sworn states:

I am Acting Records Officer of No. 2 Canadian Infantry Holding Unit. I produce herewith:

(a) Copy of Declaration of Court of Inquiry, 24-9-40.

(b) Letter from 3rd Canadian Infantry Anti-Tank Company, 25-9-40.

(c) Copy of Declaration of Court of Inquiry, 6-11-40.

(d) A.F.O. 1617 22-11-40

(e) Certificate of surrender under Army Act Sec. 163 (1) (j), 18-1-41

(f) Statement by Sgt. J. Davidson, R.A.M.C.

(g) Statement by Major F.S. Fiddes, 31-1-41

(h) A.F. I 1247 S

(i) Statement by A.P.M. Canadians, London Area 1-2-41

These concern the accused, whom I recognize.

. . I.H. MacIntosh . . . . . .Lieut.

Accused declines to cross-examine this witness.

Second Witness for Prosecution E8589, Sgt. Guay, E.H., being duly sworn, states:

On 28th November 1940 I was Guard Commander at the Guard Room, Louisburg Barracks, Bordon, Hants. The accused was one of the prisoners. About 1900 hours I detailed an escort in charge of Cpl. Rivard to take Pte. Bartlen, one of the prisoners to the toilet. When he came back, Cpl. Rivard took the key to return Bartlen to the Guard Room. The next I knew was Cpl. Rivard shouting for the guard to turn out. I heard a shot fired. I took my rifle and ran outside. One

WHG

of my sentries had captured one of the prisoners who escaped, but Pte. MacDonald was not captured. I returned to the Guard room and made a roll-call, which showed that Pte. MacDonald was absent.

E. H. Bray .....Sgt.

Accused declines to cross-examine this witness.

Compliance with R.P. 4 (c) (d) (e) certified.

Malcolm MacPherson
(Malcolm MacPherson) Lieut.
Officer detailed by O.C. No. 2 Cdn. Infantry Holding Unit to take Summary of Evidence.

Camp 102
Witley, Surrey
21st February 1941

WHG

LIST OF WITNESSES

in the case of

G32262 Pte. Clarence Alexander MacDonald, 3rd Canadian Anti-Tank Company (No. 2 Canadian Infantry Holding Unit) a soldier of the Canadian Army (Overseas)

PROSECUTION

Lieut. I.H. MacIntosh, No. 2 Canadian Infantry Holding Unit

E8589 Sgt. Guay, E.H. No. 2 Canadian Infantry Holding Unit

W/6

LIST OF EXHIBITS

in the case of

G32262 Pte. Clarence Alexander Mac Donald, 3rd Canadian Anti-Tank Company (No. 2 Canadian Infantry Holding Unit) a soldier of the Canadian Army (Overseas)

(a) Copy of Declaration of Court of Inquiry 24-9-40

(b) Letter from 3rd Canadian Infantry Anti-Tank Company 25-9-41

(c) Copy of Declaration of Court of Inquiry 6-11-30

(d) A.F.O. 1617 22-11-40

(e) Certificate of surrender under Army Act Sec. 163 (1) (j) 18-1-41

(f) Statement by Sgt. J. Davidson, R.A.M.C.

(g) Statement by Major F.S. Fiddes, 30-1-41

(h) A.F. I 1247 S

(i) Statement by A.P.M., Canadians, London Area, 1-2-41

10/46

No.3 Cdn. Inf. A-Tk Coy

No. G32262 Name MacDonald C.A. | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 500M—8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Guillemont	22/3 40	Pte		AWL from 2300 hrs 22 March 1940 to 0600 hrs 1st April 1940	L/Cpl Murdock Cpl Connors	8 days detention Forfeit 18 days pay		Capt. Swan	
"	19-6-40	"		AWL from 2300 hrs 19 June 40 to 2300 hrs 22 June 1940	Sgt Peters Sgt Connors	Deprived of 14 days pay F.R.I. 149 (1) (c) and forfeit 3 days pay 149 (1) (a)		Capt Swan	
East Horsley	13 July 1940	Pte		AWL from 1700 hrs 13 July 40 to 2400 hrs 30 July 40	Sgt Connors Sgt Peters	14 days detention restricted pay for 6 months forfeit 43 days pay under F.R.I. 149 (1) (a) & (b)		Capt Swan	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Court of Enquiry convened in the field at Caterham by order of the Officer Commanding the 3rd Canadian Infantry Anti-Tank Company on 24 Sep 40 (Part 1 Order No. 196 (2) dated 22 Sep 40) resulted as follows:					
				The Court declares that No. G32262 Pte. Mac Donald C.A. Cdn. Inf. A-Tk Coy illegally absented himself without leave when his unit was in the field on the 2 Sep 40, that he is still to absent and that on the 3 Sept 40 he was deficient in his kit to the sum of £7-5-9½					
				Certified true copy H.A. Northrup Capt.					
				Certified True Copy H. MacIntosh Lieut.					

WHC

Description of Court by which tried, or status of Officer or Authority disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental book in my custody.

Signed this 24th day of Feb. 1941.

Capt.
Adjutant,
2 Inf. Line Holding Unit, (C.A.O.F.)

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

G 32262 Pte C.A. MacDonald of the No. 2 Can. Inf. Holding Unit

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 661, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For Absence without Leave	3 times	3 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~,

~~or,~~

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted,

or,

Previous convictions† of the accused by a court ~~martial or a civil~~ court, summary awards under Section ~~47 of the Army~~ Act, and dispensations with trial under ~~Section 73~~ of the Army Act, are set out in the Schedule ~~annexed to this~~ statement.

Wt. 42045/663 50,000 2/40 W. S. Ltd. 51—4004

WHG

3. The accused is not under sentence at the present time,

~~or,~~

The accused at the present time is under sentence for ~~beginning on the~~ day of

4. The accused has been in confinement, awaiting trial on the present charges

for 1 days in Civil Custody,

and ~~52~~ 71 days in Military Custody.

Total ~~53~~ 72 days.

Of which 9 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper is 26

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 9 Oct 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 4/12 years

8. The accused is entitled to deferred pay or gratuity in respect of 1 4/12 years' service.

9. The accused is entitled to reckon 1 4/12 years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [~~or is in possession of or entitled~~ to

]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

			Date of Promotion.
In the rank of	,	years,	
In the rank of	,	years,	
In the rank of	,	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

No.3 Cdn. Inf. A-Tk Coy

G32262 No. MacDonald C.A. Name | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

M.F.M. 6 (A.F.B. 122) 500M—8.39 (1703) H.Q. 1772-43-18

Place	Date of 22/3	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Guillemont	40	Pte		AWL from 2300 hrs 22 March 1940 to 0600 hrs 1st April 1940	Cpl Murdock Cpl Connors	8 days detention Forfeit 18 days pay		Capt. Swan	
"	19-6-40	"		AWL from 2300 hrs 19 June 40 to 2300 hrs 22 June 1940	Sgt Peters Sgt Connors	Deprived of 14 days pay F.R.I. 149 (1) (a) and forfeit 3 days pay 149 (1) (a)		Capt Swan	
East Horsley	13 July 1940	Pte		AWL from 1700 hrs 13 July 40 to 2400 hrs 30 July 40	Sgt Connors Sgt Peters	14 days detention restricted pay for 6 months forfeit 43 days pay under F.R.I. 149 (1) (a) & (b)		Capt Swan	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Court of Enquiry convened in the field at Caterham by order of the Officer Commanding the 3rd Canadian Infantry Anti-Tank Company on 24 Sep 40 (Part 1 Order No. 196 (2) dated 22 Sep 40) resulted as follows:									
The Court declares that No. G32262 Pte. Mac Donald C.A. Cdn. Inf. A-Tk Coy illegally absented himself without leave when his unit was in the field on the 2 Sep 40, that he is still so absent and that on the 3 Sept 40 he was deficient in his kit to the sum of £7-5-9½									
Certified true copy J.F. Northrup Capt.									

No.3 Cdn. Inf. A-Tk Coy

No. G32262 Name MacDonald C.A. Sqn., Battery, or Company

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Corps | Period not reckoning towards freedom from extra fine | Date of enlistment | Sheet No. | G.C. Badges | Signature O.C. Company, etc. | Service or Proficiency Pay | Character

M.F.M. 6 (A.F.B. 122) 500M—8-39 (1703) H.Q. 1771-45-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Guillemont	22/3 40	Pte		AWL from 2300 hrs 22 March 1940 to 0600 hrs 1st April 1940	L/Cpl Murdock Cpl Connors	8 days detention Forfeit 18 days pay		Capt. Swan	
"	19-6-40	"		AWL from 2300 hrs 19 June 40 to 2300 hrs 22 June 1940	Sgt Peters Sgt Connors	Deprived of 14 days pay F.R.I. 149 (1) (c) and forfeit 3 days pay 149 (1) (a)		Capt Swan	
East Horsley	13 July 1940	Pte		AWL from 1700 hrs 13 July 40 to 2400 hrs 30 July 40	Sgt Connors Sgt Peters	14 days detention restricted pay for 6 months forfeit 43 days pay under F.R.I. 149 (1) (a) & (b)		Capt Swan	

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Certified true copy

F.R. Northrup Capt.

IN REPLY PLEASE QUOTE

No. J/38-Mc-1769 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

SAINT JOHN, N.B., 3 Nov 1945.

CENTRAL REGISTRY ARMY
CONTROL
7134
NOV 5 1945
Cdn. Mn. 1652
Copy to
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ont.

REMISSION OF SENTENCE
G-32262 Pte. MACDONALD, C.A.
No. 7 District Depot, C.A.

The m/n soldier's case was reviewed on 25 Oct 45, and the balance of his sentence was remitted, effective 30 Oct 45.

2. Attached hereto is original Remission of Sentence Form and Army Form A-3104 for custody, please.

(D.R. Agnew) Brigadier,
District Officer Commanding,
Military District No. 7.

Enc.

N.D. 23
3000M—10-44 (5769)
M.Q. 1772-101-23

Army Form A.2194.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. G 32262 Pte MacDONALD, C.A. Unit I CBRBn I CBRD

Sentenced to 2 yrs imprisonment w.h. labour on 6 Oct 44

Age on, and date of, enlistment 30 yrs 5 Sept 39 Term of service DURATION

FIRST TRIAL.

For details of offence, see paragraph VII.

For C.O.'s remarks, see paragraph IX.

II.—To ..... Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I rec

should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Auth

III.—I direct that the sentence (which I hereby commute to .....

remit .....) (1) (2) (be suspended) (be put into execution) (1) and

.....(3).

Place .....

Date ..... Superior Mi

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.

For C.O.'s remarks, see paragraph XII.

IV.—(5) To ..... Superi

This man was again convicted on ..... and sentenced

and I have directed that he shall not be committed to undergo his sentence

be (suspended) (put into execution) (1) and run (concurrently) (consecutiv

sentence for the reasons given in paragraph XIII.

Place .....

Date .....

V.—(5) I direct that the sentence (which I hereby commute to

I remit .....) (1) (2) (be suspended) (be put

currently) (consecutively) (1) with the previous (6) sentence of.....

on .....(3).

Place .....

Date .....

All recommendations, etc., considered upon review, should be posted here

17

5

XIII.

Date

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with I

is remitted.

(3) A suspended sentence must be reviewed at least once every three months, and a

months.

(4) An order directing a sentence to be put into execution must be signed by the

(5) This paragraph to be left unused until required. If the man is convicted a

not and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is a

(*22948) Wt.56626/311 60,000 11.42 A.&E.W.Ltd. Gp.698 Form A.2194/11.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section delegate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	No remission. B.F. 6 Jul 45.	[signature] 30 NOV 1944	
	No remission. Return to Canada in Custody under Sentence	(C. S. BOOTH) Brigadier, Canadian Military Headquarters. -3 APR 1945	
17 Oct 45	No remission or suspension of sentence. Commit to No. 72 MDB to serve sentence.	D.R. Agnew (D.R. Agnew) Brigadier D.O.C., M.D. No. 7.	
25 Oct 45	Balance of sentence remitted, effective 30 Oct 45.	D.R. Agnew (D.R. Agnew) Brigadier, D.O.C., M.D. No. 7.	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. J. H. Rogerson, Capt. Signature of Officer making entry.	28 Jan 44	6 Oct 44
VIII.—Second Trial. Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
	To be admitted to 2 Cdn Field Punishment Camp I recommend that the sentence be served in full. Officer Commanding 1 Bn 1 Cdn Base Reinforcement Depot	[signature] Lt Col

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
13 Oct 44	This soldier has a terrible record of absence without leave and of F.C.C.M's. He is apparently incorrigible and I recommend he serve his sentence in full.	E. W. Hardenbergh Brig COMMANDER 1 CDN BASE RFT GROUP

Ist Charge:

A.A. Sec I5 (I) AWL from 0630 hrs 28 Jan 44 until surrendering himself at 0900 hrs 9 Feb 44. (Absent I2 days 2 hrs and 30 mins)

2nd Charge:-

A.A. Sec I5 (I) AWL from I745 hrs I8 Feb 44 until being apprehended at I800 hrs 4 Apr 44. (Absent 46 days I5 mins)

3rd Charge:-

A.A. Sec I5 (I) AWL from I8I5 hrs 7 May 44 until surrendering himself at 2000 hrs II May 44 (Absent 4 days I hr and I5 mins)

4th Charge:- AWL from

A.A. Sec I5 (I) AWL from 0830 hrs 26 June 44 until surrendering himself at I330 hrs 29 Jun 44. (Absent 3 days 5 hrs.)

5th Charge:-

A.A. Sec I5 (I) AWL from 0800 hrs I5 Aug 44 until apprehended at I245 hrs I6 Aug 44. (Absent I day 4 hrs and 45 mins)

6th Charge:-

A.A. Sec 24 (2) Losing By Neglect His Equipment clothing and Regimental Necessaries to the extent of 27.37,75% value.

J.R. Rogers Capt.

FORM OF REMISSION, COMMUTATION OR MITIGATION
OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-M-1652 (LCM)
DISTRICT FILE No. J/38-Mc-1769 (JAG)

PART I

No. G32262 Rank Private Name MacDONALD, C. A.
Unit No. 7 District Depot, C.A. (Formerly 1 CBRBn 1 CBRD)

PART II

Date of Trial 7 October 1944
Charge (s) AA Sec 15 (1) (Five Charges)
ABSENTING HIMSELF WITHOUT LEAVE
AA Sec 24 (2) LOSING BY NEGLECT HIS EQUIPMENT CLOTHING AND REGIMENTAL NECESSARIES TO THE EXTENT OF $27.37, 75% VALUE.
Sentence: 2 years imprisonment with hard labour
Date of Sentence: 7 Oct 44
Confirmation: (a) Authority:- Brigadier E. W. Hardenby
(b) Date :- 13 Oct 44

PART III - REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~xxxxxxxxxxxxxxxxxxxx~~ the balance of the period of imprisonment awarded G32262, Private MacDONALD, C.A., effective 30 Oct 45.

Signed at Saint John, N. B. this 25th. day of October 1945.

(D. R. AGNEW), Brigadier
(Appointment) (District Officer Commanding, M.D. No. 7)
To be signed by the remitting authority personally.

PART IV - PROMULGATION

Remission (~~xxxxxxxxxxxx~~ (~~xxxxxxxxxxxx~~ promulgation and extracts taken at Fredericton, N.B. this 30th day of October 1945

(1) Captain
(Officer i/c Documents) (E.A. Skene)
No. 7 D.D.C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No G.32263 Rank Private Name MacDONALD, C.A.
The sentence of 2 years imprisonment with hard labor
awarded by ~~xxxxxxxxxxxxxxxx~~ (Field-General)* Court-Martial on the 7 Oct 44 has been Remitted effective 30 Oct 45

UNIT No. 7 District Depot, C.A.

Certified true extract of Daily Order Part II of
No. 258 Place Fredericton, N.B. Date 30 Oct 45

Adjutant Capt.
(E.A. Skene)
No. 7 District Depot, C.A.

* Strike out and initial words not applicable.

File

VER V CIA NRS [redacted] 74

FROM COMMANDING THREE KINGSTON ONT 201125R

~~TO DOC MDNO 7 ST JOHN NB~~

TO SECTY DND OTTAWA ONT

GR 101 BT

C. SIGS
OCT 20 1945
ARMY SIGNAL OFFICE

IF INCORRECT, COMPLETE BELOW AND RETURN WITH

BRANCH	TIME	DATE

KD 218 RESTRICTED

RELET KS 674 (A) DATED 4 OCT 45 STOP FOLLOWING WIRE RCEIVED THIS HEADQUARTERS FROM DEFENSOR QUOTE RANKS 1046 RESTRICTED REVIEW REF AG 0267 D/18 OCT 45 REFERS G32262 PTE MACDONALD C A STOP CMBR RECOMMENDS IMMEDIATE RELEASE STOP AG CONCURS STOP ACK UNQUOTE STOP THE ABOVE EMENTIONED SOLDIER WAS DESPATCHED UNDER ESCORT TO NO 7 DISTRICT DEPOT ON 9 OCT 45 STOP REQUEST ACTION BE TAKEN BY YOUR HQS STOP ADDSD COMMANDING 7 RPTD DEFENSOR

RECEIVED
OCT 21 1945
A.D.M.I.N.

BTT 202240R WE B

70191

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: HQC 55-M-1652, Adm 3(a)

PLACE: OTTAWA, Ont

DATE: 19 Oct 45.

District Officer Commanding,
Military District No 3,
KINGSTON, Ont.

RANKS: 1046 (RESTRICTED)

REVIEW REF AG 0267 D/18 OCT 45 REFERS

G-32262 PTE MacDONALD C A (.) CMBR

RECOMMENDS IMMEDIATE RELEASE (.) AG

CONCURS (.) ACK

ADJUTANT GENERAL

Infm copy to: AG
CMBR
JAG

GDB:mw

ORIGINATOR'S INSTRUCTIONS

MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
(A E Walford) Maj-Gen Adjutant-General.		IMMEDIATE	1630

MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

VIA V CIA FRS EX 01 02 & 03

FROM COMMANDING TROOP KINGSTON ONT 061131

TO DOC MD NO 7 SAINT JOHN NB

TO SECRETARY DND OTTAWA ONT

TO OFFICER COMMANDING No 7 DD FREDERICTON N.B.

GR 150 BT

KD 173 RESTRICTED RELEAT KS 674(A) DATED 4 OCT 45 FOLLOWING SOLDIERS UNDER SENTENCE HAVE REPTLY HELD BY MDB WILL CEASE ATTACHMENT THAT UNIT AND WILL BE STRUCK OFF STRENGTH THREE DISTRICT DEPOT 9 OCT 45 STOP

G.2061 ALBERT E

G.18413 LAVIGNE A

G.32268 MACDONALD C A

G.22107 PARKER V S

G.4612 RAGSLEY R S

G.3928 GLEEN M R

STOP FORWARD ALL NECESSARY DOCUMENTS OF THESE SOLDIERS IMMEDIATELY DIRECT OFFICER COMMANDING SEVEN DISTRICT DEPOT FREDERICTON NB STOP REQUEST COMMANDING SEVEN DETAIL ESCORT TO MEET THIS TRAIN ON ARRIVAL FREDERICTON AT 1155 HOURS 10 OCTOBER 45 AT TRAINSIDE STOP ADDRD OIC SECOND ECHELON RPTD COMMANDING SEVEN OC 7 DD AND DEPUTY OR

BT 062553R NE B

CR(c) PA on file
cos-M-1652

Admin 3(b)2

noted
OCS

DEPARTMENT OF NATIONAL DEFENCE
- Army -

TO: CR (C)

File Nos: KS 674(A)
AND PERSONAL FILES.

File PA on:

Kingston, Ontario, 4 October, 1945.

HQC 55-77-16 p2

W.O.

Colonel,
D Adm.

Commandant, 89 Military Detention Barracks, BARRIEFIELD, Ont
AJAG, MD 3 Kingston, Ont,
Officer Commanding 3 District Depot, Kingston, Ont
District Paymaster MD 3 Kingston, Ont
District Medical Officer, MD 3 Kingston,
DAPM MD 3 Kingston, Ont
District Records Officer, MD 3, 2nd Echelon (Central) Brockville
DS & TO, MD 3 Kingston, Ont
DAQMG, MD 3, Kingston Ont,
Officer Commanding, 3 Ordnance Depot, RCOC, Kingston, Ont
OIC 2nd Echelon (Central) MPO 315, Brockville, Ont
Commandant, Ottawa Area Command, Ottawa, Ont

Officer Commanding, 33 Coy, C Pro C, Ottawa, Ont

SUB EX ITALY AND UNITED KINGDOM GO 131/44

89 Military Detention Barracks.

Under HQS 8536-6 Vol 2 Adm 3(b)2 dated 27 Apr 45 and HQS 8536-6 Vol 2 Adm 3(b)SC(A) dated 1 June 45 National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy and the United Kingdom to 89 Military Detention Barracks, Fort Henry, Barriefield, Ontario.

2. Under HQC 9039-1-1Adm 3 dated 15 June 45 National Defence Headquarters lays down the policy to be followed in the remission and suspension of sentence of soldiers under sentence in order that the situation in regard to accommodation at 89 Military Detention Barracks at Fort Henry may be alleviated.

3. Consequently it is considered the undermentioned soldiers under sentence who have served one-half their sentence should now be sent to their home District Depots for discharge and granted a remission of the unexpired portion of their sentence.

MILITARY DISTRICT No 1		Sentence	RECOM AS TO DISCH BY CMHQ	RECOM AS TO DISCH BY DOC MD 3
A.108375	Pte ASHLEY W	18 mos detn	RO 1029(8)	Some other para of RO 1029
A.44585	Pte CURTIS G W	2 yrs imp h.l.	RO 1029(8)	RO 1029(8)
A.117171	Pte EBARE D A	2 yrs imp	RO 1029(8)	Some other par of RO 1029
A.102094	Pte VIBLER WW	2 yrs imp	RO 1029(8)	Some other para of RO 1029
MILITARY DISTRICT No 2				
B.135241	Pte BLUE D	2 yrs imp h.l.	RO 1029(8)	Some other para of RO 1029
B.88114	TPR FISHER R	2 yrs imp h.l.	RO 1029(8)	RO 1029(8)
B.111780	Pte FERRANDO J A	18 mos imp h.l.	RO 1029(8)	Some other para of RO 1029

B.55629

B.64

B.55629	Pte LEDUC A J	2 yrs imp HL	RO 1029(8)	Some other para of RO 1029
B.64536	Pte LUCAS G E	2 yrs imp HL	RO 1029(8)	Some other para of RO 1029
B.77066	Pte McKEE S A	2 yrs imp	RO 1029(8)	Some other para of RO 1029
B.11068	Pte Parker R A	1 yr detn	RO 1029(8)	RO 1029(8)
B.83274	Pte STEELE S	18 mos imp HL	RO 1029(8)	RO 1029(8)

MILITARY DISTRICT No 4

D.138993	Pte BEAUCHAMP JA RG	2 yrs imp HL	RO 1029(8)	Some other para of RO 1029
D.58005	Pte BEYRIES R	2 yrs imp LH ign	RO 1029(9)	RO 1029(9)
D.118872	Pte DUFRESNE A	2 yrs imp	RO 1029(8)	Some other para of RO 1029
D.1546	Pte MORGAN C R	18 mos detn	RO 1029(8)	RO 1029(8)
D.59494	Pte PAGEAU JYB	18 mos imp HL	RO 1029(8)	Some other para of RO 1029
D.132971	Pte SCOTT JTJO	18 mos detn	RO 1029(8)	Some other para of RO 1029
D.141325	Pte ST. LOUIS E	2 yrs imp HL	RO 1029(8)	Some other para of RO 1029.

MILITARY DISTRICT No 5

E.101303	Pte CASISTA M	18 mos imp HL	RO 1029(8)	RO 1029(8)
D.23036	Pte FOURNIER J J	18 mos imp HL ign	RO 1029(9)	RO 1029(9)
E.5736	Pte JOBIN R	2 yrs imp HL	RO 1029(8)	RO 1029(8)
E.5187	Pte NIGOL H	2 yrs imp HL	RO 1029(8)	RO 1029(8)
E.68004	Pte SYLVESTRE A	2yrs imp HL	RO 1029(8)	Some other para of RO 1029.

MILITARY DISTRICT No 6

F.51501	Pte BOUDREAU E W	2 yrs imp	RO 1029(8)	Some other para of RO 1029
F.78215	Pte DOUCETTE L S	2 yrs imp HL	RO 1029(8)	Some other para of RO 1029
F.91416	Spr FINLEY L J	11 mos detn	RO 1029(8)	RO 1029(8)
F.52562	Pte LAPIERRE G V	18 mos imp HL	RO 1029(8)	SOME other para of RO 1029
F.88270	Pte MacKAY J E	2 yrs detn	RO 1029(8)	RO 1029(8)

MILITARY DISTRICT No 7

G.2061	Pte ALBERT E	2 yrs imp	RO 1029(8)	Some other para of RO 1029
G.18413	Pte LAVIGNE A	18 mos imp	RO 1029(8)	Some other para of RO 1029
G.32262	Pte MacDONALD C A	2 yrs imp HL	RO 1029(8)	RO 1029(8)
G.22107	Pte PARKER V S	18 mos imp	RO 1029(8)	Some other para of RO 1029
G.4612	Pte RICKLEY R S	18 mos imp HL	RO 1029(8)	Some other para of RO 1029

MILITARY DISTRICT No 10

H .103162	Pte MacNIVEN N L	2 yrs imp	RO 1029(8)	Some other para of RO 1029

PACIFIC COMMAND

K.63078	Pte JEWELL CC	18 mos imp	RO 1029(8)	Some other para of RO 1029

MILITARY DISTRICT No 12

L.8870	Pte McNABB A R	15 mos detn	RO 1029(8)	RO 1029(8)
L.27779	Rfm NILSSON N C	2 yrs detn	RO 1029(C)	RO 1029(8)
L.106808	Pte WHITE R G	2 yrs imp HL	RO 1029(8)	Some other para of RO 1029.

MILITARY DISTRICT No 13

M.59036	Pte MacPHERSON J M	2 yrs imp HL	RO 1029(8)	RO 1029(8)
M.17258	Pte OSTBY B C	3 yrs PS	RO 1029(8)	Some other para of RO 1029.

4. The above soldiers will be despatched from 89 Military Detention Barracks to their home District Depots for discharge under suitable escort to be arranged by the DAPM, MD 3, such escort being provided from 89 Military Detention Barracks or 33 Coy, C Pro C.

5. It is requested that after arrival at the various home District Depots the GOC-in-C, Pacific Command, or District Officer Commanding concerned, will arrange the soldier's discharge. In this connection this Headquarters has shown opposite the name of the soldier to be discharged the recommendation as to how the discharge is to be carried out by CMHQ and directly opposite this the District Officer Commanding, MD 3, has made his own recommendation as to how such personnel should be discharged which in some cases does not agree with the recommendation of CMHQ.

6. The recommendation of the District Officer Commanding, MD 3, has been made after careful review of Army Form A3104, the Review Sheet, the conduct of the soldier under sentence while in detention, the seriousness of the offence committed while on Active Services and whether or not the soldier has been wounded in the Front Line or rendered effective service in the Front Line and that his offence while serious before the cessation of hostilities, the reason for exemplary punishment does not exist to the same extent now and it is felt that an injustice would be done by having such personnel discharged under RO 1029(8) and forfeit gratuities they have earned. However, according to instructions from National Defence Headquarters the exact paragraph of RO 1029 under which the soldier under sentence is to be discharged is at the discretion of the GOC-in-C, Pacific Command, or the District Officer Commanding where the discharge of the soldier under sentence is to be carried out.

7. In cases where the District Officer Commanding, MD 3, has recommended the discharge and remission of sentence where less than one-half of the sentence has been served it is considered after review of all the relevant circumstances that in the interests of justice such soldier should be discharged and sentence remitted. The suggestion from National Defence Headquarters which states that a soldier's sentence/has been taken as a guiding principle and not as a hard and fast rule, it being considered that the suggestion of National Defence Headquarters in these cases may be varied when circumstances so warrant.

8. In the case of soldiers who have been sentenced to discharge with ignominy this is considered a material part of the sentence of a judicial tribunal and therefore the District Officer Commanding, MD 3, while recommending a reduction in the length of sentence to be served concurs in the other part of the sentence under which such soldier is discharged with ignominy under RO 1029 para 9.

9. It is requested that after arrival at the various home District Depots for discharge the GOC-in-C, Pacific Command, and the District Officers Commanding concerned will arrange for the remission of sentence of these soldiers as set out under HQC 9039-1-1 Adm 3 dated 15 June 45 which allows remission of one-half the sentence and that such remission be made effective the date of discharge.

10. The AJAG, MD 3, will prepare the necessary Order of Release and forward it to the Commandant, 89 Military Detention Barracks.

11. The DS & TO, MD 3, will issue the necessary transportation.

* may be remitted after he has served one-half of his sentence

12. The above mentioned soldiers will cease attachment to 89 Military Detention Barracks and be struck off strength 3 District Depot to the various District Depots for discharge effective the date they are despatched to their home Distric Depots in accordance with instructions received from Nationa Defence Headquarters.

13. The Commandant, 89 Military Detention Barracks, will adivse this Headquarters when the above personnel are ready for despatch in order that the GOC-in-C, Pacific Command, and the various District Officers Commanding concerned may be advised of the arrival of this personnel at least forty-eight hours in advance.

14. The Officer in charge, 2nd Echelon (Central), Brockville, will be requested by wire to forward the documents of the above mentioned soldiers immediately to the various home District Depots.

15. In cases where Army Form A3104's and Review Sheets are not available at this Headquarters, National Defence Headquarters will be requested by wire to forward the same by Special Delivery to the GOC-in-C, Pacific Command, or the various District Officers Commanding concerned.

16. After sentence has been remitted and the soldier discharged the GOC-in-C, Pacific Command, and the various District Officers Commanding are requested to make the necessary entry in Army Form A3104 and forward direct to National Defence Headquarters, in care of Major Parlee, Administration Branch, National Defence Headquarters.

" W K MacGregor, Maj"

for (W. K. MacGregor) Major,
DAAG, MD 3

mw

Copies to: Secty - DND, DOC, 1, 2, 4, 5, 6, 7, 10, GOC-in-C, Pac Comd, MD 12, Md 13, and OC District Depot 13.

1046

HQC 55- M.1652 (CMBR-1)/ecb
12 Sep 45
Case No 79

PAGE 1.

REVIEW OF SENTENCE

1. No, Rank and Name: G.32262, Pte. MacDonald, C.A.

2. Unit at date of offence: 1 CBRB, 1 CBRD - CAO - CMF

3. Charge: AA Sec 15(1) W.O.A.S. AWL - 12 days
" " " " - 46 days
" " " " - 4 days
" " " " - 3 days
" " " " - 1 day 4 hrs

6th Charge:
AA Sec 24(2) - Losing by neglect C & E to the value of $27.37

4. Place and Date of Trial: 6 Oct 44

5. Finding: Guilty of all charges except the 6th

6. (a) Sentence: 2 yrs imprisonment W.H.L.
(b) Date of Sentence: 7 Oct 44

7. Date of Confirmation: 10 Oct 44

8. Date of Promulgation: 13 Oct 44

9. Being served at MDB 89 in MD 3

(N.B. - Discharged under RO 1029 ( ) for wef).

Case No ------

(In simple cases this sheet need NOT be used - See ITEM 12).

PRECIS OF PROCEEDINGS

10. (a) Prosecution: Proved case adequately with exception of last charge.

(b) Defence: Accused testified? ~~Xxxx~~ No

Under oath? ~~Xxxx~~ No

Accused pleaded guilty of all charges except last which was thrown out when the prosecution failed to establish a prima facie case.

(c) Closing address by Defence in mitigation of punishment, etc. ~~Xxxxxxxxxx~~ By Defending Offr

This soldier has a very good record in the field but is a congenital alcoholic, and although a habitual defaulter, his absences were always initiated when under the influence of liquor.

Case No----------

CONDUCT

11. (a) Prior to conviction: Very poor

Date of enlistment: 5 Sep 39

Date of enrolment: Age: 31

(b) After conviction: Good. Has earned full remissions to date. Earliest date of release 6 Feb 46.

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

N.A.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC Reviewing Offr, etc).

CMHQ: To serve full sentence and to be discharged for misconduct.

ROP To be released before Christmas.

Reviewed by [illegible] Capt

---

14. Recommendation of the Board

Immediate Release.

Date OCT 11 1945

[illegible] Major
Secretary
Courts-Martial Board of Review

File: K.55-Mo-3912-C (DAPM)

CONFIDENTIAL

EW/EB

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

KINGSTON, Ontario, 2 Oct 45.

CENTRAL REGISTRY Army
860
OCT 4 1945
Instructions to
CS5-M-1652
CMBR 10-9-45
CMBR

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

ATTENTION: Major W.A. Stilwell

G.32262 Pte. MacDONALD C A

Ref: HQC 55-M-1652 (CMBR) d/ 1 Oct 45.

2. The case of the marginally named soldier has been reviewed at this District Headquarters and arrangements are being made to have the marginally named soldier returned to his home District Depot for a remission of his sentence and ultimate discharge from the Canadian Army. This soldier will be despatched to his home District Depot during the month of October 1945 in order that the above mentioned action may be carried out.

for (F.L. Armstrong) Brigadier, Major,
District Officer Commanding,
Military District No.3.

DEPARTMENT OF NATIONAL DEFENCE 1652
- Army -

BQC 55-
NDHQ 25 Jul (ICM)
Ottawa, Ont
1945

District Officer Commanding
Military District No 3

CONFIDENTIAL
F.G.C.M.

K[illegible]2162, Pte MacDONALD Clarence Alexander
MDB 89

Ref

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

(A E Walford),
Major-General,
Adjutant-General.

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THIS COPY FOR H.Q. C.55-M-1652
M.D. 10/MacDonald CA/1

3/

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. G.32262 Name MacDONALD, Clarence Alexander

Rank Pte Unit 1 C.B.R.Btn 1 C.B.R.D.

Charge (1st) A.A. 15 (1) - W.O.A.S. A.W.L.
(2nd) A.A. 15 (1) - W.O.A.S. A.W.L.
(3rd) A.A. 15 (1) - W.O.A.S. A.W.L.
(4th) A.A. 15 (1) - W.O.A.S. A.W.L.
(5th) A.A. 15 (1) - W.O.A.S. A.W.L.
(6th) A.A. 24 (2)- W.O.A.S. Losing by neglect ...

Date of Crime (1) 28-1-44; (2) 18-2-44; (3) 7-5-44; (4) 26-6-44; (5) 15-8-44; (6) 16-8-44

Date of Arrest (1) 9-2-44; (2) 4-4-44; (3) 11-5-44; (4) 29-6-44; (5) 16-8-44 Charge Signed 22-9-44

Orders for F.G.C.M. Brig Cmdg 1 Can Base Rft Gp CMF

Place and Date of Trial Fields & 7-10-44

Sentence Imprisonment W.H.L. 2 yrs

Date of Confirmation 10-10-44

Date of Promulgation 13-10-44

Entered in Records of J.A.G. as No. 3463

Date 17-4-45

Not Guilty on 6th Charge

Balance of sentence
remitted by Conf. Auth.

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for Judge Advocate General

Quote No.
H.Q.C.55-M-1652 (JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada

1 May 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

G.32262 Pte. Clarence Alexander MacDonald,
1 C.B.R. Btn., 1 C.B.R.D.

1. Receipt is acknowledged of your 10/MacDonald,CA/1 dated 2 May 194 5 which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

E.L. Mapt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

MM

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HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

OTTAWA, Ontario

CONFIDENTIAL

27 Apr 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

G.32262 Pte MACDONALD, C A

SUS KX ITALY

This SUS is being returned from O/S in custody and is to be posted to No 3 DD and to be committed to No 89 MDB, in accordance with HQS 8536-6 Vol 2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ Letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of **imprisonment with hard labour.**

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

3. This SUS is to be ultimately discharged with ignominy in accordance with the sentence of the Court under CARO 1029(9).

for (A E Walford)
Major-General
Adjutant-General

Encl. 3

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BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/MacDonald, CA/1

CANADIAN MILITARY HEADQUARTERS

LONDON 2 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

6.55-M-1652

G.32262 Pte MacDonald, C.A.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 7 Oct 44 for 5 offences under AA Sec 15(1). He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released, if he continues so to do, is 6 Feb 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence.

5. In view of the 5 offences of AWL for which this soldier is now serving his sentence, his previous record of 3 FGC'sM and all available reports it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para.8 of Appx to C.A.R.O. 1029, and it is so recommended. It is considered that this soldier has not misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 7 Oct 44, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

E.G. Weeks Brig

(E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters.

Enc.4.

3463

45

CMHQ 1000/76
40/P & S/808 (6739)

C O P Y

BOMBER
CONFIDENTIAL

AIR MAIL

10/MacDonald CA/1

CANADIAN MILITARY HEADQUARTERS

LONDON 2 Apr 45

The Secretary,
Department of National Defence
OTTAWA, Canada.

G-32262 Pte MacDonald, C.A.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 7 Oct 44 for 5 offences under AA Sec 15(1). He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released, if he continues so to do, is 6 Feb 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.C. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, (xxx xxxx

C O P Y

BOMBER
CONFIDENTIAL

AIR MAIL

10/MacDonald CA/1

CANADIAN MILITARY HEADQUARTERS

LONDON

2 Apr 45

The Secretary,
Department of National Defence
OTTAWA, Canada.

C-32262 Pte MacDonald, C.A.

1. The m/n soldier is now serving a sentence of 5 years imprisonment with hard labour awarded by FGCM 7 Oct 44 for 5 offences under AA Sec 15(1). He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released, if he continues so to do, is 6 Feb 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, ~~xxx~~

5. In view of the 5 offences of AWL for which this soldier is now serving his sentence, his previous record of 3 FGC'sM and all available reports it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is considered that this soldier has not misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 7 Oct 44, original A.F.A3104 in respect thereof on which the direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E.G. Weeks) Major-General,
In charge of Administration
Canadian Military Headquarters

Enc.4.

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ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS G.32262 Pte MacDonald, C.A. of 1 CBR Bn was by Field General Court-Martial held at the field convicted of the offence(x) of absence without leave (5 charges)

and by a sentence signed on the 7th day of October 1944 sentenced to undergo imprisonment with hard labour for 2 years

said sentence of imprisonment commencing on the aforesaid day, and such sentence has been confirmed by Comd., 1 Cdn Base Rft Group as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 2nd day of April 1945.

G.G. Booth (Brigadier)
Deputy Adjutant General
Canadian Military Headquarters

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RECORDED AT CMHQ IN AD 100 4C-105

CPA96 (In lieu of AFA31) 40/P & S/1098 (4930) 4/38B

FIELD GENERAL COURT-MARTIAL

RECEIVED 7 NOV 1944 JAG BRANCH C.M.H.Q.

Convened by Order of Lt Gen H. McNaughton Comd 1 CDN ARMD DIV REPL & TNG CMP dated 1 OCT 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
63262	PTE		CLARENCE ALEXANDER	MACDONALD	1 BN ICBRD

PROCEEDINGS REVIEWED (L20) 7 NOV 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Place (country) ..... on (date(s)) 6, 7 OCT

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

2C 31

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1350 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object~~ to ..... as interpreter ? Ans .....

~~The Interpreter is sworn.(1) Do you object to~~ ..... as shorthand writer ? Ans .....

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO.....(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	A.M. RUSSELL (C.O.)	1 BN ICBRD
Member	CAPT	T. HULME (C.O.)	2 BN ICBRD
Member	CAPT	T.G. BLACKSTOCK (C.O.)	3 BN ICBRD
Judge-Advocate			
Prosecutor	LIEUT	W.J. REINN (C.O.)	1 BN ICBRD
Defending Offr	LIEUT	J.H. DELLETTER (C.O.)	1 BN ICBRD

Questions by President: Is the Prosecutor a lawyer ? Ans YES Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea

..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C.

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PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. YES.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides ~~(not)~~ to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on SIXTH charge(s). The accused is ~~(are)~~ so informed, and he ~~(they)~~ change(s) his ~~(their)~~ plea(s) on SIXTH charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex. I initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him ~~(them)~~ again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, G 32262 Pte. MacDONALD, Clarence Alexander, 1 Canadian Base Reinforcement Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
A.A. Sec 16(1)

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy did absent himself without leave from 0630 hrs. 28 Jan 44 until surrendering himself at 0900 hrs. 9 Feb 44.
(Absent:- 12 days, 2 hrs, 30 mins.)

SECOND CHARGE
A.A. Sec 16(1)

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, did absent himself without leave from 1745 hrs. 18 Feb 44 until being apprehended at 1800 hrs. 4 Apr 44.
(Absent:- 46 days, 15 mins.)

THIRD CHARGE
A.A. Sec 16(1)

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, did absent himself without leave from 1815 hrs. 7 May 44 until surrendering himself at [redacted] hrs. 11 May 44.
(Absent:- 4 days, 1 hrs., 15 mins.)

FOURTH CHARGE
A.A. Sec 16(1)

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, did absent himself without leave from 0830 hrs. 26 Jun 44 until surrendering himself at 1330 hrs. 29 Jun 44.
(Absent:- 3 days, 5 hrs.)

(Cont'd on Page 2)

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Charge Sheet on G 32262 Pte. MacDonald, C.A. (Cont'd)

~~SECOND CHARGE~~
FIFTH CHARGE
A.A. SEC 15(1)

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, did absent himself without leave from 0800 hrs. 15 Aug 44 until apprehended ~~[illegible]~~ in SAVIANO at approximately 1245 hrs. 16 Aug 44. (Absent: 1 day, 4 hrs, 45 mins.)

SIXTH CHARGE
A.A. 24(2)

WHEN ON ACTIVE SERVICE,
LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES,

in that he,

In the Field, in Italy, on the 16 Aug 44 was deficient of articles of kit as under:-

		100%	75%
Anklets, web	1	.99	.74
Blouse, battle D.	1	5.25	3.93
Boots, ankle	1	5.46	4.09
Drawers, Cell.	2	.86	.64
Socks, prs.	2	.74	.54
Trousers, B.D.	1	5.39	4.04
Kit Bag	1	1.02	.75
Braces	1	.28	.21
Shaving Brush	1	.37	.27
Brush, tooth	1	.11	.08
Caps, Comforter	1	.34	.25
Holdall	1	.19	.14
Housewife	1	.17	.12
Knife, clasp	1	.86	.64
Razor, safety	1	.06	.04
Vest, cotton	2	.72	.54
Towels, Hand	2	.64	.48
Belt, web	1	.67	.50
Tins, mess	1	.35	.26
Blankets	2	6.14	4.60
Shirts, bush	1	1.75	1.31
Trousers, denim	1	2.51	1.88
Shorts, K.D.	1	1.34	1.00
Hose tops	1	.43	.32
		$36.44	$27.37

Vincent Kenna Lt-Col
(VINCENT McKENNA)
Officer Commanding,
1 Cdn Base Rft Bn., 1 C.B.R.D.

In the Field
22 Sep 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

Confirmed
(E. W. HALDENBY) Brigadier
Comd 1 Cdn Base Rft Gp
Cdn Army - CMF

In the Field
In Italy
1 Oct 44

39

FIELD GENERAL COURT-MARTIAL

(CAAO (In lieu of AFAB) and FGCM(Cons))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MMI, Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 306, 326, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G32262	Pte		Clarence Alexander	MacDONALD	1 Bn 1 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge (~~Sheet(s)~~) attached and on (*date*) 1 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial". Cwll

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~) Cwll

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ Cwll

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ Cwll

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	A M RUSSELL	(CIC)	1 Bn 1 CBRD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)		(Unit.)
Capt	T HELME	(CIC)	2 Bn 1 CBRD
Capt	T G BLACKSTOCK	(CIC)	3 Bn 1 CBRD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)		(Unit.)
Lieut	J J MURPHY	(CIC)	2 Bn 1 CBRD

~~JUDGE-ADVOCATE.~~ Cwll

(Rank.)	(Must be named, if any. RP 106.)		(Unit.)

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.) (E. W. HALDENBY) Brigadier (Rank.)

Date 1 Oct 44

Commanding 1 Cdn Base Rft Gp-CMF
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

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eOe MEDICAL OFFICER'S CERTIFICATE eOe

I hereby certify that I have this day examined

No. 6 32262 Rank Pte. Name McDonald C.A.

and in my opinion is fit to undergo trial by

Field General Court Martial

Date 6-10-44

John [illegible] Capt.
(Medical Officer)

37

B.2. Statement by the accused with reference to charge & fwd

When I went away on the night of the 10th inst. I had no intention of staying away and therefore I left my hat on my bed.

35

ADJOURNMENT.

AT 1300 HRS THE COURT ADJOURN UNTIL 0930 HRS ON THE 7 OCT 44

ON THE 7 OCT 44 AT 0930 HRS THE COURT RE-ASSEMBLES PURSUANT TO ADJOURNMENT PRESENT THE SAME MEMBERS AS ON THE 6 OCT 44

PRESIDENT.

34

Evidence in the case of

D. 3.

G 32262 Pte McDonald, E.A. 1 C.B.R.Bn 1 C.B.R.D.
(Both Charge)

First Witness for the Prosecution

G 17515 Sgt. Richard, J.A. 1 C.B.R.Bn. 1 C.B.R.D.
having been duly sworn states:

On 15th Aug 44 at 0800 hrs I called the roll of number 2 Coy. and found Pte McDonald, E.A. absent. I now recognise to the accused now in court, absent I marked him absent as of 0800 hrs 15th Aug. 44.

The next time I saw the accused was in the company orderly room but I cannot remember the date I saw him there. I take all parade roll calls of number 2 Coy. That is I take reveille and tattoo roll-calls. The accused has not been present for any roll-call since 15th Aug. 44.

When a soldier is found to be absent his kit is turned into Q.M. stores on the following day, & be inventoried. This was done with the accused's kit.

Cross-exam.

In the C.B.R. quarters there is a guard system. The responsibility of the kit-orderly is to guard the men's kit, and he is held responsible for any kit that is found to be missing. When a man is evacuated to hospital his kit is immediately turned into Q.M. stores. When a man is AWOL we give him one day to get back. If he does not come back then, we put his kit in Q.M. stores.

By the Court

The accused's kit was inspected on the 16th Aug 44. I know the kit was inspected because Pte Jones

D. 3. the C.Q.M.S. that the inspection (W.P.) [illegible] (2)
& the C.Q.M.S. that the accused was absent
then on 16th Aug. I turned in his kit.
(R.P. 83 B. has been confirmed with)

Second Witness for the Prosecution. } (1903) S.Q.M.S. Hamblin, A.W.R. 1 C.B.R.Bn.
1 C.B.R.B.
having been duly sworn states:

I am C.Q.M.S. of number 2 Coy 1 CBRBn.
Number 2 company is the C.Q. company. ~~Pte McDonald when I was recognising as the accused was in court was reported & he was not as a result of his report~~

On 16th Aug we the company orderly sergeant reported to me and as a result of his report he and I picked up the kit of Pte McDonald whom I now identify as the accused ~~in~~ in court. We picked the kit up on 16 Aug we. When I inspected the kit I found the articles listed on this sheet of paper. ~~[illegible]~~
Prosecution submits list of clothing and equipment marked Exhibit ~~A~~ J

(~~[illegible]~~ When I inspect a soldier's kit I make of a list of articles actually missing at that time and when he returns I mark off the articles he brings back with him. This was done in the case of the accused. On 30 Aug we I made a check of the articles brought back by the accused. On that date I took the accused & the Q.M. store and exchanged the clothing he was wearing. ~~I took the articles~~

~~[illegible] the accused signed the list~~ NR

~~Another witness list marked exhibit~~ *

5.

Prior to 15 Aug 40 the accused was the best of my knowledge and according to my records, fully equipped. ~~The price of the list of shortages~~ NR

Cross-exam.

When a soldier comes to 1 GBRB he is put through B.M. stores and equipped. The accused came to 1 G.B.R.B. before I. There was no report as to any kit deficiency in the case of the accused. The company holds a kit inspection every Saturday morning. I have no record of Saturday kit inspection. I only keep a record of kit shortages handed in to me by the N.C.O. carrying out the kit inspection. I have a book showing the scale of issue for each soldier and this book was used when I checked the accused's kit. This book showed the summer scale of issue. The accused was A.W.L ~~on account~~ when I made the first inspection. The second inspection is made when a soldier returns. This was done in the case of the accused.

By the court

~~The kit notes exhibit "X"~~ I have the soldier's kit signature on M.& M. 503.

R.P. 93 was complied with.

R.P. 86 (a) G.B.M. of Hamilton recalled by court and questioned. Exhibit T is a list of articles found deficient on 30 Aug 40 which is the same list as made on 16 Aug less articles returned by the accused.

(R.P. 93 was complied with)

3 2

Ref. accused v. the Court

D. C.

The accused is charged with having by neglect lost clothing and equipment. With the evidence already heard I firmly believe that he is unjustly charged. ~~First, witness Sgt Richard who called of the parade was when a man is AWL~~ From the witness statement I gather that loss was taken of the kit of a man who is AWL in companion with a man who is expected to civil. I don't see why this should be. Both men have the same kit and all articles are Government Property, which should be looked after in the same manner whether a man is evacuated civil, ~~[illegible]~~ or is AWL.

If the accused had not previously ~~inspected~~ inspected it up until 15th Aug. I and myself, "How did the L.G.M.S. know the accused was missing or was over in kit, and therefore how could he issue a just kit to this man."

When the kit inspection was done on the 15th Aug. it could be very probable that the accused had washing outside barracks.

Another thing that amazes me is that the kit inspection was done by the L.G.M.S. where there were no witnesses and the accused was not present.

To sum up, I believe that the kit inspection was unjustly done and that the accused did not lose by neglect his clothing and equipment.

H. Pelletier Lieut

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Prosecution v. the Court.

1

D. C.

The company knows that when a man goes to hospital his kit will not be needed immediately, therefore it is picked up at the first opportunity. Soldiers in reinforcement bns. are reported A.W.L. often when they are engaged elsewhere, also short absences are common. The A.P.M. is a busy enough man in a reinforcement company and there must be a time lapse to establish the fact that a man is definitely absent. A lapse of one day is not too long. I submit that the prosecution has established a case of losing by neglect. — The accused left A.W.L. on 15th leaving his kit laid out on his bed. This in itself establishes a case of losing by neglect without reference to Military law.

W. Jas. Irvin Lieut

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PLEA IN MITIGATION

C-32262 Pte MacDonald C. G. joined the Canadian Army on Sept 5th 1939. He came overseas Dec 19th 1939 and came to Italy to join his regiment the Carleton & York Regiment in Nov. 1943, at Campobasso.

With his regiment he was through the heavy fighting for Ortona and on that front proved himself to be a brave soldier in the attacks - patrols - or when holding the line.

Pte MacDonald married in England where his wife still lives. He has a step-son who is now serving the Merchant Navy.

Alcool has always been the cause of all his troubles - as whenever he would be under the influence of liquor he would overstay a leave and stay A.W.L. - This does not date from just yesterday. He had the misfortune of being born of alcoolic parents and today he suffers from this.

I recommend him to the clemency of the Court and ask that you do anything in your power so that this man has a heboard so as to readjust him to a sphere where he "should" can better do his duty.

H. Pellatt Lieut.

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EXHIBIT. J.

D-3

16/8/44

Kit Deficiencies of 632262 Pte MacDonald C

		Cost	Value
1 Anklets pr		99	74
1 Blouse BD		5 25	3 93
1 pr Boot ankle		5 46	4 09
2 Drawers cel		86	64
2 pr Socks		74	54
1 Trousers BD		5.39	4 04
1 Kit Bag		1 02	75
1 pr Braces		28	21
1 Shaving Brush		37	27
1 Brush Tooth		11	08
1 Cape Comforter		34	25
1 Holdall		19	14
1 Housewife		17	12
1 Knife Clasp	100% - 36 44	86	64
1 Razor	75% - 27 47	06	04
2 Vest cotton		72	54
2 Towels hand		64	48
1 Belt webb		67	50
1 Tins mess		35	26
2 Blankets		6.14	4 60
1 Shirt Bush		1 75	1 31
1 Trousers Linen		2 51	1 88
1 Shorts K.D		1 34	1 00
1 Hose tops		43	32
Total		36 44	27 47

I am familiar with the regulation prices and certify the above correct. This list covers total deficiencies as of 30 Aug 44 when relief inspected

Hamilton
CQMS "A" Coy

NOTE. THE ABOVE DOES NOT INCLUDE ITEMS MAN WAS WEARING ON RETURN OF AWL

KR-D. 493.

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Summary of Evidence

in the case of

G 32262 Pte Clarence Alexander Macdonald a soldier of the Canadian Army Overseas, placed on active duty.

All evidence to be taken under oath by order of the Commanding Officer.

1st Witness

C 65572 Cpl Richards R. G. having been duly sworn states:

I am C65572 Cpl Richards R. G. Qual. judicially known clerk of 1 Bde 1 CARD. I produce Part II Order Carleton & Yorks Regt No 12 dated 12 Oct 44, which states that G32262 Pte Macdonald C.A. was A.W.L. from 0630 hrs 25 June 44 and returned at 0900 hrs 4 Oct 44. I also produce Carleton & York Regt Part II Order No 22 dated 25 Mar 44 in which G 32262 Pte Macdonald C.A. was S.O.S. on December 11 Mar 44 having been declared illegally absent from 1781 hrs 18 Feb 44 by a court of inquiry. ~~I also produce [illegible] of the court of inquiry which [illegible] Pte Macdonald C.A. to have been illegally absent from 1781 hrs 18 Feb 44 and was [illegible] at 1900 hrs 10 Mar 44~~ I now produce Carleton & York Regt Part II Order No 26 dated 14 Apr 44 showing G32262 Pte Macdonald C.A. T.O.S. on apprehension from desertion at 1100 hrs 4 Apr 44. I also produce Carleton and York Regt. Part II Order No 42 dated 8 June 44 showing G32262 Pte Macdonald C.A. as A.W.L. from 1615 hrs 7 May 44 and returned from A.W.L. 2000 hrs 11 May 44. I also produce X Carleton & York Regt Part II Order No 744 dated 5 Jul 44 showing G32262 Pte Macdonald C.A. as A.W.L. from 0720 hrs 26 June 44

Found: returned from A.W.C. at 1330 hrs 29 Jan 44. I produce also a certificate of apprehension in accordance with A.D. Sec. 163(4)(j) covering G32262 Pte MacDonald C.A. who was arrested at Sarnia at 1241 hrs. 16 Aug 44 and properly signed by D.A.P.M. Commanding 69 Special Investigation Section C.M.P. These exhibits are marked in order of production "A" "B" "C" "D" "E" "F" & "G". These documents reached me through regular military channels.

Cpl. Richards Pte.

The accused declines to question the witness.

Next Witness

G 17815 Sgt Richard J.A. having been duly sworn says:

I am G17815 Sgt Richard J.A. C.O.S. No. 1 Coy (Carleton & York Regt) I am I C.O.D. On the 15 Aug 44 at 0800 hrs. I paraded the Carleton & York Coy and called the roll. I found G32262 Pte MacDonald C.A. absent. I marked him absent as of 0800 hrs 15 Aug 44. Since that time Pte MacDonald has not been present at any reveille, parade or tattoo roll call. The next time I saw Pte MacDonald was in Coy Orderly Room 25 Aug 44. I recognize Pte MacDonald as the accused in question.

Sgt Richard J.A.

The accused declines to question the witness.

Witness

G19037 C.Q.M.S. Hamblin A.W.R. Laundry being duly sworn states:

I am C.Q.M.S. No 2 Coy (Carleton & York), 1 Bn 1 CARD. I examined the kit of G22262 Pte Macdonald C.A. on 16 Aug 44 and again on his return from being an absentee and found on the second inspection on the 30 Aug 44 that he was deficient of Articles of Clothing, equipment and Regimental necessaries to the value of $56.44 being the 100% vocab value & $27.47 being the 75% vocab value. I produce as Exhibit "A" a list of the Macdonald's kit deficiencies.

C.Q.M.S. Hamblin A.W.R.

The accused declines to question the witness.

The Part II Order No 12 (Carl & York Regt) dated 16 Feb 44, the Part II Order No 22 (Carl & York Regt) dated 26 Mar 44, the Declaration of a Court of Inquiry, the Part II Order No 42 dated 5 June 44 of Carl & York Regt, the Part II Order X Kind Carl & York Regt No 74 dated 5 Jul 44, the Certificate of Arrest dated 16 Aug 44, referred to by the Witness Cpl Birrell J.C. and also Deficiencies of Kit list, referred to by C.Q.M.S. Hamblin A.W.R., have all being produced, read over, shown to the accused and marked Exhibits 'A' 'B' 'C' 'D' 'E' 'F' 'G' & 'H', respectively and initialled by myself and attached to the Summary.

Quartermaster Capt.
Officer detailed to take Summary

Question to the Accused.

Do you wish to make any statement or to give evidence under oath? You are not obliged to do so, but any statement you make or any evidence you give will be taken down in writing and may be given in Evidence.

Answer by the Accused

I reserve my defence.

I certify that the foregoing Summary of Evidence was taken down by me in the presence of the accused and that rules of procedure 44 (1)(a)(b)(f) and (g) have been complied with.

Quartermaster Capt.
Officer detailed to take the Summary of Evidence

Dated this 3rd day of Oct 44

Exhibit B
Jacu.

Last Order
No. 11
13 Feb 44

CARLETON & YORK REGIMENT
PART II ORDERS ISSUED BY
CANADIAN SECTION G.H.Q. 2nd ECHELON - CMF

No. 12
18 Feb 44

"A" OFFICERS

1. STRENGTH DECREASE to Carlt & York R.
(a) SOS Carlt & York R./X-3 List w.e.f. 12 Feb 44.
Lieut. J.F. MacRae

2. ATTACHED
(a) Ceases to bet att'd f.a.p. from 1 Coy. C.D.C. w.e.f. 7 Feb 44
Capr. R.S. Kinney.

"B" OTHER RANKS

3. STRENGTH INCREASE
(a) TOS Carlt & York R from Carlt & York R X-4 List (4 Bn) w.e.f. 10 Feb 44.
(Auth: ECH/490 d/7 Feb 44)
G20041 Pte. McLean, G.H.
G27346 Cpl. Smith, J.E.
L74783 Pte. Ruthven, R.A.
G18132 Pte. Jaffery, D.D.
G17492 Cpl. Hottot, G.
G20048 Cpl. Cleary, W.G.

(b) TOS Carlt & York R. from RCOC X-3 List w.e.f. 8 Feb 44. (Auth: 1 Div/2 CIB/1 d/12 Feb 44
F40819 Sjt. Cole, T.W. (Armourer "B") (RCOC)

(c) TOS Carlt & ~~York R.~~ from Carlt & York R. X-4 List (4 Bn) w.e.f. 9 Feb 44
(Auth: ECH/490 d/7 Feb 44.
G18101 Pte. Agnew, J.
G23298 Pte. Hathaway, B.W.

(d) TOS Carlt & York R. from Carlt & York R. X-4 List (4 Bn) w.e.f. 5 Feb 44.
(Auth: ECH/329 d/30 Jan 44.
B44250 Pte. Lavoie, T.Z.
G20040 Pte. Ridsough, R.P.
F65288 Pte. McInnis, J.J.
G22915 Pte. Ross G.W.
F77497 Pte Thorne, A.
A57997 Pte. Guyett, R.D.
G18071 L/Cpl Storey, C.W.
G22150 Pte. Johnston, P.H.
F87973 Pte. McIsaac, D.H.
F86976 Pte. Smith, J.M.
H95486 Pte Billington, A.D.
G21069 Pte Soucy, J.F.
G22061 L/Cpl Ramsay, N.J.

(e) TOS Carlt & York R. on app. from des. w.e.f. 1230 hrs 26 Jan 44.
F2860 Pte. Harriot, E.F.
E6244 L/Cpl. Hickey, L.J.

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3. STRENGTH INCREASE

(e) TOS Carlt & York R. from Hast & D.E. Regt X-4 List (4 Bn) w.e.f. 31 Jan 44. (Auth: ECH/329 d/30 Jan 44)

C6098 Pte. Ashley, A.D.
C77808 Pte. Bolton, K.H.
C5184 Pte. Bradford, R.H.
C4668 Cpl. Bullied, F.R.
A82160 Pte. Bergen, G.
C4786 Pte. Cochrane, H.
C5196 Pte. Cunningham, C.
D75305 Pte. Edmonds, M.E.
A116087 Pte. Fields, A.J.E.
D137146 Pte. Fisher, J.P.
C115033 Pte. Gemmill, K.E.
C21752 Pte. Gillmor, J.H.
C4601 Pte. Green, P.S.
C78121 Pte. Groso, J.D.
B132621 Pte. Huntingdon, R.V.J.
B133625 Pte. Hutton, I.D.
C65545 Pte. Ireland, J.J.
D127704 Pte. Joyce, J.J.
C4596 Pte. Kehoe, E.D.
B135991 Pte. Law, F.G.
C78092 Pte. Lean, W.N.
A102026 Pte. Lee, S.J.
B112340 Pte. MacKenzie, G.W.
D81122 Pte. McCallum, W.E.
D86176 Pte. McGuire, H.J.
B56932 Pte. Macay, S.G.
C81009 Pte. Mallory, J.C.
C5628 Pte. Martin, M.W.
C65257 Cp. Matthews, H.I.
C32082 Pte. Menzie, L.C.
H53458 Pte. Michel, T.E.
F51988 Pte. Moore, A.W.
B21160 Pte. Newton, A.
B139028 Pte. Nicholson, J.L.J.
B134838 Pte. North, R.N.
C40902 Pte. Oliver, G.J.
A105238 Pte. Penfold, H.E.
C120392 Pte. Peterson, G.A.
F30348 Pte. Pinch, R.G.
B134939 Pte. Pitchford, W.G.
C4985 Pte. Potter, C.R.
C54451 Pte. Ritchie, O.C.
D118223 Pte. Rocklin, S.A.
C101995 Pte. Rolland, R.L.
L103985 Pte. Ronning, A.H.
D137276 Pte. Rose, A.M.
C120381 Pte. Ryan, F.S.
C80125 Pte. Sabourin, O.J.
B46901 Pte. Salisbury, E.C.
C4362 Pte. Scott, G.
B132280 Pte. Sharpe, J.A.
F41617 Pte. Shaw, L.D.
B143981 Pte. Sparks, D.H.
C79295 Pte. Stewart, D.J.
D81940 Pte. Stewart, D.W.

3. STRENGTH INCREASE - cont'd

(f) B135225 Pte. Sullivan, R.W.
D65260 Pte. Templeton, S.
B136837 Pte. Todd, A.W.
C40696 Pte. Trick, N.J.
B143978 Pte. Weaymouth, R.J.
C101793 Pte. Westbrook, D.A.
L64770 Pte. Wheeler, W.O.
D82146 Pte. White, J.K.T.
D86118 Sgt. Williams, F.A.H.
C6212 Pte. Wright, R.T.
C120064 Pte. Young, L.
C65473 Pte. Guerin, G.J.

(g) TOS Carlt & York R. from H. & P.E.R. X-4 List (4 Bn) w.e.f. 2 Feb 44.
(Auth: ECH/329 d/30 Jan 44.)
D24191 Pte. Krakenberg, E.
B114568 Pte. Murray, J.
C4617 Cpl. Woodcox, N.C.
D71481 L/Cpl. Laing, J.H.
C77181 Pte. Larin, G.L.
D139522 Pte. Sullivan, L.J.
L2969 Pte. Corner, T.
A116425 Pte. O'Connor, P.W.M.

(h) TOS Carlt & York R. from Carlt & York R. X-4 List (4 Bn) w.e.f. 31 Jan 44.
(Auth: ECH/329 d/30 Jan 44)
G17656 Pte. Grant, S.J.
F60550 Pte. Meek, J.H.
G18067 Cpl. Paul, P.J.

(i) TOS Carlt & York R. from Carlt & York R. X-4 List (4 Bn) w.e.f. 2 Feb 44.
(Auth: ECH/329 d/30 Jan 44.)
G18100 Pte. Lyons, R.L.
G22299 Pte. Briggs, J.W. (Dvr Mech C)
G18744 Pte. Cloney, C.T.

(j) TOS Carlt & York R. from Westminster R. X-4 List (4 Bn) w.e.f. 2 Feb 44.
(Auth: ECH/329 d/30 Jan 44)
K50789 Pte Yellowbird, N.
K

(k) TOS Carlt & York R. from Hast. & P.E.R. X-4 List (4 Bn) w.e.f. 5 Feb 44.
(Auth: ECH/329 d/30 Jan 44)
C78053 Pte Allen, A.H.
C101963 Pte Lepage, C.

(l) TOS Carlt & York R. from General List X-4 List (5 Bn) w.e.f. 5 Feb 44.
(Auth: ECH/329 d/30 Jan 44)
G22857 Pte. Cripps, M.

(m) TOS Carlt & York R. from Carlt & York R. X-4 List (4 Bn) w.e.f. 9 Feb 44
(Auth: ECH/49-/ 7 Feb 44)
G49135 Pte Polchies, H.G.

(n) Amendment - Part II Order No 6 para 6(g) d/28 Jan 44 insofar as it refers to the undermentioned is cancelled:
A50445 Pte McDonald, D.M. (Cook C)

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3. STRENGTH INCREASE - cont'd

(e) TOS Carlt & York R. from Carlt York R. X-4 List (4 Bn) w.e.f. 5 Jan 44 (Mis Inf)

A88304 Pte. Witham, W.A. (Motor Mech "B")

4. STRENGTH DECREASE

(a) SOS Carlt & York R. to Carlt & York R. X-3 List w.e.f. dates shown.

G19322	Pte. Leblanc, H.C.	25 Dec 43
G18843	Pte. Chaisson, G.	25 Dec 43
G18148	Cpl. Collins, T.N.	25 Dec 43
G17143	Pte. Flanagan, J.N.	30 Dec 43
F58164	Pte. Doyle, J.J.	30 Jan 44

(b) SOS Carlt & York R. to Carlt & York R. X-4 List (4 Bn) w.e.f. 5 Feb 44. (Auth: 1 Div/3 CIB / 1 d/5 Feb 44.)

F38442	Pte. Barron, E.A.	(Clerk "C")
A21348	Pte. Jeannotte, M.N.	(Tech Sto. "C")

(c) SOS Carlt & York R. to Hast & P.E.R. w.e.f. 8 Feb 44. (Auth: 1 Div/3 CIB/1 d/7 Feb 44)

C5184 Pte. Bradford, R.H.
C4786 Pte. Cochrane, H.
A118033 Pte. Gemmill, K.E.
B133606 Pte. Hutton, I.D.
C40902 Pte. Oliver, G.J.
C70833 Pte. Allen, A.H.
A116097 Pte. Fields, A.J.E.
C98131 Pte. Green, G.D.
C65545 Pte. Ereland, J.J.

(d) SOS Carlt & York R. to Carlt & York R. X-3 List w.e.f. dates shown:

F32935	Pte Edwell, E.C.	30 Sep 43.
G18413	Pte Lavigne, A.	5 Feb 44
G63163	Pte. Greer, H.R.	5 Feb 44
G18135	Pte. Stilwell, H.S.	5 Feb 44
G21025	Pte. Lynch, A.J.	6 Feb 44
G22820	Pte. Fliger, S.J.	6 Feb 44
F29658	Pte. Mosher, S.W.	7 Feb 44
G17322	Pte McKinley, D.R.	7 Feb 44
F60661	Pte. Chevrie, W.R.	6 Feb 44
A102732	Pte. Bass, H.	8 Feb 44
G18211	L/Cpl. Briggs, H.R.	8 Feb 44

(e) SOS Carlt & York R. to RCOS X-3 List w.e.f. 6 Feb 44.

F40819 Sjt. Cole, T.W. (Armourer "B")

(f) SOS Carlt & York R. to Carlt & York R. X-3 List w.e.f. dates shown:

G21038	Cpl. Therien, E.	12 Feb 44
G22915	Pte. Ross, G.E.	7 Feb 44
D56273	Pte. Rigazio, D.	7 Feb 44
C4668	Cpl. Bullied, F.E.	9 Feb 44
E30208	Pte. Warren, J.W.	9 Feb 44
G53668	Pte. Thompson, E.J.	9 Feb 44
F2860	Pte. Harriet, R.F.	9 Feb 44
G18843	Pte. Chaisson, G.	7 Feb 44
F59894	Pte. MacKenzie, H.E.	10 Feb 44
G18220	L/Cpl. Leblanc, E.J.	10 Feb 44
G18309	Cpl. Taylor, J.	18 Jan 44

4. STRENGTH DECREASE - cont'd

(f)

D82646	Pte. Stewart, J.A.	10 Feb 44
G19012	Pte. Morse, A.D.	9 Feb 44
G49135	Pte. Polchies, H.G.	10 Feb 44
D86244	L/Cpl. Hickey, L.J.	12 Feb 44
F51385	Pte. MacDonald, P.A.	12 Feb 44

(g) SOS Carlt & York R. to 1 CIB W/S RCOC w.e.f. 1 Feb 44. (Auth: 1 Div/3 CIB/1 d/1 Feb 44)
F51989 Pte. Moore, A.W.
A332 Pte. Stephens, B. (Tech Sto " C")

(h) SOS Carlt & York R. to 3 CIB S/S RCOC w.e.f. 1 Feb 44. (Auth: 1 Div/3 CIB/1 d/1 Feb 44)
A102026 Pte. Lee, S.J.

(i) SOS Carlt & York R. to West N.S.R. w.e.f. 1 Feb 44. (Auth: 1 Div/3 CIB/1 d/1 Feb 44)
A23304 Pte. Whitham, W.A. (Fitter NV "B")

(j) ~~XXXXXXXX~~ Amendment: Part II Order No 6 Para 7(k) d/24 Jan 44 insofar as it refers to the undermentioned is cancelled.
G17625 L/Sjt. Gauvin, J.

(k) Amendment - Part II Order No 6 Para 7(b) d/24 Jan 44 insofar as it refers to the undermentioned is amended to read "X-9 List" and by deleting "N.E.T. Wing (8 Bn)".
G10087 CSM Lawson, V.I.
G19052 RQMS Webb, C.H.

(l) Amendment - Part II Order No 4 Para 4(z) d/13 Jan 44 insofar as it refers to the undermentioned is amended to read "L/Cpl".
G18071 Pte Storey, C.W.

5. ATTACHED

(a) Cease to be att. from 1 Coy C.D.C. f.a.p. w.e.f. 7 Feb 44.
D105010 Sjt. Floyd, J.R.
M66565 Pte. Whitford, L.

(b) Att for all purposes except regt'l duties from 1 Cdn Div Sigs w.e.f. 6 Feb 44
B114970 Sgmn. Allen, J.A.
B40196 Sgmn. Jesshope, W.E.W.
B32652 Sgmn. Neavers, E.

(c) Att f.a.p. from 9 Fd Amb RCAMC w.e.f 6 Feb 44
G50159 Pte. Walls, P.W.

(d) Amendment - Part II Order No 9 Para 5(a) d/4 Feb 44 insofar as it refers to the undermentioned is amended to read "B32652 Sgmn Neavers, E."
B32652 Sgmn Nevers, E.

6. ABSENT WITHOUT LEAVE

(a) AWL from 2000 hrs 27 Jan 44. Still absent 2000 hrs 4 Feb 44 (8 days) Ceases to be AWL 1115 hrs 5 Feb 44.
G17446 Pte. Bateman, J. G17549 Pte. Thompson, M.T.
G63145 Pte. London, G.G.

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6. ABSENT WITHOUT LEAVE - cont'd.

(b) AWL from 0630 hrs 28 Jan 44. Still AWL at 0630 hrs 5 Feb 44 (8 days)
Ceases to be AWL at 0900 hrs 9 Feb 44
G32262 Pte. MacDonald, C.A.

(c) AWL from 0630 hrs 28 Jan 44. Still AWL at 0630 hrs 5 Feb 44.)8 days)
Ceases to be AWL at 2300 hrs 8 Feb 44.
G18082 Pte. Wallace, C.J.

(d) AWL from 0630 hrs 28 Jan 44. Still AWL at 0630 hrs 5 Feb 44 (8 days)
G17766 Pte. Doucette, J.A.

7. APPOINTMENTS

(a) Appointed A/Corporal w.e.f. 9 Feb 44.
G18101 Pte. Agnew, J.

(b) Appointed A/L/Corporals w.e.f. date shown
G20040 Pte. Rideough, R.P. 5 Feb 44
G17712 Pte. Cameron, E.J. 1 Feb 44

(c) To be L/Corporal w.e.f. 2 Nov 43
G18071 A/L/Cpl.(A/Cpl.) Storey, C.W.

(d) Amendment - Part II Order No. 9 Para 7(d) d/4 Feb 44 insofar as it refers to the undermentioned is amended to read "w.e.f. 30 Jan 44".
G21010 Pte.(A/L/Cpl.)LaPointe, J.R.

(e) Amendment - Part II Order No. 9 Para 7(c) d/4 Feb 44 insofar as it refers to the undermentioned is amended to read "G27290 Cpl. (A/L/Sjt.)(A/Sjt.) Close, R.W.
G27290 Cpl.(A/L/Sjt.)Close, R.W.

8. REVERSIONS

(a) Reverts to the permanent grade of Private and to draw regt'l rate of $1.50 per diem w.e.f. date shown on being SOS.
F29852 A/L/Cpl. Mosher, S.W. 7 Feb 44
G18153 A/L/Cpl. Stilwell, H.S. 5 Feb 44

(b) Ceases to hold the appointment of A/Cpl. on SOS w.e.f. 15 Dec 43.
G18071 L/Cpl.(A/Cpl.) Storey, C.W.

(c) Amendment - Part II Order No. 4 Para 9(b) d/13 Jan 44 insofar as it refers to the undermentioned is cancelled.
G18071 A/Cpl. Storey, C.W.

9. TRADESMEN'S RATE OF PAY

(a) Amendment - Part II Order No. 6 Para 16(a) d/28 Jan 44 insofar as it refers to the undermentioned is cancelled.
A21348 Pte. Jeannette, M.W. (Tech.Stor"C")

(b) Amendment - Part II Order No. 9 Para 11(a) d/4 Feb 44 insofar as it refers to the undermentioned is cancelled.
F28442 Pte. Barron, E.A. (Clerk "C")

10. PUNISHMENTS

(a) On 3 Feb 44 forf. 1 days pay for an offence under Sec 15(1) A.A. AWL from 1500 hrs 1 Feb 44 to 0930 hrs 2 Feb 44 (18 hrs 30 m). Forf 1 days pay under FR&I 149(1)(a).
C5196 Pte. Cunningham, C.

10. PUNISHMENTS - cont'd

(b) On 4 Feb 44 was tried by F.G.C.M.
CHARGE - Sec. 15(1)A.A. - AWL from 0900 hrs 1 Jan 44 to 0800 hrs 14 Jan 44. (12 days 23 hrs)
FINDINGS: Guilty
SENTENCE: To undergo detention for a period of 6 months.
CONFIRMATION: Finding and sentence confirmed by Comdr. 3 Cdn. Inf. Bde. w.e.f. 7 Feb 44.
CLOSE ARREST: Placed under close arrest from 0800 hrs 14 Jan 44 till date of trial.
FORFEITURES: Forf 13 days pay under FR&I 149(1)(a)
" 21 days pay under FR&I 149(1)(c)(i)
" 182 days pay under FR&I 149(1)(b)
Total Forf: 216 days pay.
D56460 Pte. Lamarre, G.

(c) On 4 Feb 44 was tried by F.G.C.M.
CHARGES: Sec. 15(1) A.A. AWL from 0900 hrs 1 Jan 44 to 1000 hrs 15 Jan 44 (14 days 1 hr)
FINDING: Guilty
SENTENCE: To undergo detention for a period of 120 days.
CONFIRMATION: Finding and sentence confirmed by Comdr 3 CIB w.e.f. 7 Feb 44.
CLOSE ARREST: Place under close arrest from 1000 hrs 15 Jan 44 to date of trial.
FORFEITURES: Forf. 15 days pay under FR&I 149(1)(a)
" 19 days pay under FR&I 149(1)(c)(i)
" 120 days pay under FR&I 149(1)(b)
Total Forf: 154 days pay.
F76040 Pte Sullivan, R.H.

(d) On 4 Feb 44 was tried by F.G.C.M.
CHARGE: Sec 15(1)A.A. AWL from 1700 hrs 29 Dec 43 to 2100 hrs 3 Jan 44. (5 days 4 hrs)
FINDING: Guilty
[redacted]
SENTENCE: To suffer field punishment for a period of 45 days.
CONFIRMATION: Finding and sentence confirmed by Comdr 3 CIB w.e.f. 7 Feb 44
CLOSE ARREST: Placed under close arrest from 2100 hrs 3 Jan 44 to date of trial.
FORFEITURES: Forf 32 days pay under FR&I 149(1)(c)(i)
" 5 days pay under FR&I 149(1)(a)
" 45 days pay under FR&I 149(1)(b)
Total Forf: 82 days pay.
G27578 Pte. LeBlanc, C.J.

(e) On 4 Feb 44 was tried by F.G.C.M.
CHARGE: Sec 12(1)(a) A.A. AWL from 1500 hrs 29 Dec 43 to 1400 hrs 2 Jan 44 (3 days 23 hrs)
FINDING: Not guilty of desertion but guilty of absence without leave.
SENTENCE: To undergo imprisonment with hard labor for a period of 6 months.
CONFIRMATION: Finding and sentence confirmed by Comdr 3 CIB w.e.f. 7 Feb 44
CLOSE ARREST: Nil
FORFEITURES: Forf 4 days pay under FR&I 149(1)(a)
" 182 " " " FR&I 149(1)(b)
Total Forf: 186 days pay.
F95632 Pte. Loomer, E.W.

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10. PUNISHMENTS - cont'd

(f) On 5 Feb 44 was tried by F.G.C.M.
CHARGES: Sec 9(2) A.A.
Sec 8(2) A.A.
FINDING: Guilty on both charges.
SENTENCE: To be imprisoned with hard labour for a period of 6 months.
CONFIRMATION: Finding and sentence confirmed by Comdr. 3 CIB w.e.f. 7 Feb 44.
CLOSE ARREST: Placed under close arrest from 1500 hrs 8 Jan 44 to date of trial.
FORFEITURES: Forf 27 days pay under FR&I 149(1)(c)(i)
" 182 " " " FR&I 149(1)(b)

Total Forf: 209 days pay.
G22940 Pte. Sutton, A.G.

(g) On 4 Feb 44 was tried by F.G.C.M.
CHARGE: Sec 15(1)A.A. AWL from 1430 hrs 25 Dec 43 to 1400 hrs 17 Jan 44 (23 days 30 mins)
FINDING: Guilty.
SENTENCE: To undergo detention for a period of 120 days.
CONFIRMATION: Finding and sentence confirmed by Comdr. 3 Cdn Inf Bde w.e.f. 7 Feb 44.
CLOSE ARREST: Place under close arrest from 1500 hrs 17 Jan 44 to date of trial.
FORFEITURES: Forf. 24 days pay under FR&I 149(1)(a)
" 17 " " " FR&I 149(1)(c)(i)
" 120 " " " FR&I 149(1)(b)

Total Forf: 161 days pay (Reduced to Private)
G22889 Pte (A/L/Cpl) Lousier, J.M.

(h) On 2 Feb 44 was awarded 7 days F.P. and a forf of 7 days pay for an offence under Sec 19 A.A. - drunkenness (2nd offence) Forf 7 days pay under FR&I 149(2).
L2969 Pte. Corner, T.

(i) On 2 Feb 44 was awarded 9 days F.P. and a forf of 9 days pay for an offence under Sec 8(2) A.A. Forf 9 days pay under FR&I 149(2).
A116425 Pte. O'Connor, P.W.M.

(j) On 4 Feb 44 was awarded 7 days F.P. and a forf of 7 days pay for an offence under Sec 15(1) A.A. AWL from 0630 hrs 25 Jan 44 to 2210 hrs 3 Feb 44. (9 days 15 hrs 40 m) Forf 10 days pay under FR&I 149(1)(a). Forf 7 days pay under FR&I 149(2). Total forf: 17 days pay.
F60182 Pte. Hayes, G.A.

(k) On 27 Jan 44 was awarded a severe reprimand for an offence under Sec 15(1) A.A. AWL from 0900 hrs 25 Jan 44 to 1530 hrs 25 Jan 44. (6 hrs 30 M) Forf 1 days pay under FR&I 149(1)(a).
G19079 Sjt. Burridge, A.E.

(l) On 4 Feb 44 was awarded 7 days F.P. and a forf of 7 days pay for an offence under Sec 15(1) A.A. AWL from 0630 hrs 25 Jan 44 to 2210 hrs 3 Feb 44. (9 days 15 hrs 40 m) Forf 10 days pay under FR&I 149(1)(a). Forf 7 days pay under FR&I 149(2) Total Forf: 17 days pay.
G53724 Pte Jenkins, W.G.

10. PUNISHMENTS - Cont'd

(m) On 28 Dec 43 was reduced to the permanent grade of Private and to draw rate of $1.50 per diem for an offence under Sec 19 A.A. - drunkenness (1st offence)(Also published in 1 Div. Tps (12)Coy RCASC Part II Order No. 4 d/22 Jan 44)
A4050 A/L/Cpl. Brown, E.C. (1 Div Tps (12) Coy. RCASC)

11. NEXT OF KIN

(a) Next of kin has been verified a s shown:
G27313 Pte. Lockhart, G.R.
2071276
ACW 1 Lockhart, L.M.L.
Medical Trg Depot
R.A.F. Sidmouth
Devon, England

12. HONOURS AND AWARDS

(a) The undermentioned having qualified for the award of the Canadian Volunteer Service Medal and clasp effective 10 Jan 44 are entitled to wear the ribbon and clasp.

G19113 Pte. Michaud, A.
G19188 A/L/Cpl. Rious, R.
C5196 Pte. Cunningham, C.
G18177 Pte. Schriver, I.L.
G19115 Pte. Michaud, R.
F60440 Pte. Mossey, J.F.
B46901 Pte. Salisbury, K.C.
F65282 Pte Ward, A.E.
C65257 Cpl. Matthews, R.I.
D71719 Pte. Morency, J.C.A.
F65656 Pte. MacLeod, R.E.
G17345 Pte. Grant, C.A.
G18338 Pte. McLenaghan, R.F.
G28441 Pte. Senechal, C.E.
G27254 Pte. Tingley, J.E.
G17745 Pte. Flowers, R.C.
G17498 Cpl. Johnson, G.H.
C31542 Pte. Pelletier, L.
G17773 L/Cpl. Faulkner, A.G.
K75127 Pte. Kidner, A.A.
G60771 Pte. Trecartin, G.H.
C4362 Pte. Scott, G.

(b) The undermentioned, having qualified for the award of the Canadian Volunteer Service Medal and clasp effective date shown, are entitled to wear the ribbon and clasp.

A23372	Pte. Suddick, J.A.	27 Jan 44
F31202	Pte. Roberts, G.L.	25 Feb 44
B42069	Pte. Torch, F.J.	17 Jan 44
A102844	Pte. Lefevre, N.L.	27 Feb 44.

T. B.A.

F.A. Boyle Lieut
for (C.O. MacInnes)Lieut.
for Officer i/c
Canadian Section G.H.Q. 2nd Echelon - CMF.

Certified true copy of Carleton & York Regiment Part II Order No. 12, d/18 Feb 44.

(J.E. Campbell)Captain,
for Officer i/c.,
Cdn Sec GHQ 2 Ech AAI.

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Exhibit B
Gen. ✓

Certified True Copy
(J.E. Campbell) Captain,
for Officer i/ c.,
Cdn Sec GHQ 2 Ech AAI.

Note Para 3(c)

Last Order No. 21 24 Mar 44

CARLETON & YORK REGIMENT
PART II ORDERS ISSUED BY
CANADIAN SECTION G.H.Q. 2nd ECHELON - CMF

This Order No. 22 25 Mar 44

"A" OFFICERS

1. STRENGTH INCREASE
(a) TOS from Training Increment Carlt & York R. 21 Mar 44
Auth: Cdn. O2., 1 Div ARS/ 651
Lieut. J.A. Poirier

"B" OTHER RANKS

2. STRENGTH INCREASE
(a) TOS from X-4 Lists Carlt & York R. (4 Bn.) 18 Mar 44
Auth: ECH/ 1 CD/ 878
G17573 Pte. Gibson, A.C.
G27234 L/Cpl. Dorchester, A.A.
G20082 Pte. Jackson, E.R.
H56932 Pte. Macey, S.G.
G22915 Pte. Ross, G.J.
F32598 Pte. MacNeil, M.J.
G20061 L/Cpl. Ramsay, N.J.
G29001 Pte. McDonnan, A.H.

(b) TOS from R 22eR 19 Mar 44
Auth- Postil Order 186
B47916 Pte. Dodd, J.S. (Fitter MV 'A') RCOC

3. STRENGTH DECREASE
(a) SOS to H.Q. 3 Cdn. Inf Bde 19 Mar 44
Auth- Comdr 3 Cdn. Inf Bde
A102844 Pte. Lefevre, N.L.

(b) SOS as Des 11 Mar 44 having been dec. illegally absent from 0800 10 Feb44 by a C of I Deficiencies of kit - unknown
A110425 Pte. O'Connor, R.W.M.
L 2969 Pte. Cormier, T.

(c) SOS as Des. 11 Mar 44 having been dec. illegally absent from 1745 hrs 18 Feb 44 by a C of I Deficiencies of Kit - unknown
G23479 Pte. Ayre, A.C.
G32262 Pte. MacDonald, C.A.

(d) SOS to R 22e R 19 Mar 44
Auth- Postil Order 186
B94996 Pte. Cadieux, L.S. (Fitter MV "B") RCOC

(e) SOS to X-6 Carlt & York R. (Believed POW) 1 Mar 44
Auth- DCL 213 p 10 d/ 23 Mar 44
G17803 Pte. Mackay, R.W.
G17136 Pte. Gaudet, K.L.

(f) SOS to X-6 Carlt & York R. (Believed killed) 1 Mar 44
Auth: DCL 213 p 10 d/ 23 Mar 44
L36417 Pte. Cote, J.D.

(g) SOS to X-3 Lists Carlt & York R. dates shown.
G20052 Pte. Breau, E.J. 17 Mar 44
G27716 Pte. Wright, A.H. 18 Mar 44
A116152 Pte. Jennett, C.J. 18 Mar 44
G20039 Cpl. Loftus, W.E. 18 Mar 44

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3. STRENGTH DECREASED - cont'd

(g) D135991 Pte. Law, F.G. 18 Mar 44
G17023 Cpl. Sears, D.M. (Clerk "C") 20 Mar 44
G17625 Pte. Smiley, A.J. 18 Mar 44
A23372 Pte. Suddick, J.A. 18 Mar 44
A[illegible]589 Pte. Thomas, L.A. 18 Mar 44

4. ATTACHED

(a) Ceases att f.a.p. from 9 Fd. Amb. RCAMC 18 Mar 44
G93678 Pte. Clarke, H.
F102396 Pte. Arechuk, I.

(b) Att f.a.p. from 9 Fd. Amb. RCAMC 18 Mar 44
B113426 Pte. Hogan, J.V.
F10511 Pte. Tait, T.F.

(c) Att f.a.p. from H.Q. 3 Cdn. Inf Bde 14 Mar 44
B75994 A/Cpl. Edwards, J.A. Educ. Assistant.
B132132 A/Cpl. Ferguson, J.D. " "

5. ABSENT WITHOUT LEAVE

(a) A.W.L from 1800 hrs 25 Feb 44. Still absent 1800 hrs 18 Mar 44 (22nd day)
G22229 Pte. Fournier, L.J.

(b) A/L from 0005 hrs 10 Feb 44. Ret. from A/L 0930 hrs 25 Feb 44
G23094 Pte. Savoie, S.

(c) A/W from 1200 hrs 25 Feb 44. Ret from A/L 2145 hrs 9 Mar 44
G17766 Pte. Doucette, J.A.

(d) Amendment - Part II Order No. 16 para 6(a) d/ 8 Mar 44 insofar as it refers to the undermentioned is cancelled.
G23094 Pte. Savoie, S.

6. REVERSIONS

(a) Reverts to Pte. date shown. To draw daily regt'l rates of pay of $1.50
G22055 A/L/Cpl Breau, L.A. 17 Mar 44
A116155 A/L/Cpl. Jansen, J.C. 18 Mar 44

7. TRADESMANS' RATES OF PAY

(a) Granted tradesman's rates of pay Dr. Mech "C" 3 Mar 44
K100181 Pte. Perkins, K.H. Dr. Mech "C"

8. PAY AND ALLOWANCES

(a) Granted daily regt'l rate of pay of $1.40 9 Aug 43
G18197 Pte. Patrick, W.L.

(b) Granted daily regt'l rate of pay of $1.50 10 Oct 43
G18197 Pte. Patrick, W.L.

9. PUNISHMENTS

(a) On 17 Mar 44 was tried by F.G.C.M.
CHARGE: A.R. 18(2) - Alternate Charge A.R. 40
FINDING: Not Guilty. Guilty on Alternate Charge.
SENTENCE: 60 days detention.
CONFIRMATION: Finding and sentence confirmed by Comdr. 3 Cdn. Inf Bde 19 Mar 44
CLOSE ARREST: Held in close arrest from 1000 hrs 17 Mar 44 till date of trial.
FORFEITURES: Forf 60 days pay under FR&I 149(1)(b)
" 1 " " " FR&I 149(1)(c)(i)
Total forf: 61 days pay.
G18918 Pte. Cormier, M.L.

CARLETON & YORK REGIMENT
- 3 -

No. 22
25 Mar 44

10. NEXT OF KIN
(a) N. of K. has been verified as shown.
G63244 Pte. Clarkson, R.E. Mr John Clarkson (Father)
247 King St.
Fredericton
New Brunswick
CANADA

"C" TRAINING INCREMENT

11. STRENGTH DECREASE
(a) SOS to Carlt & York R. W.E. 20 Mar 44
Auth: Cdn. O2E/ I Div. ARS/ 651
Lieut. J.A. Poirier.

J.E. Campbell

(J.E. Campbell) Lieut.
for Officer i/c
Canadian Section G.H.Q. 2nd Echelon - CMF

TD/

18

Certified True Copy.

(J.E. Campbell) Captain,
for Officer i/c.,
Cdn Sec GHQ 2 Ech AAI.

Exhibit "D" Gaw

Note Para 6 Cdn Sec GHQ 2 Ech AAI

Last Order
No. 25
5 Apr 44

CARLETON & YORK REGIMENT
PART II ORDERS ISSUED BY
CDN SEC GHQ 2 ECH A.A.I.

This Order
No. 26
14 Apr 44

"A" OFFICERS

1. STRENGTH INCREASE
(a) TOS from X-4 List Carlt & York R. (1 Bn) 3 Apr 44
Demand No. 684 d/ 1 Apr 44
Lieut. H Dufour
Lieut. W.K. Dexter
Lieut. R.C. Ward

2. ATTACHED
(a) Ceases to be att from 1 Fd. Regt RCHA f.a.p. 30 Mar 44
Capt. R.W. Robertson

(b) Att from 1 Fd. Regt RCHA f.a.p. 31 Mar 44
Capt. R. Philpot
Lieut (A/Capt) A.E. Bruce

3. COURSES
(a) Returned from Sub-Unit Commander's Course and ceases to be att f.a.p. except pay to Central Mediterranean Training Centre 1 Apr 44
A/Capt. F. Normandeau

(b) Proceeded on Mountain Warfare Course and att f.a.p. except pay to School of Mountain Warfare CMF 3 Apr 44 (Duration- 3 Apr 44 to 18 Apr 44)
Lieut. H.J. Haining

4. APPOINTMENTS & PROMOTIONS
(a) Amendment - Part II Order No. 16 para 1(c) d/ 8 Mar 44 insofar as it refers to the undermentioned is cancelled.
Capt. J.D. Augherton

5. HONOURS AND AWARDS
(a) Awarded the Canadian Volunteer Service Medal and Clasp 10 Jan 44
Capt. L.A. Duplisea
Lieut. H.R. Hay
Lieut. W.T. McGrath
Lieut. J.A. Poirier

"B" OTHER RANKS

6. STRENGTH INCREASE
(a) TOS from X-4 List Carlt & York R. (4 Bn.) 30 Mar 44
Auth- ECH/1 CD/ 1023 d/ 26 Mar 44)
C75049 Pte. Lackey, C.G.
L13757 Pte. Dow, S.H.

(b) TOS from X-4 List Carlt & Yck R (4 Bn.) 1 Apr 44
Auth: ECH/1 CD/1023 d/ 26 Mar 44)
G18101 Pte. Agnew, J.
G279[illegible] Pte. Gallant, A.J.
G323404 Pte. Gray, [illegible]
G 681 Pte. Doucet, G.J.
D81122 Pte. McCallum, W.E.
F3464 Pte. Nolan, J.L.

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6. STRENGTH INCREASE - cont'd

(c) TOS from X-4 List Carlt & York R. (4 Bn.) 7 Apr 44
Auth- 2 ECH/1 Div/ 3 CIB/ 1 PO #41 d/ 6 Apr 44
F54792 Pte. MacLeod, G.W.
D139127 Pte. Paquette, R.

(d) TOS from 1 Cdn. Div Def & Emp Pl. 1 Apr 44
Auth: ECH/43/ Post CIC/1 (A7) d/ 25 Mar 44
G18178 Pte. Schriver, M.L.

(e) TOS on app from Des 1115 hrs 2 Apr 44
G18031 Pte. Cogswell, A.C.

(f) TOS from X-4 List Carlt & York R (4 Bn.) 4 Apr 44
2 ECH/1 Div/ 3 CIB/1 P.O. #8 d/ 2 Apr 44
F82379 Pte. Ahearn, J.R.
G22359 Pte. Oniasson, H. (Dr. Mech "C")
G22251 Pte. LaSalle, R.C.
G17521 Pte. McPherson, L.E.
A104193 Pte. Pinnell, W.J.

(g) TOS from X-4 List Carlt & York R. (4 Bn.) 5 Apr 44
Auth: ECH/1 Div/ 3 CIB/1 P.O. #23 d/ 4 Apr 44
E 4189 Pte. Maillet, A.

(h) TOS from X-4 List Carlt & York R. (1 Bn.) 3 Apr 44
Auth- Demand No. 681 d/ 1 Apr 44
G22210 Pte. Adams, H.J. (Carptr "C")

(i) TOS from X-4 List Carlt & York R. (1 Bn.) 4 Apr 44
Auth- Demand No. 681 d/ 1 Apr 44
F31304 Pte. Barlow, C.W.
F40998 Pte. Blenkhorn, F.L.
D127337 Pte. Bridges, V.
G18993 Pte. Bujold, L.
F57035 Pte. Campbell, R.J.
G21086 Cpl. Charette, L.
G18002 Pte. Clark, J.I.
G57064 Pte. Dickson, M.G.
G58015 Pte. Eldridge, F.C.
G17998 Pte. Giberson, G.H.
G19002 Pte. Godson, R.P.
G 8232 Pte. Hemphill, A.S.
G19238 Pte. Walker, A.B.
F86799 Pte. Bouchard, C.V.
G27131 Cpl. Bannister, C.A.
G60549 Pte. Bernard, J.
M28384 Pte. Bowden, L.
D82789 Pte. Brown, A.M.
G10346 Pte. Butler, K.A.
G63111 Pte. Charette, A.
G23313 Pte. Chouinard, A
G52336 Pte. Cook, F.W.
G27049 Pte. Dryden, E.W.
G3889 Pte. Furlotte, M.J.
G22422 Pte. Glover, R.P.
G57102 Pte. Hello, M.
G28138 CSM MacGillivray, S.L.
L12849 Sjt. Webb, J.P.
G19011 Pte. McElroy, S.P.

6. STRENGTH INCREASE - cont'd

(j) TOS on app from des 1800 hrs 4 Apr 44
G23479 Pte. Amos, A.C.
G32262 Pte. MacDonald, C.A.

(k) TOS on app from des 1045 hrs 2 Apr 44
G18070 Pte. White, G.F.

(l) Amendment - Part II Order No. 13 para 3(a) d/ 11 Mar 44 insofar as it refers to the Undermentioned is amended by adding "Dr. Mech "C"
K100181 Pte. Perkins, K.H.

7. STRENGTH DECREASE

(a) SOS Died of Wounds 10 Apr 44
Auth- DCL 228 p 6 d/ 11 Apr 44
B139028 A/L/Cpl. Nicholson, J.L.J.

(b) SOS to R 22eR 6 Apr 44
Auth- Comdr 3 Cdn. Inf Bde
E 4189 Pte. Maillet, A.

(c) SOS as a Des 6 Apr 44 having been dec illegally absent from 1300 hrs 14 Mar 44 by a C of I. Deficiencies of kit - $41.82
G17111 Pte. (A/L/Cpl) Wiseman, T.G.

(d) SOS to X-4 List Carlt & York R. (4 Bn) 31 Mar 44
Auth: 2 ECH/1 Div/3 CIB/ 1 d/ 1 Apr 44
A21348 Pte. Jeannette, M.N. (Tech Storeman "C")

(e) SOS to X-2 List Carlt & York R. on adm to 1 Cdn. Div F.P. Camp 31 Mar 44. Awarded as shown.

G18138 Pte. Beck, R.H.	16 days F.P.	28 Mar 44
G10031 Pte. Boyne, T.F.	15 days F.P.	27 Mar 44
G17766 Pte. Doucette, J.A.	28 days F.P.	28 Mar 44

(f) SOS to X-2 List Carlt & York R. 24 Mar 44 on adm to 1 Cdn. Div. F.P. Camp. Awarded as shown.

G51322 Pte. Deverenne, A.J.	2 yrs impris. with H.L.	22 Mar 44
A67997 Pte. Guyett, R.D.	2 yrs impris. with H.L.	21 Mar 44

(g) SOS to X-3 List Carlt & York R. date shown.

G22210 Pte. Adams, H.J. (Carptr "C")	3 Apr 44
F82379 Pte. Ahearn, J.R.	4 Apr 44
C101417 Pte. Baker, F.	4 Apr 44
G18915 Pte. Blanchard, L.	4 Apr 44
G22229 Pte. Briggs, J.W. (Dr. Mech "C")	27 Mar 44
B127947 Pte. Cornell, H.A.	30 Mar 44
G22359 Pte. Chiasson, H. (Dr. Mech "C")	29 Mar 44
G20068 Pte. Briggs, R.A.	30 Mar 44
F97574 Cpl. Crouse, F.C.	2 Apr 44
F 3405 Pte. Campbell, J.A.	6 Apr 44
G17015 L/Cpl. Cooper, M.	6 Apr 44
G27791 Pte. Fownes, R.H.	2 Apr 44
G28487 Pte. Estabrooks, G. R.	6 Apr 44
F35470 Pte. Goodwin, A.R.	29 Mar 44
F59786 Pte. Gallant, A.J.	30 Mar 44

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7. STRENGTH DECREASE - cont'd

(g)

G17609 Pte. Gibertson, K.H.	31 Mar 44
G60520 Pte. LaFleur, C.J.H.	2 Apr 44
C75049 Pte. Lackey, C. G.	1 Apr 44
G 7481 Pte. Marshall, L.A.	1 Apr 44
G17799 L/Cpl. Monkman, E.	29 Mar 44
C48712 Pte. Matys, A.L.	30 Mar 44
B132571 Cpl. Moore, C.L.	6 Apr 44
G19113 Pte. Michaud, A.	6 Apr 44
G17492 Cpl. Mottot, G.	5 Apr 44
L65696 Pte. Moron, L.C.	4 Apr 44
A116266 Pte. Pepper, M.O.	5 Apr 44
D71854 Cpl. Presseault, R.	4 Apr 44
G19044 Pte. Niles, H.K.	31 Mar 44
F 3464 Pte. Nolan, J.L.	2 Apr 44
K50208 Pte. Warren, J.W.	30 Mar 44
D27197 Pte. Radley, R.	30 Mar 44
G18082 Pte. Wallace, C.J.	30 Mar 44
K50053 Pte. Todd, G.W.	1 Apr 44
G13197 Pte. Patrick, W.L.	2 Apr 44
G18219 Pte. Ricker, R.L.	6 Apr 44
G17817 Pte. Ricker, E.F.	4 Apr 44
G17101 L/Sjt. Webster, M.J.	2 Apr 44

(h) AMENDMENT - Part II Order No. 25 para 6(c) d/ 5 Apr 44 insofar as it refers to the undermentioned is amended to read "16 Mar 44"
F7795 Pte. Mac Kay, W.A.

(i) AMENDMENT - Part II Order No. 6 para 7(j) d/ 28 Jan 44 insofar as it refers to the undermentioned is amended to read "7 Jan 44"
G51451 Pte. Davidson, D.J.

8. TRANSFERS

(a) Transferred from CIC to RCASC 27 Mar 44 and to remain posted to Carlt & York R. (Auth- CIC 4-6 d/ 25 May 43)
G17579 Pte. Arsenault, S.J.
F32583 Pte. MacDougall, S.

9. ATTACHED

(a) Ceases att to 4 Bn. 1 CHRD (DMA) f.a.p. 28 Mar 44
G21020 Sjt. Pelletier, A.

(b) Att to 3 L.A.D. RCOC f.a.p. 6 Apr 44
K75127 Pte. Kidner, A.A. (FITTER MV "A") RCOC

(c) Att from 3 L.A.D. RCOC f.a.p. 6 Apr 44
L10100 Pte. Hodgins, J.R. (FITTER MV "A") RCOC

[(d) Ceases att from 4 Gdn. Aux Services Sec f.a.p. on adm to hosp 5 Apr 44
M 4047 Gnr. Donovan, H.E.

(e) Cease att from 1 Fd Regt RCHA f.a.p. 30 Mar 44
B13061 Bdr. Cheevers, E.J.
K74079 Gnr. Sutton, M.V.
B 6940 Gnr. Hensley, A.C.
G 752 Bnr. Muchmore, W.J.

9. ATTACHED - cont'd

(f) Att'd from 1 Fd. Regt RCHA f.a.p. 31Mar 44
B13059 A/L/Sjt. Schultz, J.H.
M10105 Gnr. Scott, A.W.
M66609Gnr. Boudreau, G.J.
M54817 Gnr. Romaby, S.
B13085 Bnr. Rushton, W.T.
B12147 Gnr. Rowbotham, L.A.
M66606 Gnr. Duffy, E.J.
P 9332 Gnr. Goddard, L.J.

(g) Ceases att from 9 Fd. Amb. RCAMC f.a.p. 1 Apr 44
F10511 Pte. Tait, T.F.

(h) Att'd from 9 Fd. Amb. RCAMCf.a.p. 1 Apr 44
G19911 Pte. Currie, K.A.

(i) Att'd from Cdn. Div. Sigs. RCCS f.a.p. 31 Mar 44
F31970 Sgmn McLeod, A.L.

10. COURSES

(a) Ret from 6 pdr A Tk Course and ceases to be att f.a.p. to 1 Cdn. A Tk Regt RCA 31 Mar 44
G21012 Pte. Brisson, M. (DCM)
G17595 Pte. Dickson, W.T.
F76111 Pte. Lamey, S.R.
G18067 Pte. Paul, T.J.

11. ABSENT WITHOUT LEAVE

(a) AWL from 1700 hrs 16 Mar 44. Still absent 1700 hrs 7 Apr 44 (22nd day)
G27578 Pte, LeBlanc, C.J.

(b) AWL from 1300 hrs 14 Mar 44. Still absent 1300 hrs 5 Apr 44 (22nd day)
G17111 A/L/Cpl. Wiseman, T.G.

(c) AWL from 1200 hrs 29 Mar 44. Still absent 1200 hrs 6 Apr 44 (8th day)
G23201 Pte. Conway, E.G.

(d) AWL from 1100 hrs 12 Mar 44 . Still absent 1100 hrs 3 Apr 44 (22nd day.)
G21160 Pte. Newton, A.

(e) AWL from 0800 hrs 26 Mar 44. Ret from AWL 1630 hrs 27 Mar 44
F41651 Pte. Burke, R.S.

(f) AWL from 1800 hrs 14 Feb 44. Ret from AWL 1900 hrs 27 Feb 44
G18082 Pte. Wallace, C.J.

(g) Amendment - Part II Order No. 22 para 5(b) d/ 25 Mar 44 insofar as it refers to the undermentioned is amended to read "AWL from 1805 hrs 10 Feb 44. Ret'd from AWL 0930 hrs 25 Feb 44"
G23094 Pte. Savoie, S

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11. ABSENT WITHOUT LEAVE - cont'd

(h) Amendment - Part II Order No. 15 para 7(c) d/ 3 Mar 44 insofar as it refers to the undermentioned is amended to read "AWL from 1950 hrs 10 FEB 44. Still AWL 1950 hrs 18 Feb 44 (8th day)
A67997 Pte. Guyett, R.D.

(i) Amendment -Part II Order No. 15 para 7(b) d/ 3 Mar 44 insofar as it refers to the undermentioned is cancelled.
G23094 Pte. Savoie, S

12. APPOINTMENTS

(a) To be L/Sjts w.e.f. 31 Mar 44
G32062 Pte. (A/L/Sjt.) Argyle, W.E.
G18014 Cpl.(AL/LSjt.) Bauer, C.R.
F53712 Pte. (A/L/Sjt.) Little, L.J.
G17101 Cpl.(A/L/Sjt.) Webster, M.J.

(b) To be L/Corporals 31 Mar 44
G17652 Pte. (A/L/Cpl.) Blanchard, W.J.
G17419 Pte. (A/L/Cpl.) (Now A/Cpl.) Cronkhite, A.C.
G19071 Pte. (A/L/Cpl.) Drost, B.R.
G17799 Pte. (A/L/Cpl.) Monkman, P.
G18043 Pte. (A/L/Cpl.)(Now A/Cpl.) Parker, D.W.
G19188 Pte. (A/L/Cpl.) Rioux, R.
F79313 Pte. (A/L/Cpl.) White, A.C.

13. CONFIRMATIONS

(a) Confirmed in the rank of W.O.II and the appointment of CSM 26 Aug 43
F49947 Sjt. (A/CSM)(A/W.O.II) Noiles, A.F.

(b) Confirmed in the rank of Serjeant 1 Nov 43
G22508 L/Sjt.(A/Sjt.) Frenette, L.J.

(c) Confirmed in the rank of Corporal date shown.

D58042	Pte. (A/Cpl.) Allaire, M.	14 Sep 43
G18259	L/Cpl.(A/Cpl.) Collette, H.J.	29 Feb 44
G17776	L/Cpl.(A/Cpl.) Fraser, H.R.	5 Apr 44
G17969	L/Cpl.(A/Cpl.) Knowlton, D.S.	31 Mar 44
G17149	Pte. (A/Cpl.) Lockhart, F.J.	31 Mar 44
G19416	L/Cpl.(A/Cpl.) Nason, C.A.	31 Mar 44
D71854	L/Cpl.(A/Cpl.) Pressault, R.	31 Mar 44
C5639	L/Cpl.(A/Cpl.)Smelt, R.N.	31 Mar 44

(d) Confirmed in the rank of CQMS 31 Mar 44
G17986 Pte. (A/CQMS) Cahill, M.W.

(e) Confirmed in the rank of Serjeant date shown.

G27250	Cpl.(A/Sjt.) Long, H.A.	2 Apr 44
G17763	Cpl.(A/Sjt.) Cormier, Z.S.	31 Mar 44
G10067	L/Sjt. (A/Sjt.) Fulton, W.S.	31 Mar 44
G17362	Cpl.(A/Sjt.) Mann, B.B.	31 Mar 44
G17873	Cpl.(A/Sjt.) MacDonald, C.J.	31 Mar 44
G27213	Cpl.(A/Sjt.) Sprague, R.F.	31 Mar 44
G27245	Cpl.(A/Sjt.) Kirk, R.	6 Apr 44

14. PROMOTIONS
(a) Amendment - Part II Order No. 9 para 7(b) d/ 4 Feb 44 insofar as it refers to the undermentioned is amended to read "29 Nov 43"
B18259 L/Cpl. Collette, H.J.

15. REVERSIONS
(a) Reverts to Pte. 6 Apr 44 . To draw daily regt'l rate of pay of $1.50
F 3405 Pte. (A/L/Cpl.) Campbell, J.A.

(b) Reverts to Pte. 30 Mar 44. To draw daily regt'l rate of pay of $1.50
B127947 Pte. (A/L/Cpl.) Cornell, H.A.

(c) Reverts to Pte. 29 Mar 44, To draw daily regt'l rate of pay of $1.50
F35470 Pte. (A/L/Cpl.) Goodwin, A.R.

16. PAY AND ALLOWANCES
(a) Granted daily regt'l rate of pay of $1.50 date shown.
G21012 Pte. Brisson, A (DCL)
H23373 Pte. Thompson, J. 28 Aug 43
H204103 Pte. Cooling, E.J. 14 Jul 43
2 Mar 44

(b) Granted daily regt'l rate of pay of $1.40 date shown.
H23373 Pte. Thompson, J. 13 May 43
H204103 Pte. Cooling, E.J. 30 Dec 43

17. TRADESMEN'S QUALIFICATIONS
(a) Qualified Cook "C" 27 Mar 44. Auth: T.T. B. Report d/ 27 Mar 44
G17579 Pte. Arsenault, S.J.
F32583 Pte. MacDougall, S.

(b) Qualified as Fitter (Gun) "B" 31 Mar 44 Auth- T.T.B.Report d/ 31 Mar 44
G27439 Pte. McConnell, A.D.

18. TRADESMEN'S RATES OF PAY
(a) Granted tradesmen's rates of pay Dr. Mech "C" 25 Mar 44
G17438 Pte. Arsenault, J.E.
G21043 Pte. Bellefleur, L.
G17482 Pte. Grimes, D.
G17126 Pte. MacFarlane, R.A.

(b) Reverts to daily regt'l rate of pay of $1.50 24 Mar 44
G32086 Pte. Saunders, E.J.
H17807 Pte. O'Brien, F.A.

(c) Amendment - Part II Order No. 22 para 7(a) d/ 25 Mar 44 insofar as it refers to the undermentioned is cancelled.
K100181 Pte. Perkins, K.H. (Dr. Mech "C")

19. PUNISHMENTS
(a) On 29 Mar 44 was awarded a forf of 28 days pay for an offence under AA 15(1) AWL from 0930 hrs 12 Mar 44 to 2300 hrs 21 Mar 44 (9 days 13 hrs 30 m) Forf 10 days pay under FR&I 149(1)(a) Forf 28 days pay under FR&I 149(2) Total Forf: 38 days pay.
G28201 Pte. Conway, E.G.

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19. PUNISHMENTS - cont'd

(b) On 30 Mar 44 was fined $5.00 for an offence under Sec. 19 AA. (2nd offence) Fined $5.00 under FR&I 161(2)(b)
G17551 Pte. Thompson, P.E.

(c) On 22 Mar 44 was tried by F.G.C.M.
CHARGE: AA 12(1)(a) AWL from 2000 hrs 10 Feb 44 till 2300 hrs 2 Mar 44 (21 days 3 hrs)
FINDING: Guilty
SENTENCE: Two years imprisonment with hard labour
CONFIRMATION: Finding and sentence confirmed by Comdr 3 Cdn. Inf. Bde on 25 Mar 44
CLOSE ARREST: Held in close arrest from 2300 hrs 2 Mar 44 till date of trial.
FORFEITURES: Forf 22 days pay under FR&I 149(1)(a)
" 730 " " " FR&I 149(1)(b)
" 19 " " " FR&I 149(1)(c)(i)
Total Forf: 771 days pay.
G51322 Pte. Devarenne, A.J.

(d) On 21 Mar 44 was tried by F.G. C.M.
CHARGE - AA 12(1)(a) AWL from 1930 hrs 10 Feb 44 till 2300 hrs 2 Mar 44 (21 days 3 hrs 10 m)
FINDING: Guilty.
SENTENCE: Two year's imprisonment with hard labour.
CONFIRMATION: Finding and sentence confirmed by Comdr. 3 Cdn. Inf Bde. 25 Mar 44
CLOSE ARREST: Held in close arrest from 2300 hrs 2 Mar 44 till date of trial.
FORFEITURES: Forf 22 days pay under FR&I 149(1)(a)
" 730 " " " " 149(1)(B)
" 18 " " " " 159(1)(c)(i)
Total Forf: 770 days pay.
A67997 Pte. Guyette, R.D.

(e) On 23 Feb 44 was awarded $5.00 fine and 19 days F.P. and a forf of 19 days pay for offences (1) AA 15(1) AWL from 1330 hrs 3 Feb 44 to 1730 hrs 3 Feb 44 (4 hrs) (2) AA 11 - drunkenness (1st offence) (3) AA 19- drunkenness (2nd offence) Forf 19 days day under FR&I 149(2) Forf $5.00 under FR&I 161(2)(b) Total forf 19 days pay and $5.00
F59786 Pte. Gallant, E.J.

(f) Amendment - Part II Order No. 15 para 14(d) d/ 3 Mar 44 insofar as it refers to the undermentioned is cancelled.
F59786 Pte. Gallant, E.J.

(g) On 29 Mar 44 was awarded a forf of 10 days pay for an offence under AA 15(1) AWL from 0800 hrs 26 Mar44 to 1630 hrs 27 Mar 44 (1 day 8 hrs 30 m) Forf 2 days pay under FR&I 149(1)(a) Forf 10 days pay under FR&I 149(2) Total Forf: 12 days pay.
F 41651 Pte. Burke, R.S.

(h) On 29 Mar 44 was awarded a forf of 7 days pay for offences (1) AA 40 (2) AA 40(3) AA 40 Forf 7 days pay under FR&I 149(2).
G23499 Pte. Morneault, L.

19. PUNISHMENTS - cont'd

(i) On 29 Mar 44 was awarded a forf of 21 days pay for an offence under AA 15(1) AWL from 1300 hrs 14 Mar 44 to 1220 hrs 21 Mar 44 (6 days 23 hrs 20 m) Forf 7 days pay under FR&I 149(1)(a) Forf 21 days pay under FR&I 149(2) Total forf: 28 days pay.
B18197 Pte. Patrick, W.L.

20. MARRIAGE

(a) Married with permission to Miss Elizabeth Dorothy Wilson at Blackpool, Lancs, England on 2 Sep 42
D24191 Pte. Krakenberg, E.

21. NEXT OF KIN

(a) Next of kin has been verified as shown
F 41651 Pte. Burke, R.S. Mrs Louise BURKE (Mother)
Sluice Point
Yarmouth County
Nova Scotia, CANADA

C 5196 Pte. Cunningham, C. Mrs Martha CUNNINGHAM (Mother)
33 Herchimer St.
Belleville, Ontario.
CANADA

B21018 Sjt. Couturier, P. Mrs Edith FLOURDE (Sister)
1136 Windsor Hotel
Montreal, Quebec
CANADA

22. HONOURS AND AWARDS

(a) Awarded the Military Medal 25 Dec 43
Auth- Overseas R.O. 4129
G17506 Pte. (Now A/L/Cpl.) LeBlanc, L.
G19397 Pte. Hathaway, EW

(b) Awarded the Canadian Volunteer Service Medal and Clasp date shown.

G50929 Pte. Boreland, B.W.	7 Mar 44
A116243 Pte. Boudreau, C.T.	2 Apr 44
F89002 Pte. Brown, G.F.	10 Jan 44
A116154 Pte. Cecile, W.H.	25 Feb 44
G17587 A/Cpl. Belanger, E.	10 Jan 44
G17361 Pte. Bernard, D.A.	10 Jan 44
F65904 Pte. Bose, F.L.	5 Apr 44
G28309 Pte. Brown, E.J.	10 Jan 44
F 3405 A/L/Cpl. Campbell, J.A.	3 Mar 44
B133199 A/Cpl. Crawford, D.C.	22 Mar 44
F32211 Pte. Lookman, E.	2 Mar 44
B132571 Cpl. Moore, C.L.	7 Mar 44
D135262 Pte. Williams, G.T.	30 Jan 44
A102732 Pte. Beno, H.	22 Feb 44
G17483 Pte. Guitar, R.J.	10 Jan 44
G29030 Pte. Stairs, E.A.	11 Mar 44
B130802 Pte. Baird, C.J.	5 Feb 44
F60447 Pte. McDonald, W.H.	10 Jan 44
A104238 Pte. Haines, R.J.	26 Feb 44

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22. HONOURS AND AWARDS - cont'd

(b)

G50275	Pte. Poitras, E.J.	21 Mar 44
F95936	Pte. Smith, C.E.	10 Jan 44
C 6369	Pte. Head, R.A.	10 Jan 44
G23529	Pte. Landry, H.	10 Jan 44
K100181	Pte. Perkins, K.H.	10 Jan 44
A21936	Pte. Moore, A.	10 Jan 44

NOT TRAINING INCREMENT

23. STRENGTH INCREASE

(a) TOS from X-4 List Carlt & York R. (1 Bn.) 3 Apr 44
Auth: Demand T.1/18 d/ 1 Apr 44
Lieut. K.A.W. MacKenzie.

B.T. Saunders
(B.T. Saunders) Capt.
for Officer i/c
Canadian Section G.H.Q. 2nd Echelon - AAI

TBA

Exhibit "F" Gen

Certified True Copy.

(J.E. Campbell) Captain,
for Officer i/c.,
Can Sec GHQ 2 Ech AA I.

Note Para 5 (b)

Last Order
No. 41
6 Jun 44

CARLETON & YORK REGIMENT
PART II ORDERS ISSUED BY
CAN GEN GHQ 2nd ECH -AAI

This Order
No. 42
8 Jun 44

"A" OFFICERS

1. STRENGTH INCREASE
(a) TOS from A-4 List Carlt & York R. (1 Bn.) 29 May 44
Auth- Demand No. 70 d/ 28 May 44
Lieut. F.C.J. Black
Lieut. C.B. Harper
Lieut. N.L. Leitch
Lieut. C.N. Mackie

2. APPOINTMENTS & PROMOTIONS
(a) To be A/Captain 24 May 44
Auth- 1000:3c d/ 25 May 44
Lieut. H.J. Haining

(b) To be A/Quartermaster 11 May 44
Auth- CECH-42/Obsv/1/a(MS) d/ 28 May 44
Lieut. C.R. Segee

(c) Vacates the appointment of Quartermaster 10 May 44
Auth- 1000:3c d/ 1 May 44
Capt F.L. Corcoran

"B" OTHER RANKS

3. STRENGTH INCREASE
(a) TOS from A-4 List Carlt & York R. (1 Bn.) 29 May 44
Auth - Demand No. 70 d/ 28 May 44
G10023 Cpl. Acker, F.D.
F56231 Pte. Gogan, A.F.
F35184 Cpl. Dearman, C.J.
G17205 Sjt. Jones, H.
G17785 Pte. Lane, H.E.
G22421 Cpl. Lanteigne, V.J.
G28413 Pte. Strong, L.H.
B41365 Cpl. Gannam, F.A.
G18441 Sjt. Watling, J.A.

(b) TOS from A-4 List Carlt & York R. (1 Bn.) 29 May 44
Auth- Demand No. 71 d/ 28 May 44
G20004 Sjt. Tapley, J.G.

(c) TOS from A-4 List Carlt & York R. (1 Bn.) 29 May 44
Auth- Demand No. 72 d/ 28 May 44
C 6117 Cpl. Hunter, A.E.
D96328 Cpl. Penrice, F.W.
B 3811 Pte. Waters, G.C.

(d) TOS from A-4 List Carlt & York R. (1 Bn.) 1 Jun 44
Auth- Demand No. ARS/265 d/ 27 May 44
G18138 Pte. Beck, A.H.
G51346 Pte. Friars, C.A.
G17223 L/Cpl. Jones, E.P. (Dr. Mech "C")
B135798 Pte. Perryman, T.E. (Mot Mech "C")
G17023 Cpl. Sears, D.E. (Clerk "C")

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3. STRENGTH INCREASE - cont'd

(e) TOS from A-4 List Carlt & York R. (1 Bn.) 1 Jun 44
Auth- NCO/124 d/ 29 May 44
G19037 CQMS Hamblin, A.R.
A102860 L/Cpl. Revell, J.H.
G19416 Cpl. Mason, C.A.

(f) Amendment - Part II Order No. 12 para 3(e) d/ 18 Feb 44 insofar as it refers to the undermentioned is cancelled.
F 2860 Pte. Harriet, E.F.

4. STRENGTH DECREASE

(a) SOS Killed in Action 23 May 44
Auth- DCL 275 P 4 d/ 3 Jun 44
G51446 Pte. Horne, I.A.

(b) SOS Killed in Action 23 May 44
Auth- DCL 275 P 46 d/ 3 Jun 44
G22061 L/Cpl. (A/Cpl.) Ramsay, N.J.

(c) SOS to A-2 List Carlt & York R. 13 Apr 44 on adm to Central Jail House Avellino. Awarded 2 years imprisonment on 13 Apr 44
L2969 Pte. Corner, T.

(d) Amendment -Part II Order No. 11 para 5(d) d/ 13 Feb 44 insofar as it refers to the undermentioned is cancelled.
F2860 Pte. Harriett, E.F.

5. ABSENT WITHOUT LEAVE

(a) AWL from 0430 hrs 31 May 44
F2860 Pte. Harriet, F.E.
F3551 Pte. LeBlanc, S.L.

(b) AWL from 1815 hrs 7 May 44. Ret. from AWL 2000 hrs 11 May 44
G32262 Pte. MacDonald, C.A.

(c) AWL from 0800 hrs 26 May 44. Ret from AWL 1700 hrs 30 May 44
B112340 Pte. McKenzie, G.W.

(d) AWL from 0530 hrs 23 May 44. Ret from AWL 1030 hrs 25 May 44
G 4761 Pte. Gilliland, A.W.

(e) AWL from 0900 hrs 1 Jan 44. Ret from AWL 1230 hrs 26 Jan 44
F 2860 Pte. Harriet, E.F.

(f) Amendment - Part II Order No. 37 para 7(e) d/ 27 May 44 insofar as it refers to the undermentioned is cancelled.
G32262 Pte. MacDonald, C.A.

6. PAY AND ALLOWANCES

(a) Granted daily reg'l rate of pay of $1.50 3 Jun 44
C 5795 Pte. Terrish, C.J.

7. PROMOTIONS

(a) To be A/Sergeants date shown.
B63879 Pte. James, C.R.C. (EM) 20 May 44
G27310 Pte. Kyle, E.L. (Tech Stor "C") 25 May 44
D58042 Cpl. Allaire, A. 27 May 44
D86388 Cpl. Rosen, S. 27 May 44

(b) To be A/Corporals 27 May 44
G17626 Pte. Hathaway, C. (Dr. Mech "C")
G17126 Pte. MacFarlane, B.A. (Dr. Mech "C")

8. REVERSIONS

(a) Reverts to L/Cpl. at own request 2 Jun 44
G17695 L/Cpl. (A/Cpl.) Giberson, G.T. (Clerk "C")

(b) Reverts to Pte. at own request 2 Jun 44. To draw daily regt'l rate of pay of $1.30
C 5795 Cpl. Terrich, C.J.

9. PUNISHMENTS

(a) On 2 Jun 44 was awarded a forf of 4 days pay for an offence under AA 15(1) AWL from 0800 hrs 26 May 44 till 1330 hrs 27 May 44 (1 day 5 hrs 30 m) Forf 2 days pay under FR&I 149(1)(a) Forf 4 days pay under FR&I 149(2) Total Forf 6 days pay.
F75879 Pte. Dunn, D.O.

(b) On 13 May 44 was awarded a forf of 4 days pay for an offence under AA 19 - Drunkenness (1st off) Forf 4 days pay under FR&I 149(2)
G17872 Pte. Harrison, M.J.

(c) On 1 Jun 44 was awarded a forf of 3 days pay for an offence under AA 15(1) AWL from 0800 hrs 26 May 44 till 1700 hrs 30 May 44 (4 days 9 hrs) Forf 5 days pay under FR&I 149(1)(a) Forf 3 days pay under FR&I 149(2) Total Forf 8 days pay
B112340 Pte. MacKenzie, G.W.

(d) On 13 May 44 was reduced to Pte for an offence under AA 15(1) AWL from 2130 hrs 11 May 44 till 1330 hrs 12 May 44 (16 hrs) Forf 1 days pay under FR&I 149(1)(a)
F75830 A/L/Cpl. MacNeil, J.A.

(e) On 13 May 44 was awarded a forf of 4 days pay for an offence under AA 15(1) AWL from 2130 hrs 11 May 44 to 1330 hrs 12 May 44 (16 hrs) Forf 1 days pay under FR&I 149(1)(a) Forf 4 days pay under FR&I 149(2) Total Forf. 5 days pay.
G73620 Pte. Orr, K.R.

(f) On 13 Apr 44 was tried by FGCM
CHARGE- AA 15(1) AWL from 1805 hrs 10 Feb 44 till 0200 hrs 12 Apr 44 (61 days 7 hrs 55 m)
FINDING - Guilty.
SENTENCE- To undergo 5 years penal Servitude.
CONFIRMATION - Finding confirmed but sentence commuted to read "To be imprisoned for two years"by Major Gen i/c Admn CMHQ on 30 May 44
CLOSE ARREST: Held in Close arrest from 0200 hrs 12 Apr 44 till date of trial.
FORFEITURES: Forf 730 days pay under FR&I 149(1)(b)
" 62 " " " FR&I 149(1)(a)
" 1 " " " FR&I 149(1)(c)(i)
Total Forf: 793 days pay.
L 2969 Pte. Corner, T.

10. NEXT OF KIN

(a) Next of kin has been verified as shown.
G18620 Pte. Lawrence, L. Mr James Lawrence (Brother)
185 St. Catharines St.
Halifax, Nova Scotia
CANADA

10. NEXT OF KIN - cont'd
(a) G17226 Pte. Roy, E. Mrs Amanda Vallencourt (Sister)
4 Elliott Place
Newport, Rhode Island,
U.S.A.

J. Campbell

(J.E. Campbell) Lieut.
for Officer i/c
Canadian Section G.H.Q. 2nd Echelon

TB.

Exhibit "F"

Certified True Copy.

(J.E. Campbell) Captain,
for Officer i/c.,
Cdn Sec GHQ 2 Ech AAI:

Last Order
No 73
4 Jul 44

X LIST CARLETON & YORK REGIMENT
PART II ORDERS ISSUED BY
CANADIAN SECTION G.H.Q. 2nd ECHELON A.A.I.

This Order
No 74
5 Jul 44

"A" OFFICERS

1. INTERNAL POSTINGS

(a) Posted from X 3 List to X 4 List (1 Bn) 28 Jun 44.
Lieut. W.J. Dolan

(b) Posted from X 4 List (1 Bn) to X 3 List 1 May 44.
Lieut. A.J. Robichaud

2. STRENGTH DECREASE

(a) SOS X 4 List (1 Bn) to Carlt & York R. 25 Jun 44 Auth-Cdn 02E/931 d/24 Jun 44.
Lieut. W.T. McGrath

"B" OTHER RANKS

3. STRENGTH INCREASE

(a) TOS X 3 List from Carlt & York R.

A-116154	Pte. Coolle W.H.	
G-27011	Pte. Chase R.R.	28 Jun 44
G-242174	Pte. Cooper E.L.	27 Jun 44
G-29052	Pte. Coyne J.T.	27 Jun 44
G-18815	Pte. Fradsham D.H.	27 Jun 44
F-45889	Pte. Fraser J.W.	27 Jun 44
G-39104	Pte. Savoy G.	28 Jun 44
G-17654	Pte. Tobin G.H.	27 Jun 44
G-19350	Pte. Vienneau E.	28 Jun 44
		27 Jun 44

(b) TOS X 2 List from Carlt & York R. 24 Jun 44.
G-28124 Pte. Robichaud F.X.

(c) TOS X 4 List (1 Bn) from Carlt & York R. 30 Jun 44. Auth-CLCH/43/ Post CIC/4(A2) d/28 Jun 44.
L-L03985 Pte. Ronning A.E.

(d) TOS X 3 List from Carlt & York R.

F-6 6759	Pte. Goodwin A.C.	
L-3 6399	Pte. Larson W.J.	2 Jun 44
F-3 622	Pte. MacLellan A.G.	2 Jul 44
G-1 8015	Pte. McMann L.B.	22 Jun 44
G-17 814	Pte. Richard A.J.	27 Jun 44
G-1 8066	Pte. Sacobie R.G.	2 Jul 44
D-8 2627	Pte. Vezeau J.P.	30 Jun 44
		2 Jul 44

(e) TOS X 2 List from Carlt & York R. 28 Jun 44.
G-17766 Pte. Doucette J.A. F-60182 Pte. Hayes G.A.
F-2860 Pte. Harriet E.F. F-86110 Pte. Thomas G.

(f) TOS X 3 List from 8 Bn 2 CBRD 25 Jun 44.
G-20077 Pte. Hamilton I.G. Dvr Mech C

(g) TOS X 3 List from X 9 List 25 Jun 44.
G-18044 Pte. MacDonald E.A.

(h) TOS X 3 List from Carlt & York R.
G-57122 Pte. Prosser W.C. 27 Jun 44

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3. STRENGTH INCREASE cont'd

(i) TOS X 4 List (1 Bn) from C.A.C.T.U. 28 Jun 44. Auth- C.A.C./Depots /1 d/22 Jun 44.
F-35607 Pte. Thouless H.I.

(j) TOS X 2 List from X 9 List 25 Jun 44.
G-23834 Pte. Gionet A.

(k) TOS X 3 List from Carlt & York R. 29 Jun 44.
G-17521 Pte. MacPherson L.B.

(l) Amendment - Part II Order No 8 para 5(a) d/28 Jan 44 insofar as it refers to the u/m is amended to read 19 Dec 43.
A-116155 A/L/Cpl. Jansen C.J.

(m) Amendment - Part II Order No 50 para 3(1) d/31 May 44 insofar as it refers to the u/m is amended by adding "Tech Storeman C"
C-5345 Pte. Bedore G.L.

4. INTERNAL POSTINGS

(a) Posted from X 3 List to X 4 List (4 Bn) 27 Jun 44.
G-14030 Pte. Walton F.E.

(b) Posted from X 4 List (4 Bn) to X 4 List (1 Bn) 27 Jun 44 Auth- Cdn O2B/ARS/313 d/11 Jun 44.
G-42095 Pte. Breau L.J. G-14030 Pte. Walton F.E.
G-32175 Pte. Dickson A.R.

(c) Posted from X 3 List to X 2 List 20 Jun 44 re adm to B Mil Prisons & Detn Bks.
G-18765 Pte. Flourde L.

(d) Posted from X 2 List to X 3 List 3 Jun 44.
G-18765 Pte. Flourde L.

(e) Posted from X 4 List (1 Bn) to X 2 List on comm to 2 Cdn F.P. Camp 27 Jun 44. (awarded 2 years imprisonment 7 Jun 44)
G-28201 Pte. Conway L.G.

(f) Posted from X 5 List to X 3 List 27 Jun 44.
G-1524 Pte. Eastwick E.E.

(g) Posted from X 4 List (1 Bn) to X 3 List 27 Jun 44.
G-17244 Sgt. Carmichael J.G. G-22888 Pte. Thompson R.A.

(h) Posted from X 4 List (1 Bn) to X 3 List 28 Jun 44.
C-5345 Pte. Bedore G.L. Tech Storeman C
G-17294 Pte. Harrington C.L.

(i) Posted from X 2 List to X 4 List (1 Bn) 28 Jun 44 on rel from 2 Cdn F.P. Camp.
G-22850 Pte. Fleiger S.C.

4. INTERNAL POSTINGS cont'd

(j) Posted from X 3 List to X 4 List (1 Bn) 28 Jun 44.
G-32060 L/Sgt. Argyle W.W.
G-17533 Cpl. Chantler N.E.
A-104254 Pte. Huggin T.J. Dvr Mech C
G-18132 Pte. Jaffery C.D.
G-17499 Pte. Keays F.H.
G-4628 Pte. Keoghan E.D.
F-54992 Pte. McNeil J.W.
L-65696 Pte. Moren L.C.
G-60828 Pte. Whalen L.J.
G-18043 Cpl. Parker D.W.
G-27338 Pte. Patterson F.W. Carp B
G-18972 Pte. Payne F.H.
F-56361 Pte. Pizok M.
A-104814 Pte. Steffler M.A.
D-136837 Pte. Todd A.W.
A-102831 Pte. Vickery L.H.

(k) Posted from X 2 List to X 3 List 26 Jun 44.
G-28434 Pte. Gionet Jr.

(l) Posted from X 3 List to X 4 List (1 Bn) 29 Jun 44.
F-45863 Pte. Fottie W.C.
G-18915 Pte. Blanchard L.

(m) Posted from X 4 List (1 Bn) to X 3 List 29 Jun 44.
G-27454 Pte. Bourque J.E. Shoemaker C
L-12841 Pte. Bureau L.J.F.
G-27338 Pte. Patterson F.W. Carpt B

(n) Posted from X 4 List (4 Bn) to X 2 List 27 Jun 44 on comm to 2 Cdn F.P. Camp. (awarded 28 days F.P. 27 Jun 44).
G-17436 Pte. Marquis L.

(o) Posted from X 3 List to X 4 List (4 Bn) 19 Jun 44.
F-59786 Pte. Gallant E.J.

(p) Posted from X 4 List (4 Bn) to X 2 List 1 Jul 44 on comm to 2 Cdn F.P. Camp. (awarded 21/F.P. 1 Jul 44)
F-59786 Pte. Gallant E.J. days

(q) Posted from X 4 List (1 Bn) to X 3 List.
G-18222 Pte. Stevens P.A. 30 Jun 44.
G-18137 A/Cpl. Munn S.A. 12 Apr 44

(r) Posted from X 3 List to X 4 List (1 Bn) 30 Jun 44.
G-19079 Sgt. Burridge A.K.
G-18002 Pte. Clark J.I.
H-100430 Pte. Comber E.G.
G-18036 Sgt. DeLorey C.G.
G-22889 Pte. Lousier J.M.
G-28138 CSM MacGillivray S.T.
G-18137 Pte. Munn S.A.
K-100181 Pte. Perkins K.H. Dvr MechC
G-17230 Pte. Seelye W.B.
F-95936 Pte. Smith C.E.
G-17702 Pte. Sparks A.
C-79295 Pte. Stewart D.J.

(s) Posted from X 3 List to X 4 List (1 Bn) 1 Jul 44.
G-29030 Pte. Stairs E.A.

(t) Removed from 2 Cdn F.P. Camp to B Mil Prisons and Detn Bks 1 Jul 44.
G-28201 Pte. Conway E.G. X 2 List

(u) Removed from 1 Cdn Div F.P. Camp to 2 Cdn F.P. Camp 26 Jun 44.
G-23675 Pte. Therisult J. X 2 List

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5. APPOINTMENTS
(a) Appointed L/Cpl 20 Jun 44
G-17598 Pte. Morin L.E.

6. REVERSIONS
(a) Reverts to Pte 25 Jun 44 to draw a regt'l rate of pay of $1.50
F-2829 Pte. (A/L/Cpl) MacIntosh C.M.

(b) Reverts to Pte. 11 May 44 to draw a regt'l rate of pay of $1.50
G-18137 Pte. (A/Cpl) Munn S.A.

(c) Reverts to Pte at own request 30 Jun 44 to draw a regt'l rate of pay of $1.50
G-18043 Cpl. Parker D.W.

(d) Reverts to Pte. 10 Jun 44 to draw a regt'l rate of pay of $1.50
F-54992 A/L/Cpl. McNeil J.W.

(e) Amendment - Part II Order No 67 para 3 (a) d/23 Jun 44 inso far as it refers to the u/m is amended to read $1.50
F-89002 Pte. (A/Cpl) Brown G.F.

7. PAY AND ALLOWANCES
(a) Granted daily regt'l rate of pay of $1.50 4 Oct 43.
G-32261 Pte. McMillan R.D.

8. TRADESMENS RATES OF PAY
(a) Granted tradesmens rates of pay Dvr Mech C 2 Jun 44.
G-22967 Pte. MacDonald A.E. G-60771 Pte. Trecartin G.H.

9. ABSENT WITHOUT LEAVE
(a) AWL from 0830 hrs 26 Jun 44 Still AWL 0830 hrs 27 Jun 44 (1st day)
G-32262 Pte. MacDonald C.A.

(b) AWL from 0630 hrs 26 Jun 44 Still absent 0630 hrs 27 Jun44 (1st day)
D-71719 Pte. Morencey J.C.A.

(c) AWL from 0830 hrs 26 Jun 44 Ret from AWL 1330 hrs 29 Jun 44.
G-32262 Pte. MacDonald C.A.

10 PUNISHMENTS
(a) On 28 Jun 44 awarded a forf of 3 days pay for an off under A.A. Sec 15(1) AWL from 0815 hrs 27 Jun 44 to 1630 hrs 27 Jun 44 (8 hrs 15 Mins) Forf 1 days pay under FR&I 149(1)(a). Forf 3 days pay under FR&I 149(2). Total forf 4 days pay.
G-17057 Pte. Davidson G.M.

(b) On 27 Jun 44 awarded 28 days F.P. and a forf of 28 days pay for an off under A.A. Sec 15(1) AWL from 1330 hrs 1 Jun 44 to 0900 hrs 15 Jun 44 (13 days 19 hrs 30 mins) Held in close arrest from 1200 hrs 23 Jun 44 to date of trial. Forf 14 days pay under FR&I 149(1)(a). Forf 3 days pay under FR&I 149(1)(c)(ii) Forf 28 days pay under FR&I 149(2). Total Forf 46 days pay.
G-17436 Pte. Marquis L.

10. PUNISHMENTS cont'd

(c) On 7 Jun 44 tried by F.G.C.M.

CHARGES: A.A. Sec 15(1) AWL from 1200 hrs 29 Mar 44 to 1130 hrs 10 May 44.(41 days 23 hrs 30 mins)

A.A. Sec 24(2).

FINDINGS: Guilty on both charges

SENTENCE: 3 years penal Servitude and placed under a stop of pay of $26.27

CONFIRMATION: Findings confirmed Sentence reduced to 2 years imprisoment by Senior Officer CMHQ 20 Jun 44.

CLOSE ARREST: Held in close arrest from 1130 hrs 10 May 44 to date of trial.

FORFEITURES: Forf 42 days pay under FRAI 149(1)(a)
Forf 28 days pay under FRAI 149(1)(c)(i)
Forf 730 days pay under FRAI 149(1)(b)
Total forf 800 days pay and $26.27 under FRAI 158(1).

G-28201 Pte. Conway E.G.

(d) On 26 Jun 44 tried by F.G.C.M.

CHARGES: (1) A.A. Sec 15(1) AWL from 2359 hrs 3 Mar 44 to 1430 hrs 24 Mar 44.(20 days 14 hrs 31 mins)
(2) AWL from 1800 hrs 6 Apr 44 to 2320 hrs 27 May 44.(51 days 5 hrs 20 mins)
(3) A.A. Sec 40
(4) A.A. Sec 40
(5) A.A. Sec 40
(6) A.A. Sec 22
(7) A.A. Sec 24(2)

FINDINGS: Guilty on all charges

SENTENCE: 2 years imprisonment with hard labour and placed under a stop of pay of $67.72

CONFIRMATION: Findings and sentence confirmed by Comdr 1 CBR Gp 26 Jun 44.

CLOSE ARREST: Held in close arrest from 1430 hrs 24 Mar 44 to 1800 hrs 6 Apr 44.and from 2320 hrs 27 May 44 to date of trial.

FORFEITURES: Forf 73 days pay under FRAI 149(1)(a)
Forf 42 days pay under FRAI 149(1)(c)(i)
Forf 730 days pay under FRAI 149(1)(b)
Total forf 845 days pay and $67.72 under FRAI 158(1).

D-6778 Pte. Benoit J.A.C.A.

10. PUNISHMENTS cont'd

(e) On 28 Jun 44 awarded 28 days F.P. and a forf of 28 days pay for an off under A.A. Sec 40. Forf 28 days pay under FR&I 149(2).
G-27454 Pte. Bourque J.E.

(f) On 29 Jun 44 reduced to Pte for offences under (1) A.A. Sec 15(1) AWL from 1900 hrs 28 Jun 44 to 2200 hrs 28 Jun 44 (3 hrs) (2) A.A. Sec 11 (3) A.A. Sec 40. (to draw a regt'l rate of pay of $1.50
G-18220 L/Cpl. LeBlanc E.J.

(g) On 29 Jun 44 awarded a forf of 1 days pay for an off A.A. Sec 11 Forf 1 days pay under FR&I 149(2).
G-22889 Pte. Lousier J.M.

(h) On 1 Jul 44 awarded 21 days F.P. and a forf of 21 days pay for an off under A.A. Sec 15(1) AWL from 0800 hrs 28 May 44 to 1610 hrs 3 Jun 44. (6 days 8 hrs 10 mins) Held in close arrest from 1610 hrs 3 Jun 44 to date of trial. Forf 7 days pay under FR&I 149(1)(a). Forf 27 days pay under FR&I 149(1)(c)(ii). Forf 21 pay under FR&I 149(2). Total forf 55 days pay.
F-59786 Pte. Gallant E.J.

(i) On 29 Jun 44 awarded 14 days C.B. and placed under stop of pay of $12.61 for an off under A.A. Sec 24(2). (Loss of DND equipment) Total stop of pay $12.61 under FR&I 158(2).
G-22107 Pte. Parker V.S.

(j) On 1 Jul 44 awarded a forf of 28 days pay for an off under A.A. Sec 40 Forf 28 days pay under FR&I 149(2). 23 days of award concurrent with award of 28 days forf of pay 149(2). awarded on 26 Jun 44 vide part II Order No 72 d/29 Jun 44. Total Net forf 5 days pay.
F-41651 Pte. Burke R.S.

(k) On 28 Jun 44 awarded a forf of 3 days pay for an off under A.A. Sec 40. Fprf 3 days pay under FR&I 149(2).
A-35244 Pte. Brown H.H.

(l) On 28 Jun 44 awarded a forf of 28 days pay for an off under A.A. 40. Forf 28 days pay under FR&I 149(2).
G-18408 Pte. Guitar G. A-23372 Pte. Thompson J.

(m) Rel from 2 Cdn F.P. Camp 28 Jun 44 sentence having expired. 4 days remission earned under Rules for Mil Prisons and Detn Bks.
G-22850 Pte. Fleiger S.C.

11. STRENGTH DECREASE

(a) SOS X 4 List (1 Bn) to Carlt & York R. 27 Jun 44 Auth-CECH/17/Cts of Inq/12(18) d/23 Jun 44.
G-22441 Pte. Theriault R.A.

(b) SOS X 4 List (1 Bn) as a des 22 Jun 44 having been declared illegally absent by a Court of Inquiry from 0830 hrs 23 May 44. Def in kit of $26.27
A-67991 Pte. Chalmers M.W.

11. STRENGTH DECREASE cont'd

(c) SOS X 4 List (1 Bn) to Cape Breton Highrs X 4 List (1 Bn), 28 Jun 44. Auth-CECH/43/Post CIC/4(47) d/27 Jun 44.
F-89002 Pte. Brown G.F. x F-56111 Pte. Gillam J.E.

(d) SOS X 4 List (1 Bn) to Carlt & York R. 25 Jun 44 Auth-Cdn O2E/931 d/24 Jun 44.
H-102863 Pte. Adams A.J.
F-45671 Pte. Barton C.F.
G-28027 Pte. Berry W.H.
G-19058 Pte. Cameron W.
G-18182 Pte. Cavanaugh W.H.
G-27981 Pte. Cormier T.
G-21111 Pte. Dube A.P.
G-3889 Pte. Furlotte H.J.
G-21051 Pte. Girard R.
D-76929 Pte. Harris H.R.
G-7530 Pte. Hatfield D. Dvr Mech C
G-22675 Pte. Hobert P.J.
G-8232 Pte. Hemphill A.S.
G-20082 Pte. Jamieson E.R.
F-60431 Pte. Kelly J.E.
G-28407 Pte. LeBlanc E.J.
G-19075 Pte. MacDonald A.P.
F-2829 Pte. MacIntosh B.M.
G-18042 Pte. McIntosh M.E.
G-60920 Pte. McPhee A.H.
G-21033 Pte. Martin C.
A-102917 Pte. Mathieson A.
G-3197 Pte. Maxwell A.G.
G-63306 Pte. Mills J.A.
F-51721 Pte. Muise J.C.
D-156054 Pte. O'Brien C.J.
K-40929 Pte. Powell J.
G-54451 Pte. Ritchie O.C.
M-38261 Cpl. Safranka J.G.
G-17820 Pte. Savage E.N.
G-1247 Pte. Shoneman J.H.
G-17336 Pte. Smith C.J.
G-53688 Pte. Thompson W.J.
F-55344 Pte. Wadden J.
D-86395 Cpl. Ward W.
G-24196 Pte. White K.R. Dvr Mech C
G-18102 Cpl. Williams H.W.
G-19953 Pte. Winton J.A. Dvr Mech C
G-17887 Pte. Williams J.

(e) SOS X 5 List to Carleton & York R. 22 Jun 44 Auth- Cdn O2E/937 d/25 Jun 44.
G-17426 Pte. Gallant J.I.

(f) SOS X 3 List to Carlt & York R. 4 Jun 44 Auth-Cdn O2E/915 d/23 Jun 44.
G-4768 Pte. Walker I.A.

(g) SOS X 3 List to Carlt & York R. 22 Jun 44 Auth-Cdn O2E/925 d/23 Jun 44.
G-17766 Pte. Doucette J.A.

(h) SOS X 4 List (1 Bn) to Carlt & York R. 30 Jun 44 Auth-Demand No NCO/278 D-27 Jun 44.
G-27131 Cpl. Bannister C.A.
G-17969 Cpl. Knowlton D.S.
G-17035 A/Cpl. Maillet U.J.
G-22307 Cpl. Morin H.J.

(i) SOS X 3 List to Carlt & York R. 29 Jun 44. Auth-Cdn O2E/ARS/458 d/29 Jun 44.
G-27354 Pte. Tingley J.E.

(j) SOS X 3 List to Carlt & York R. 25 Jun 44 Auth-Cdn O2E/1011 d/30 Jun 44.
G-17345 Pte. Grant C.A.

(k) SOS X 3 List to Carlt & York R. 30 Jun 44 Auth-Cdn O2E/513 d/30 Jun 44.
G-19322 Pte. LeBlanc H.C. G-17521 Pte. McPherson L.E.

7

11. STRENGTH DECREASE cont'd

(l) SOS X 3 List to Carlt & York R. 17 Jun 44 Auth-Cdn O2E/961 d/ 26 Jun 44.
G-63326 Pte. Gionet D.

(m) SOS X 4 List (1 Bn) to Carlt & York R. 29 Jun 44 Auth- Cdn O2E/1011 d/30 Jun 44.
G-3564 Pte. MacDougall R.C.

(n) SOS X 4 List (1 Bn) to Carlt & York R. 27 Jun 44 Auth-Cdn O2E 989 d/28 Jun 44.
F-32381 Pté. Campbell J.T. B-149541 Pte. Solomon W.
A-104709 Pte. Cowan D.L.

(o) Amendment- Part II Order No 60 para 6(c) d/12 Jun 44 insofar as it refers to the u/m is amended by adding "7 Jun 44".
G-10222 Pte. Lord G.W.

(p) Amendment - Part II Order No 69 para 10(a) d/26 Jun 44 insofar as it refers to the u/m is amended to read Dvr Mech C"
G-18448 Pte. DeRoche A.

J.E. Campbell
(J.E. Campbell) Lieut.
for officer i/c
Canadian Section G.H.Q. 2nd Echelon A.A.I.

LEL

Exhibit "G"

Certificate in accordance with the Army Act Sec. 163 (1) (N)

I certify that

No G. 32262. Rank Pte. Name MACDONALD C.P.

of the CARLTON YORKS. (Canadian Army.)

was arrested at SAVIANO. at 12.45 Hrs.,

on the Sixteenth. day of August 1944.

Signature of P.M., A.P.M., or other Officer into whose custody the above named person was taken on arrest. } J. L. Wilkinson Capt.

Rank Captain.

Appointment (if any) D.A.P.M.

Commanding 69 Special Investigation Section, C.M.P.

Date 18 Aug. 1944.

PS52 967 5M 7-44

6

Ex. B. T. K.

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
G 32262	Pte.	MacDONALD, C.A.	1 C.B.R.Bn., 1 C.B.R.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial the summary may be compiled from the last conduct sheet.

The conduct sheet(s) mentioned should be produced to court with this statement but not entered to the proceedings.

† See para. 677, K.R., 1940.

* The entries herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recommended special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 15 (1)	1 times	4 times.
For A.A. Sec 40	1 times	1 times.
For A.A. Sec 15 (3)	1 times	1 times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~ gen

or

~~There are no entries in the conduct sheets of the accused.~~ gen

~~2. The accused has not been previously convicted, or~~ gen

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ gen

~~_____ beginning on the ____ day of _____.~~ gen

4. The accused has been in confinement, awaiting trial on the present charges, for ____ days in civil custody, and 38 days in military custody, making a total of 38 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~enlistment~~ gen service / attestation paper is 30

6. The date of his ~~enlistment~~ gen / attestation specified in his ~~record of service~~ gen / attestation paper is 5 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (~~is in possession of, or entitled to (state any military decoration or award)~~). gen

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated ____, and in his regiment (*or* corps *or* department) the rank of N/A dated ____

(P.1250) Wt.15832/144 125,000 6/41 A.&E.W.Ltd Gp.498

3

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G 32262 Rank Pte. Name MacDONALD, C.A. of 1 CBRBn. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	Field 11 Mar 41	A.A. Sec 15 (1) AWL from 2-9-40 until 1445 hrs. 25-9-40. A.A. Sec 15 (1) AWL from 1910 hrs. 28-11-40 until 17-1-41. A.A. Sec 15 (1) AWL from 8 Oct 40 until 2245 hrs. 22 Nov 40.	6 mos Detn.	90 Dys.
F.G.C.M.	Field 11 Nov 41	A.A. Sec 22 When in confinement escaping from #2 Guard Room at 1400 hrs. 20 Mar 41. A.A. Sec 15 (1) AWL from 1400 hrs. 20-3-41 until 2300 hrs. 16 Jul 41 (Abs: 118 dys, 9 hrs.)	9 mos Detn.	
F.G.C.M.	Field 16 Oct 42	As Sec 15 (1) AWL from 2300 hrs. 14 Jun 42 until 0945 hrs. 8 Sep 42. (Abs: 85 dys, 10 hrs. 45 mins. AA 24 (2), A.A. 22; A.A. 15 (1) AA 15 (1)	18 Mos Detn.	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22 day of Sep 1944

J.A. MacDonald Capt.

IX. The accused has served as a non-commissioned officer continuously, without reduction, to the present date. N/A

In the rank of ..... years,

In the rank of ..... years

In the rank of ..... years,

Date of Promotion

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

Previous Sheet Destroyed "C.O. Hugg rd Capt"

No G32262 Name MacDONALD, C.A. Unit Battery or Company | Corps C.I.C. | Date of enlistment 5-9-39 | GC Badges | Service or Proficiency Pay n/a | Ex B.T. | MFM 6 (AFW 122) 40/P&S/196 (3439)

Company Conduct Sheet Date of last entry in N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc "C.O. Hugg rd "Capt" | Signature

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22-3-40	Pte.		AA Sec 15 (1) AWL from 2300 hrs. 22-3-40 until 0600 hrs. 1-4-40 (Absent: 9 days, 7 hrs.)	L/C Murdock Cpl Connors	8 dys Detn.		Capt Swan	forf 18 days pay
Field	19-6-40	Pte.		AA Sec 15 (1) AWL from 2300 hrs. 19 Jun 40 until 2300 hrs. 22 Jun 40. (Absent: 3 dys.)	Sgt Peters Sgt Connors	Deprived of 14 dys pay FR&I 149 (1)(c)		Capt Swan	forf 3 dys pay 149(1)a
Field	13-7-40	Pte.		AA Sec 15 (1) AWL from 1300 hrs. 13-7-40 until 2400 hrs. 30 Jul 40 (Absent: 17 dys, 11 hrs.)	Sgt Peters Sgt Connors	14 dys Detn.		Capt Swan	forf 6 mo pay forf 43 dys pay FR&I 149 (1) (a)&(b)

(PTO

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2-9-40	Pte		AA 15 (1) AWL from 2-9-40 until 1445 hrs.25-9-40 (2) absented from 8/9-10-40 until 2245 hrs. 22-11-40 (3) AWL from 1910 hrs. 28 11-40 until 17-1-41.		10 mos Detn but 4 mos remitted by Brig F.L. Page HQ/ CBU.	11-3-41	F.G.C.M.	forf 376 days pay
Field	20-3-41	Pte.		(1) AA 22 When in confinement, escaping from #2 Guard Room at about 1400 hrs. 20-3-41. (2) AA 15 (1) AWL from 1400 hrs. 20 Mar 41 until surrendered to Civil Police at Norbury at 2300 hrs. 16 Jul 41. (Time Absent; 118 dys, 9 hrs.)		9 mos Detn. Released from Detn Bks Aldershot on 12 May 43. Rem. earned/ 90 dys.	11-11-41	F.G.C.M.	forf 118 dys pay

4

No. G32262 Name MacDONALD, CA | Sqn, Battery or Company | Corps CIC | Date of enlistment 5-9-39 | GC Badges | Service or Proficiency Pay n/a | MFM 6 (AFB 187) 40/P&S/136 (3438)

Company Conduct Sheet Date of last entry in N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 3 | Signature OC Company, etc "C.O. Huggard Capt"

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14-6-42	Pte.		(1) AA 15 (1) AWL from 2300 hrs. 14 Jun 42 until 0945 hrs. 8 Sep 42 (Abs. 85 dys, 10 hrs, 45 mins) (2) AA Sec 24 (2) (3) A.A Sec 22 (4) AA Sec 15 (1) AWL from 0610 hrs. 16 Sep 42 until 2205 hrs. 24 Sep 44 (ABS. 8 days, 15 hrs. 55 mins.)	L/S Thomas L/C Hayward CSM Shields	18 mos Detn.	16 Oct 42	F.G.C.M.	forf 95 days FR&I 149(1)a forf 30 dys FR&I 149 (1)c1 forf £10-19-1 FR&I 158 (2) forf £2-8-6 FR&I 172(8).
Field	6-12-43	Pte		AA Sec 15(1) AWL from 0900 hrs 6 Dec 43 until 0800 hrs 7 Dec 43 Time absent 23 hrs.	Sgt Pelletier J. A. Cpl Krafchek.				

OPTO

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24-12-43	Pte.		(a) WOAS Was in Foggia without a pass until apprehended at 1515 24 Dec 43 (Sec 15 (3) AA (b) WOAS Conduct to the prej. etc. on 24 Dec 43 did have a bottle of wine in his possession. Sec 40 A.A.	Doct'y	14 dys F.P. 14 dys pay FR&I 149 (2)	11 Jan 44	Lt Col WP Bristowe	18 dys pay while in Close arrest Transferred from supp sheet 25 Aug 44 H L Kp Frape Capt"

CERTIFIED TRUE COPY
FROM REGIMENTAL BOOKS IN MY CUSTODY [illegible] Capt.
Offr i/c Regt'l Books

3

STATEMENT BY THE ACCUSED

I certify having received free of charge, a copy of the Summary of Evidence, list of Witnesses, list of Exhibits and Charge Sheet.

I desire the services of an Officer to represent me at the trial.

Date 28 Sep. 44

L. A. MacDonald

CHARGE SHEET

2

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. No. Do you intend to call witnesses on your behalf? Ans. No. ~~Are they witnesses as to character only? Ans. .....~~

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 88(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(c).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is ~~(are)~~ recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ~~[illegible]~~ charge(s), being subject to confirmation, will be promulgated later.(1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? (1) Ans. No.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. A and Ex. B respectively.(2)

(1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 553. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment? (1) Ans. YES BY DEFENDING OFFICER (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty, RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 32262 PTE CLARENCE ALEXANDER MacDONALD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd	GUILTY	GUILTY	
3rd	GUILTY	GUILTY	
4th	GUILTY	GUILTY	
5th	GUILTY	NOT GUILTY	
6th Cdn	GUILTY	GUILTY	
	NOT		

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ .....(2)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 38 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO BE IMPRISONED WITH HARD LABOUR FOR TWO YEARS.

(Sgd) N/D Judge-Advocate, if any. 7 OCT 44 Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Extracts entered as No. 3963 in the Record of Courts-Martial kept in the office of the Judge Advocate-General

Date ..... (Sgd) ..... Commanding

This 11 day of Apr 1950

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... Brig

Date 10 OCT 44 Commanding COMMANDER CDN BASE REINF Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G 32262 Pte MacDonald C.A.	13-10-44	Officer Commanding 1 Bn 1 Cdn Base Reinforcement Depot

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

H.Q.C. 55-1-1653 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MAITLAND. KENNETH CHRISTOPHER A.55806 GNR.

CONFIDENTIAL H.Q.C. 55-1-1653

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and refer here "With Minutes")		
				J. A. G.	NEW FILE C.R.		APR 17 1945
				Admin	Per Request, pls return	APR	17/4/45
MAY 4 1945	7-5-45	PA		J.A.G.	Return pls.	WOF	28.4.45
JUL 5 1945	5-7-45	PA	WOF	Admin	For Requisition C.R. JUL 3 - 1945		
JUL 9 1945	9-7-45	P.A.		Admin	For Requisition R.C. JUL 9 1945		
	26-7-45	PA					
		X		I.G.M.	For Requisition C.R. AUG 29 1945		
				WGR	per required pls return	WGS	31/10/45
				CMBR	Retd Thankfully		9/10/45
				AG	Fol 53		12/10/45
OCT 22 1945	20-10-45		C.W.	Adm	Passed pls	GBR	10.11.45
OCT 27 1945	26-10-45	PA	GBS	D. Adm.	For Requisition C.R. OCT 26 1945		
DEC 20 1945	20-11-45	PA	GBS	Admin	PER B.S. DEC 20 1945		
				Admin	With Papers C.R. DEC 24 1945		
				CMBR	to note & return pls		28.12.45
JAN 8 - 1946 DEC 23 1945	7-1-46	PA	E.L.M.	JAG	To note		28 Dec 45
JUN 11 1946	11 Jun 46			DRB	For Requisition MAY 4 1946		
JAN 1 1948				WMR	PER REQUISITION DEC 3 0 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

CANADA

IN REPLY PLEASE QUOTE No. K. 55-M-1529-C (JAG)
K. 55-S-6976-C (JAG)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 22nd. Dec. 1945

The Secretary,
Dept. of National Defence,
OTTAWA, Ontario

CENTRAL REGISTRY AND CONTROL
16969
DEC 24 1945
File C55-M-1653
Charge to
Reference to Admin

REMISSIONS OF SENTENCE
Ex- A-55806 Gnr. MAITLAND, K.C.
Ex- A-104179 Pte. SEAMAN, W. G.

Herewith enclosed Remission of Sentence, together with Army Form A3104 for each of the marginally named ex-soldiers.

noted
28 Dec 45
A M Lamy
CM BR-5

(W. A. McCarter) Brigadier,
District Officer Commanding,
Military District No. 3

ENCLS.

noted
28-12-45
noted
DAC

NATIONAL BOARD
STANDARD FORM 41(2)
H.Q. 7-72-10-787

FORM FOR REMISSION, COMMUTATION OR
MITIGATION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No HQC.55-M-1653
Adm. 3(a)
District File No K.55-M-1529-C

PART I

Ex- No.A-55806 ~~xxx~~. Rank Gnr. Name MAITLAND, K.C.

Unit (Discharged)

PART II

Date of Trial: 27th. December, 1943

Charge(s): Assault occasioning actual bodily harm and shooting at persons with intent to resist or prevent his lawful apprehension

Sentence: 4 years penal servitude

Date of Sentence: 27th. December, 1943

Confirmation - (a) Authority: Maj-Gen i/c Admin. CMHQ.,

(b) Date: 15th. March 1944

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence of the marginally-named Ex-soldier after the 20th. day of December, 1945, and direct that the accused be relieved of all consequences thereof after the said 20th. day of December, 1945 and that all records be amended accordingly.

Signed at Kingston, Ontario, this 25th day of November 1945

(F. L. Armstrong) Brigadier,
District Officer Commanding,
Military District No. 3.

PART IV

P R O M U L G A T I O N

Remission promulgated and extracts taken at Collin's Bay Penitentiary
Collin's Bay, Ontario
this 20 day of December 194 5.

W. H. Craig
Officer i/c Documents
COLLIN'S BAY PENITENTIARY

(1)

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. Rank Name

Certified true Extract of Daily Orders Part II of

No. Place Date

Adjutant

CERTIFICATE OF PROMULGATION AND RELEASE

I certify that this Remission of Sentence was communicated to Ex- No. A-55806 Gnr. MAITLAND, K.C., at the ~~Kingston~~ Collin's Bay Penitentiary on the 20th. day of December, 1945 and that the said Gnr. Maitland, K.C. was released on that date.

W. H. Craig
WARDEN
~~COLLIN'S BAY PENITENTIARY~~ WARDEN
~~KINGSTON PENITENTIARY~~

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. A-55806 Gnr Maitland K.G. Unit 1 Cdn Survey ~~Regt~~ RA

Sentenced to four years penal servitude on 27 Dec 43

Age on, and date of enlistment 20 yrs 17 Nov 41 Term of service 2 yrs 1 month 6 days

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20613) Wt.44078/3278 100,000 2/42 A.A.E.W.Ltd. Gp.499 Forms/A3104/11

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	No remission	E. L. Burns LT. GEN. G.O.C. 1 CDN. CORPS.	
	No remission B/F 27 Mar 1945.	23 JUN 44 E. L. Burns (E. L. BURNS) Brigadier Deputy D.A.G. for G.O.C. 1 Can. Corps 13 NOV 1944	
	No remission Return to Canada in custody under Sentence	C. B. Booth (C. B. BOOTH) Brigadier, D.A.G., Canadian Military Headquarters. -3 APR 1945	
	Remit wef. 20th. Dec. 1945.	[illegible] Brig D.C.C., M.D. 3	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.		
A.A. Sec 41 Committing a civil offence that is to say, assault occasioning actual bodily harm, contrary to the "Offences Against The Person Act 1861"	12 Dec 43	23 Dec 43
A.A. Sec 41 Committing a civil offence, that is to say, shooting at persons with intent to resist or prevent his lawful apprehension, contrary to the "Offences Against The Persons Act, 1861"	12 Dec 43	23 Dec 43
W D Kirk Lt Col. Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
2 MAR 1944	I agree with the findings and sentence as confirmed by Maj.-General Administration. CMHQ. No leniency is recommended	W D Kirk Lt Col. 1 Can Army Pay. RCA

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
15 March 44	I recommend ~~that~~ the full sentence be carried.	J S Room Lt Col

File: K.55-M-1529-C(DAPM)

SPECIAL DELIVERY

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

SPECIAL DELIVERY
CONFIDENTIAL

KINGSTON, Ontario, 12 October, 1945.

~~xxxx

REVIEW OF SENTENCE

DATE :

FILE : 10/Maitland, K.C./1

SPECIAL REVIEW

1. NO., RANK AND NAME: A.55806 Gnr. Maitland, K.C.

2. UNIT AT DATE OF OFFENCE: 1 Cdn Survey Regt RCA.

3. AT PRESENT ON STRENGTH OF: "x2" List. 1 Cdn Survey Regt RCA.

4. DATE OF SENTENCE: 27 Dec 43.

5. AWARD: 10 years penal servitude.

6. CONFIRMED SENTENCE: 4 years penal servitude.

7. BEING SERVED AT: Italy.

8. OFFENCES: AA Sec 41 - WOAS - Committing a Civil Offence - assault occasioning actual bodily harm to a civilian, causing gash in her scalp and a cut through upper lip.

AA Sec 41 - WOAS - Committing a Civil Offence - shooting at persons with intent to resist or prevent his lawful apprehension. Shot with a Thompson Sub Machine Gun at/soldiers of the Royal Custom

8 (a) PRESENT AGE: - 23 yrs.House Guards.

9. PREVIOUS CONDUCT: - Enlisted 13 Nov 41.

Charged under AA Sec 15(1) - 4 offences.
AA Sec 11 - 1 offence.
AA Sec 10(4) - 1 offence.
AA Sec 19 - 1 offence.

Maximum punishment awarded - 22 Sep 43 - 21 dys F.P. - AA Sec 19.

10. CONDUCT WHILE UNDER SENTENCE: - Good.

11. EARLIEST DATE OF RELEASE: - 4 Sep 46.

COPY

Conf File Clr
KVC

27 CIA RO 65

KINGSTON 241038

SECTY DND OTTAWA

C-55-M-1653

RE 31 UNCLASSIFIED RETEL AG 0267 OCT 18 RECEIPT IS ACKNOWLEDGED OF RECOMMENDATIONS FOR RELEASE OF B 288 PTE AUGUSTINE HD H 1325 PTE BRENNER DJ D 57824 PTE CUDIA B A 55806 GNR MAITLAND RC W 87519 PTE HARVIE GA

DOC MD 3

241205R AW

HQC 55-M-1653
Adm 3(a)

DEPARTMENT OF NATIONAL DEFENCE

ARMY CONFIDENTIAL

AIR MAIL

OTTAWA, Ontario,
20 October 45.

District Officer Commanding,
Military District No.3,
KINGSTON, Ontario.

A-55806 Gnr. MAITLAND, K.C.
CM Board of Review
Kingston Penitentiary

Ref telegram AG 0267 dated 18 Oct 45 review.

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation: -

"Release on 20 December 1945."

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be informed of action taken.

6. **Acknowledgement by telegram requested.**

ENC:(AF A3104)

RDW/LS

DW.
(A. E. Walford)
Major-General
Adjutant-General

HQC 55- M- 1653 (CMBR-1)/ecb
7 Sep 45
Case No--------0110--

REVIEW OF SENTENCE

1. No, Rank and Name: A.55806, Gnr. Maitland, K.C.

2. Unit at date of offence: 1st Cdn Survey Regt, RCA - CMF - Sicily

3. Charge: AA Sec 41 (3 charges)
(1) Rape
(2) Assault, causing bodily harm
(3) Shooting at persons with intent to resist or prevent lawful apprehension.

AA Sec 40 - Creating a disturbance by discharging a machine gun in the house of a civilian.

4. Place and Date of Trial: In the Field - Sicily - 24 Dec 43

5. Finding: Guilty on first three charges.
Fourth charge withdrawn.

6. (a) Sentence: Ten years penal servitude.

(b) Date of Sentence: 27 Dec 43

7. Date of Confirmation: 2 Feb 44 (Charge of rape not confirmed-- sentence reduced to 4 years P.S.)

8. Date of Promulgation: 23 Feb 44

9. Being served at Kingston Penitentiary in MD -3----

(N.B. - Discharged under RO 1029 ( ) for
wef).

Case No _____

(In simple cases this sheet need NOT be used - See ITEM 1g).

PRECIS OF PROCEEDINGS

10. (a) Prosecution: Evidence adduced proved that on night of 13 Dec 43 accused assaulted a civilian, both with his fists and rifle, that he created a disturbance in two civilian homes, that he was drunk, and that he fired his machine gun at persons attempting to apprehend him. There is some evidence of rape, but it is uncorroborated.

(b) Defence: Accused testified? Yes ~~No~~

Under oath? Yes ~~No~~

Testified that he we nt to town early in the evening, became completely intoxicated, lost his companions that he went to town with and remembers nothing else until "awakened" in gaol.

(c) Closing address by Defence in mitigation of punishment, etc. ~~XXXXXXXX~~ By Defending Offr

Soldier unaccustomed to drinking Italian wine, also suffering from V.D.S. which caused him great mental strain. Record of man good and no indications of any abnormal sexual tendencies heretofor.

 Case No----------

CONDUCT

11. (a) Prior to conviction: Fair

Date of enlistment: 13 Nov 41

Date of enrolment: 14 Age:

(b) After conviction: Good, Has earned full remissions thus far. Earliest date of release 4 Sep 46.

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

N.A.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC Reviewing Offr, etc).

CMHQ: To serve full sentence and be discharged for misconduct.

RO: To be released before Christmas. Soldier has otherwise good record and his mental state prior to his crime may have produced his abnormal reactions.

Reviewed by [illegible] Capt 53

---

14. ~~Decision~~ Recommendation of the Board:

Release on 20 Dec 45

Date: 12 Oct 1945.

H. A. Stalwell Maj

~~Chairman/Member~~/Secretary.

Courts Martial Board of Review

DEPARTMENT OF NATIONAL DEFENCE
- Army -

BQC 55- M-1653 (ICM)

NDHQ Ottawa, Ont

25 Jul 1945

District Officer Commanding
Military District No 3
Kingston, Ont.

CONFIDENTIAL
F.G.C.M.

A-55806 - Gnr MAITLAND K C

Ref K.S. 674(4):-

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford),
Major-General,
Adjutant-General.

57

CONF

K.S. 674(A)

RE/LB 3

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

KINGSTON, Ontario, 6th July, 1945

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

A.H.Q. 22-ITALY G.O. 131/44
No. 89 P.R.D. Fort Henry, KINGSTON, Ont.

Reference H.Q.S. 8536-6 Vol. 3 Adm 3(b)2 dated 25th June, 1945.

2. Please be advised that the under mentioned soldiers discharged from the Canadian Army at Kingston, Ontario on this date and were immediately re-committed to Kingston Penitentiary after sentence.

H.288	Pte.	AUGUSTINE, H.A.
B.143298	Pte	CLARKE, N.P.
B.75202	Pte	FRASER, F.S.
A.11881	Pte	GROOM A.C.
A.11516	Pte	LeCLAIR J.R.
A 55806	Gnr.	MAITLAND, K.G.
A 23309	Pte.	McLELLAN H.W.
A 30556	Pte	SAWYS A.H.
A.104179	Pte	SHARAF W.G.

3. For your information, please.

Major
For (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No. 3.

Noted and filed

SECRET

KINGSTON, ONTARIO
2815008 JUN 45

A.G.
ACTION

2345

SECRET

DOC MD 1 INFO DEFENSOR

RELET MB 674 DATED 25 JUNE 1945 FROM THIS HEADQUARTERS THE FOLLOWING SOLDIERS UNDER SENTENCE BEING DESPATCHED TO DISTRICT DEPOT 1 AND WILL ARRIVE LONDON ONT 2114 HRS 4 JULY 1945. REQUEST TRAIN BE MET ON ARRIVAL AND SOLDIERS UNDER SENTENCE PLACED IN DIST DEPOT 1.

A. 106077 KIRLORION R

A. 11516 LECLAIRE JE

A. 23309 MCLELLAN HW

A. 55806 MAITLAND WU

A. 117436 SMITH M

OFFICER IN CHARGE SECOND ECHELON CENTRAL BROCKVILLE HAS BEEN REQUESTED TO DESPATCH DOCUMENTS DIRECT TO DISTRICT DEPOT 1.

ADDED CMDG 1 RPTD DEFENSOR

CMDG THREE

34160/DN/2822220 JUN 45

noted & filed
49

THIS COPY FOR H.Q. C.55-M-1653
M.D. 10/Maitland KC/1

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. A.55806 Name MAITLAND. Kenneth Christopher

Rank Gnr Unit "A" Bty 1 Cdn Survey Regt RCA

Charge (1st) A.A. 41 - When in a place not within ~~his~~ H.M.S. dominions ...

(2nd) A.A. 41 - Committing a civil offence, that is to say, assault ..

(3rd) A.A. 41 - Committing a civil offence, that is to say, shooting..

(4th) A.A. 40 (alt) - Conduct ~~to~~ the prejudice ...

Date of Crime All 12-12-43

Date of Arrest Charge Signed 22-12-43

Orders for ~~D.C.M.~~ F.G.C.M. ~~Maj~~ Brig Cmdg D.D.M.S. 1 Cdn Corps

Place and Date of Trial Field 24-12-43 & 27-12-43

Sentence Penal Servitude 10 yrs

Date of Confirmation 2-2-44

Date of Promulgation 23-2-44

Entered in Records of J.A.G. as No. 3462

Date 28-4-45

MEMO Finding on 1st Charge not Confirmed. Sentence confirmed and ~~remitted~~ 6 yrs of sentence remitted ~~xxxxxx~~ by Conf Auth and directed that ~~not~~ part of sentence not exceeding 2 yrs of sentence be served in a Military Prison 5-5-44 4th Charge withdrawn

Bal of sent remitted by Conf Auth 20-12-45

W. Dawson Capt. 48
for Judge Advocate-General

10M-1-45 (M-4629)

Quote No H.Q.C.55-M-1653 (JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada

1 May 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

A.55806 Gnr. Kenneth Christopher Maitland,
"Q"Bty 1 Cdn Survey Regt., R.C.A.

1. Receipt is acknowledged of your **10/Maitland,KC/1** dated **2 Apr** 1945, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

EJM
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

MM/

47

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

OTTAWA, Ontario

27 Apr 45

CONFIDENTIAL

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

A.55806 Gnr MAITLAND, K C
SUS EX ITALY

This SUS is being returned from O/S in custody and is to be posted to No 3 DD and to be committed to No 89 MDB, in accordance with HQS 8536-6 Vol 2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of **penal servitude.**

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

3. ~~This SUS is to be ultimately discharged with ignominy in accordance with the sentence of the Court under CARO 1029(9).~~

Encl. 3

for (A E Walford)
Major-General
Adjutant-General

4

MBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Maitland, KC/1

CANADIAN MILITARY HEADQUARTERS

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

LONDON
2 Apr 45.

C.55-M-1653

A.55806 Gnr Maitland, K.C.

1. The m/n soldier is now serving a sentence of 4 years penal servitude awarded by FGCM 27 Dec 43 for 2 offences under AA Sec 41. He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released if he continues so to do is 4 Sep 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the serious nature of the offences of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para.8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 27 Dec 43, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

Corbould Brig

for (E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters.

Enc.4.

3462

45

1/39a CMHQ 1000-76
40/P & S/802 (6739)

C O P Y

BOMBER
CONFIDENTIAL

AIR MAIL

CANADIAN MILITARY HEADQUARTERS

10/Maitland KC/1

LONDON

2 Apr 45

Secretary,
Department of National Defence,
OTTAWA, Canada

A-55806 Cnr Maitland K.C.

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5. In view of the serious nature of the offences of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of Para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held , original A.F.A3104 in respect thereof on which this direction has been endorsed, and Committal Order. This soldier will be despatched to Canada direct from Italy.

(E.G. Weeks) Major-General
In Charge of Administration
CANADIAN MILITARY HEADQUARTERS.

Encs: 4

44

C O P Y

BOMBER
CONFIDENTIAL

AIR MAIL

10/Maitland KC/1

CANADIAN MILITARY HEADQUARTERS

LONDON 2 Apr 45

Secretary,
Department of National Defence,
OTTAWA, Canada

A-55806 Gnr Maitland K.C.

1. The m/n soldier is now serving a sentence of 4 years penal servitude awarded by FGCM 27 Dec 43 for 2 offences under AA Sec 41. He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released if he continues so to do is 4 Sep 46.

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(E.G. Weeks) Major-General
In Charge of Administration
CANADIAN MILITARY HEADQUARTERS.

Encs: 4

43

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS **A.55806 Gnr Maitland, K.C.** of **1 Cdn Survey Regt, RCA** was by Field General Court-Martial held in the field convicted of the offence(s) of **assault occasioning actual bodily harm and shooting at persons with intent to resist or prevent his lawful apprehension** and by a sentence signed on the **27th** day of **December** 1943 sentenced to undergo **penal servitude** for **4 years**

said sentence of **penal servitude** commencing on the aforesaid day and such sentence has been confirmed by **Maj-Gen i/c Admin, CMHQ** as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, or any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this **2nd** day of **April** 1945.

G.B. Booth, Brigadier
Deputy Adjutant General
Canadian Military Headquarters

EXTRACT FROM RECORDS OF C.M. GGG-85

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA8) 40/P & S/1698 (20004)

Convened by Order of Brig. E.A. McCauley Comd 2 Cdn Corps dated 18.6.43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-55806	GHQ		Kenneth Christopher	Hallam	Can Survey Regt RCA

RECEIVED FEB 1944

PROCEEDINGS REVIEWED

B142

10 Feb 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Sicily on (date(s)) 24 DEC 43 + 27 DEC 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) AB The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and AB each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences. AB

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) AB ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with~~ AB ~~summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 562(c). Delete, if not applicable.)

A5. President to accused: Do you object to Capt D.M. Healy as interpreter? Ans No

The Interpreter is sworn.(1) Do you object to S/Sgt H.P. Adams as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W.B.G. Reynolds	R.C.A. HQ 1 Cdn Corps
Member	Capt	P.L. Underwood	R.C.A. HQ 1 Cdn Corps
Member	Capt	S.B. Shepherd	5 Cdn Med Regt R.C.A.
Judge-Advocate	Capt	A.P.L. du Roscoe	R.C.A. HQ 1 Cdn Corps
Prosecutor	Capt	R. Crocker	1 Cdn Survey Regt R.C.A.
Defending Offr	Capt	R. Young	1 Cdn Survey Regt R.C.A.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (s) plea No ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "C" AB

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p* [redacted] 3.

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(H), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(1), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No Sir (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) ~~The Court decides (not) to advise accused to change his~~ ~~change~~(s) his (their) plea(s) of Guilty ~~to Not Guilty on~~ ..... charge(s). The accused is (are) so informed, and he (they) ~~change~~(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (~~them~~) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by (complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, A-55806 Gunner Kenneth Christopher MAITLAND, "Q" Bty, 1 Cdn Survey Regiment RCA, a soldier of the Canadian Army Overseas, is charged with, when on active service:-

First Charge
Section 41
Army Act

WHEN IN A PLACE NOT WITHIN HIS MAJESTY'S DOMINIONS, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RAPE

in that he

in the Field, at Santa Venerina Li Nera, in Sicily, on or about 12 Dec 43, did rape Cavaliero Grazia de Mario, fu Anna d'Urso.

Second Charge
Section 41
Army Act

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, ASSAULT OCCASIONING ACTUAL BODILY HARM, CONTRARY TO THE "OFFENCES AGAINST THE PERSON ACT 1861"

in that he

in the Field, at Santa Venerina Li Nera, in Sicily, on or about 12 Dec 43 did strike Cavaliero Grazia de Mario, fu Anna d'Urso, causing a two centimeter gash in her scalp and a one centimeter cut through her upper lip.

Third Charge
Section 41
Army Act.

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, SHOOTING AT PERSONS WITH INTENT TO RESIST OR PREVENT HIS LAWFUL APPREHENSION, CONTRARY TO THE "OFFENCES AGAINST THE PERSONS ACT, 1861"

in that he

in the Field, at Santa Venerina Li Nera, on or about 12 Dec 43 at approximately 2359 hours, shot with a Thompson Sub Machine Gun at L/Sgt Caletta Antonino and L/Cpl Magansi Sirio, both being soldiers of the Royal Custom House Guards with intent to resist their lawfully apprehending him.

Fourth Charge
(Alternative to Third Charge)
Section 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, at Santa Venerina Li Nera, in Sicily, on or about 12 Dec 43, created a disturbance in the house of Salvatore di Bella by discharging a Thompson Sub-Machine Gun in the said house.

(W.D. Kirk) Lt-Col
Officer Commanding,
1 Cdn Survey Regiment RCA.

In the Field
22 Dec 43.

To be tried by Field General Court-Martial

(E.A.McCusker) Brig
D.D.M.S. 1 Cdn Corps.

Field,
23 DEC 43

Charges approved in accordance with Overseas R.O.2223

(A.DesRosiers) Capt.
A.D.J.A. 1 Cdn Corps.

Field
23 DEC 43

FIELD GENERAL COURT-MARTIAL

CFAD5 (In lieu of AFAB) 40/F&B/1007 (8908)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(b).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-55806	Gunner	Kenneth Christopher	MAITLAND	1 Cdn Svy Regt, R.C.A.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 23 DEC 43 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	W.B.G. Reynolds	H.Q. 1 Cdn Corps

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	B.L. Underwood	H.Q. 1 Cdn Corps
A Captain or Lieutenant to be detailed by O.C. 5 Cdn Med Regt, R.C.A.		

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
A Lieutenant to be detailed by O.C. 1 Cdn Svy Regt, R.C.A.		

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	A.DesRosiers	A.D.J.A. 1 Cdn Corps

On Active Service in the Fd

in Sicily (Country.)

(E.A.McCusker) (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 23 DEC 43

Commanding D.D.M.S. 1 Cdn Corps Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

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MEDICAL OFFICER'S REPORT

I certify that I have this date examined A.55806, Gnr. MAITLAND, K.C. of 1 Cdn Svy Regt; RCA., and that he is fit to undergo Trial by Court Martial.

S D Rusen Capt.

SGD. (S.D. Rusen) Capt., RCAMC
Medical Officer,
1 Cdn. Survey Regiment, RCA.

Station In the Field

Date 24 Dec 43.

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wrote AD

MEDICAL OFFICERS CERTIFICATE

I hereby certify that I have this day examined A55806 Gnr. Maitlland, K.C., 1 Cdn Survey Regiment, RCA, and find him fit to undergo trial by Court Martial.

Date 27 Dec 43

S D Rum Capt.
(Medical Officer)
1 Cdn Survey Regiment, RCA

In the Field.

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F.G.C.M. - 24 & 27 DEC 43

IN THE CASE OF A-55806 GNR KENNETH CHRISTOPHER MAITLAND
1 CANADIAN SURVEY REGIMENT, R.C.A.

Transcript of the notes of B-24293 S/Sgt H.R.Adams, CMSC., H.Q. 1 Cdn Corps, shorthand writer at trial.

The prosecutor makes no opening address.

FIRST WITNESS FOR THE PROSECUTION. H-6399 Sgt W.J. Inge, No 3 Company, Canadian Provost Corps, being duly sworn is examined by the prosecutor:

Q-1 Sgt Inge, please identify yourself to the Court
A-1 H-6399 Sgt W.J.Inge, No 3 Coy, Cdn Provost Corps

Q-2 Do you identify the accused
A-2 Yes sir, I recognize the accused as Gnr Maitland

Q-3 Will you tell us in your own words what has happened in this case?
A-3 On the morning of the 13 DEC 43 at about 0230 hrs I received a call in Ionia that there was some trouble with a Canadian soldier shooting at people in Santa Venerina. I called my corporal and three other ranks and also my interpreter, we proceeded to Santa Venerina and arrived there about 0300 hrs, we were taken to the house by the guide who was awaiting us there and were met by a small Italian (identified as Salvatore di Bella) and he pointed out to us the house in which the accused was. The place where the accused was was situated behind another house about seven to ten feet. They did not know which room the accused was in. I posted my men around the place, and using a gas flare we got into a room of the house. There was nothing in that room so we went in through a door into the next room and found the accused asleep on a bed, we woke him and took him outside. He had a Tommy Gun with him loaded, with a magazine on it and ready for action.

(Tommy Gun in question is produced, handed to the Court and marked Exhibit "A".)

There was blood on the nozzle of the gun approximately around the foresight, on his overcoat we noticed blood, there were two spots in the front and one in the centre of the back. This blood when we noticed it was turning black. He had his overcoat on at the time. The first room was in complete disorder. In the room in which the accused was sleeping there were bullet holes in the ceiling, and in the small table cabinet there were some bullet holes in the top, and some in a small table lamp. After we hunted around and found the woman I turned her over to my interpreter to question and took the prisoner back to Ionia. There we questioned the accused and I gave the accused a warning: "Anything you say may be taken down in evidence against you, you need not say anything unless you wish to, if you do it will be used in evidence against you." Those were my words. He afterwards wrote down this statement which I produce.

The Defending Officer objects to the admission of this statement on the grounds that it was not made voluntarily.

J.A. (To witness) When the statement by the accused was taken down, who wrote it?
Witness. He wrote it himself

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J.A. What were the circumstances previous to the occasion, was there any influence used on him?
Witness. No sir, no influence

J.A. Any threats, any promises?
Witness. None whatsoever

J.A. Was he touched in any way
Witness. No sir

THE COURT is closed to consider the objection of the defending officer to the statement.

THE COURT re-assemble. The Court decide to hear the evidence of the defence in support of the objection.

The first witness for the prosection withdraws, subject to recall.

THE ACCUSED No A-55806 Gnr Kenneth Christopher Maitland, 1 Cdn Survey Regt, R.C.A., being duly sworn is examined by the defending officer:

Q-4 Would you tell the Court in your own words exactly what happened from the time the Provost picked you up until you were put in the jail in Ionia.

A-4 Well, the first thing I can remember I was on a truck and some one was throwing water on me. Then they took me up to the police barracks and changed my clothes. I got some dry clothes and then they made me stand to attention by the desk and kept asking me to make out a statement. I wrote down twice what I did know about it and they said that would not do and I stood there I do not know how long, possibly two hours. I asked for a drink of water and they said when I had written something I could have a drink. They kept impressing on me what I did or what they said I did and I finally made a statement.

Q-5 What happened after that?

A-5 I was there in the jail at Ionia for about four or five days and wrote a letter to the Town Major and told him that I was in the jail there, and the next day I was brought up here to the regimental guard room

Q-6 Would you explain how you were treated physically

A-6 I was standing there and they kept asking me questions, I was still pretty drunk and could not understand and if I made a mistake they would slap me up

Court Did they actually lay a hand on you
Witness Yes sir

Court Give us the details, can you remember actually what happened?
Witness No sir, when I said I did not know anything they kept trying to make me write out a statement

Court How did they keep trying
Witness They kept talking about breakfast and said I could have breakfast when I wrote something out. I asked to go to the lavatory. They said I could go to the lavatory after I wrote out a statement.

Q-7 What result did these slappings have on you, did they leave any marks?

A-7 My ear was all cut up, I had one black eye, my head was all covered with bumps

Court Who was in the office or wherever you were at the time

Witness I believe it was the provost corporal and the clerk I believe and a couple of others

Court All provost personnel

Witness Yes sir

Court Exactly when in the proceedings at the Provost H.Q. was the statement before us written. Can you remember the time it was written, was it daylight?

Witness Yes sir, it was quite a time after breakfast. I asked to go to the toilet, they would not allow me to go before I had written something

J.A. When these slaps were administered was Sgt Inge in the place?

Witness I do not know for sure sir

J.A. Did it happen in the guard room

Witness No, in the office

J.A. Who was there

Witness I know there was one full corporal, Canadian, and the clerk

J.A. You cannot remember if the sergeant was there or not

Witness I know he was in and out of the place but I can't remember if he was there at those times

J.A. Who administered these slaps

Witness By all of them sir

J.A. Tell us exactly what happened

Witness I can't remember very much sir I was still pretty foggy, pretty drunk that is about as far as I can make out

J.A. When you wrote the statement did you take the words out of your own head, how did you write it?

Witness They kept asking me what I did but I did not know and they kept impressing me with what they thought I did so I wrote it down

J.A. Did you write at their dictation

Witness No sir not exactly but I had to write something

J.A. What time was it you asked for water, what time of the night?

Witness After daylight sir

J.A. You had not had any breakfast then

Witness No sir

J.A. What time did you get breakfast?

Witness I am not certain

J.A. How long after you had written the statement

Witness Right after that sir

Court You heard the sergeant say a warning was given to you. Was it given to you?

Witness Not that I can remember sir

THE PROSECUTOR DECLINES TO CROSS-EXAMINE

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with R.P.83(B).

LIOTA LIONATO, aged 20 years, Riposto, Sicily, being duly sworn is examined by the defending officer:

Q-8 Your name
A-8 Liota Lionato

Q-9 Your age
A-9 20 years

Q-10 Where do you live
A-10 Riposto

Q-11 Do you recognize the accused
A-11 I recognize him as the same man who was in the same cell with me in the jail at Ionia

Q-12 Would you tell the Court what condition this man was in when put into the cell
A-12 When I saw him he had a slight scratch here (the witness pointed to his right cheek) beyond that I know nothing

Q-13 Did you notice any other disfigurements at all
A-13 I saw nothing else except the scratch I spoke about a moment ago

Q-14 Did you do anything for him
A-14 My cousin was in the same cell and he had a small bottle of tincture of iodine and he took some of this and put it on the scratch

THE PROSECUTOR DECLINES TO CROSS-EXAMINE

Questioned by the Court

Q-15 What time of day was the accused brought in to the same cell as you
A-15 I do not know definitely when he came, I know it was late afternoon probably between four and five o'clock, I do not know the exact hour, it may have been 3.30 it may have been 5.30

Q-16 Do you remember the date
A-16 I do not

Questioned by the Judge-Advocate.

Q-17 In what condition was the accused outside of the scratch
A-17 I know nothing about his condition beyond what I have said. He had a scratch on his cheek and that is all I know

Q-18 Did you notice anything particularly wrong with either eye of the accused
A-18 It was dark in the cell and I really couldn't see whether there was anything wrong with his eyes or not

Q-19 Did the accused say how he got this scratch on his face
A-19 As he spoke only English we could not understand one another. He might have got it from one of his companions, I do not know.

Q-20 Has anyone asked or spoken to you about the condition of the accused before this morning
A-20 The Captain (pointing to the defending officer) came to see me

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with R.P.83(B)

The witness withdraws

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GUISEPPE RICETE, aged 19 years, Ionia, Sicily, being duly sworn is examined by the Defending Officer:

Q-21 Your name
A-21 Guiseppe Ricete

Q-22 Your age
A-22 19 years

Q-23 Where do you live
A-23 Ionia

Q-24 Do you recognize the accused
A-24 Yes I recognize him (pointing to Gnr Maitland)

Q-25 Where did you see him
A-25 I saw him in the Ionia jail

Q-26 When
A-26 I do not remember the date

Q-27 Can you tell the Court what his physical condition was when you first saw him
A-27 He was brought to the cell and came in and stood there for a moment and then we had him sit down on one of our beds. Then we asked him why he was in the "jug" and he stated that he did not know. He had a little scratch up here (pointing to his upper right cheek just in front of the ear) as we had some spirits we put some on the cut

Q-28 Had he any other bruises or marks of any kind
A-28 I saw no other bruises or wounds but I did notice some dried blood on his greatcoat

Q-29 Were there any marks or puffiness about his forehead or eyes
A-29 He did not come in in the day time he came in towards evening and it was dark. I did not see anything much.

Q-30 Did you see anything after it got light?
A-30 The following morning I noticed nothing in particular. I am quite sure I saw nothing particular in the morning

Q-31 Did the accused complain of any injuries
A-31 There were some English soldiers in the cell who knew a few words of Italian, and he complained he was not feeling well

THE PROSECUTOR DECLINES TO CROSS-EXAMINE

In the opinion of the Court and the J.A. it is not necessary to comply with R.P.83(B)

The witness withdraws

THE ACCUSED A-55806 Gnr Kenneth Christopher Maitland, 1 Cdn Svy Regt, RCA, is, with the permission of the Court, again placed on the stand and examined on his former oath by the defending officer:

Q-32 Do you wish to produce something as evidence
A-32 Yes sir (producing suit of winter underwear) this underwear was given to me after my own clothes were all wet at the provost barracks, after they had thrown water on me

The underwear in question is handed to the Court and recorded as Exhibit "B"

Q-33 What is your number
A-33 A-55806

Q-34 The number on the underwear is?
A-34 D-6823

Q-35 Were you wearing underwear at the time you were picked up
A-35 I was wearing the top, I am not certain about the bottom

Q-36 Are you certain what you were wearing was your own
A-36 Yes sir

Q-37 Have you been issued with any second hand clothing at any time
A-37 No sir, when leaving England we were issued with new equipment

Q-38 That is definitely not your own
A-38 No sir

Q-39 Describe again how it came into your possession
A-39 Well sir I was all wet and they had me change clothes and put on a fatigue uniform and clean underwear, and later I changed back into my own clothes and put these under my arm and they put me in the Ionia jail

Q-40 Do you recognize that number, D6823, as being the number of anyone you know
A-40 No sir

Defending Officer. It could be established from the nominal roll of this battery if this was the number of anyone in the unit. That could be checked.

Q-41 Have you any further proof how it came into your possession
A-41 No sir

THE PROSECUTOR DECLINES TO CROSS-EXAMINE

In the opinion of the Court and the J.A. it is not necessary to comply with R.P.83(B)

Evidence in rebuttal is called by the Prosecutor

A-56010 Cpl W.L. Yule, No 3 Coy, Canadian Provost Corps, being duly sworn is examined by the prosecutor:

Q-42 Your number, rank, name and unit, please
A-42 A-56010 Cpl W.L.Yule, No 3 Coy, Cdn Provost Corps

Q-43 Do you recognize the accused
A-43 Yes sir

Q-44 When did you first see him
A-44 I first saw him at approximately three o'clock on the morning of the 13 DEC 43

Q-45 At No 3 Provost Coy HQ did the accused make a statement
A-45 Yes sir, he did

Q-46 Will you tell the Court what you know about how the statement was obtained
A-46 The sergeant questioned the accused for quite some time, he was given a pencil and paper and he wrote the statement of his own free will

Q-47 Had he been warned prior to making the statement
A-47 Yes sir he was warned

R31

Q-48
A-48 Do you remember the words
He was warned that he did not need to say anything unless he wished to but that anything he did say might be used as evidence

Q-49
A-49 Was any physical force applied to make him make the statement
No sir

Q-50
A-50 Was any other inducement given to him to make him make the statement
No sir

CROSS-EXAMINED BY DEFENDING OFFICER

Q-51
A-51 What condition was the man in when you saw him first
He was asleep in a bed

Q-52
A-52 Were you there when he was arrested
Yes sir

Q-53
A-53 Where was this bed
The bed was out in the country in the village of Santa Venerina. It was in a house just along the side of the road and he was in a bed to the left as you went in the door

Q-54
A-54 Did you help to arouse him
Yes

Q-55
A-55 Describe how you went about it
The bed clothes were thrown back off him and he was shaken by the shoulders and perhaps we roused him that way for ten minutes before he woke up

Q-56
A-56 Any other methods
No sir he was just shaken

Q-57
A-57 What sort of night was it
Clear

Q-58
A-58 Not raining
No sir

Q-59
A-59 Was the accused wet when he reached your billets
He was wet when we woke him up, the bed was wet, his pants were wet

Q-60
A-60 Did you give him a change of clothes
No sir not that I know of, I was out of the room to have some breakfast but to my knowledge he was given no change of clothes

Q-61 Was any force used for any other reason than to make him sign the statement
A-61 There was no force used whatsoever

Q-62 At any time
A-62 Not at any time

Q-63 No one laid a hand on him
A-63 No sir

Q-64 The shaking, was that rather violent
A-64 No sir, when he was awakened there was blood on his lip which was dry, it had happened some time before

QUESTIONED BY THE COURT

Q-65 What time did you arrive back at your section quarters with the accused
A-65 Sometime between six and six thirty in the morning

Q-66 When was the statement actually written
A-66 I would say between seven and seven thirty

Q-67 Can you fix that time in relation to breakfast that morning
A-67 The cook was wakened when we went in and breakfast was between seven and seven fifteen

Q-68 What relation has that to the time he made his statement
A-68 It was after breakfast, about seven thirty, when the accused made the statement

Q-69 Did the accused have breakfast before he made the statement
A-69 No sir

Q-70 When did he have his breakfast
A-70 Directly after he had written the statement

Q-71 When you said the sergeant questioned him for quite some time how long would that be
A-71 About an hour and fifteen minutes

Q-72 Do you remember the accused asking for water at any time
A-72 No sir

Q-73 Do you remember him asking to go to the lavatory
A-73 No sir

Q-74 Could you be positive he did not
A-74 He did not while I was in the room

Q-75 But you were not in the room all the time
A-75 No sir I was not

Q-76 Was there any reason the accused did not have his breakfast when it was ready
A-76 No sir, no particular reason, the sergeant was still questioning him

Q-77 He did not ask for anything from you
A-77 No sir

Q-78 Were you present when the statement was written
A-78 Yes sir

Q-79 Can you describe the accused's condition physically when the statement was written
A-79 He was a bit shaky sir

Q-80 How do you mean
A-80 Quite jittery and he had trouble holding the pencil

Q-81 Would you say he possessed all his mental faculties
A-81 Yes sir

Q-82 Was he asked before the statement was written if he wished to make a statement voluntarily
A-82 Yes

Q-83 And he volunteered to make a statement
A-83 Yes sir

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Q-84 How was the accused dressed when you first saw him
A-84 Battle dress pants and no tunic

Q-85 Was he dressed the same way until he went to the Ionia jail
A-85 Coming from the country he had on his greatcoat

Q-86 He had no tunic
A-86 No sir, no battle dress tunic

QUESTIONED BY THE JUDGE ADVOCATE

Q-87 Do you know if anyone in your section has No D-6823
A-87 No sir we have no numbers in our section starting with "D"

Q-88 Were the accused's clothes wet
A-88 His pants were wet

Q-89 Did he change clothes
A-89 No sir not that I know of

Q-90 Did anyone lend him clothes
A-90 No sir

In the opinion of the Court and the J.A. it is not necessary to comply with R.P.83(B)

The witness withdraws.

FIRST WITNESS FOR THE PROSECUTION. H-6599 Sgt W.J. Inge, No 3 Coy, Cdn Provost Corps, is recalled and examined on his former oath by the prosecutor:

Q-91 Continue your evidence Sgt Inge
A-91 The next morning when we searched around we found about thirty empty tommy gun cases and two slugs of lead from the wall of the opposite building, there were seven magazines all told, five I found loaded, which included the one on the gun, and two empty, these were lying around the rooms in the house where we found the accused

The seven magazines, both loaded and empty, we handed to the Court and recorded as exhibit "C"

Q-92 In your previous evidence you submitted a statement purporting to be signed by the accused. Will you tell the Court how it was obtained, everything you can tell about it
A-92 It was on the 13 DEC 43 after I had been to Zafferani and went back to Ionia. I took the accused into my billets and after I gave him a warning we started talking about this thing and different things. The accused acted like a gentlemen all the time he was in there, and after I gave him the warning I told him he did not need to write anything unless he wanted to, but if he did it would be used. Two of my corporals talked to him for a while, one of them recognized him from back in Canada. He wrote it of his own free will. This would be about six thirty or seven o'clock in the morning. It must have been between six thirty and seven because our breakfast was practically ready soon after he wrote it. The accused had coffee and sandwiches with us and then lay down on the bed.

QUESTIONED BY THE COURT

Q-93 When was he turned in to the cells
A-93 In the evening between six and seven

Q-94 The accused was in your company billet all during the day
A-94 Yes

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EXAMINATION BY PROSECUTOR CONTINUES

Q-95 Who was present with you when the statement was made out
A-95 Cpl Yule, L/Cpl Davis and L/Cpl Wilson

Q-96 Were they present during the questioning
A-96 Most of the time sir

Q-97 Was any physical force applied to get the accused to make the statement
A-97 Definitely not sir

Q-98 Was any other means taken to get him to make a statement
A-98 No sir

CROSS-EXAMINED BY DEFENDING OFFICER

Q-99 Were you present yourself during the time just previous to and at the writing of the statement
A-99 Yes sir

Q-100 Do you remember the accused asking for water
A-100 No sir he never asked for anything

Q-101 Not while you were present
A-101 No sir

Q-102 Did the accused ask if he could go to the lavatory
A-102 No sir he did not

Q-103 You say that positively
A-103 I did not hear him ask

QUESTIONED BY THE COURT

Q-104 Can you tell us if the accused was marked in any way when brought into your billet
A-104 Yes sir, there was some blood on his lower lip, the blood was dry. L/Cpl Wilson saw it and looked at it. He thought his lips had been cut, but if they had been he would have been taken immediately to a first aid post

Q-105 What time did you arrive back at your billets in the evening
A-105 A little after six o'clock I imagine

Q-106 What was the condition of the accused between the time you picked him up and arrived with him at your billets, was he unconscious.
A-106 When we found him he was in bed asleep we shook him and woke him up and took him to the truck, he was too drunk to talk and was just mumbling half in English and half in Italian, he kept saying "Vino, vino, vino" and "Signorina, signorina, signorina", he appeared to be in a very doped condition.

QUESTIONED BY THE JUDGE ADVOCATE

Q-107 In what condition was he when being questioned
A-107 He was just abour normal sir

Q-108 Did he show any signs of the previous evening
A-108 No sir

Q-109 Did you notice any markings anywhere on his body apart from the one you have described
A-109 No sir I did not

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Q-110 Did he write only one statement
A-110 Yes sir

Q-111 He wrote this statement the first time or did he have a practice
A-111 No sir he sat down and wrote the statement which I produced in this Court

Q-112 He did not write a thing before that
A-112 No sir

Q-113 How long after you started questioning him was it before he wrote the statement
A-113 I would say about fifteen or twenty minutes

Q-114 Who questioned him
A-114 I did myself

Q-115 Anyone else
A-115 L/Cpl Davis who had recognized the accused from back in Canada

Q-116 Did he ask for any breakfast
A-116 No sir, I wanted him to have breakfast with us, we had sandwiches and coffee. He ate a sandwich and drank his coffee and then lay down

Q-117 How long after he signed the statement did he have breakfast
A-117 Not long afterwards

Q-118 Was he told by any one of you that if he did write a statement he would get breakfast
A-118 No sir

Court Were you present at all times from the time the accused was brought into your billet until the statement was completed
Witness. Yes sir

Q-119 When you arrested the accused you say he was sleeping, did you have much trouble waking him
A-119 It took about ten minutes to bring him to his senses

Q-120 He was in a stupor?
A-120 In a doped condition, the effects of what I have seen in this country of wine

Q-121 Did he smell of liquor
A-121 I did not smell his breath

Q-122 His speech?
A-122 His speech was half Italian and half English, he was mumbling and kept repeating the words "signorina" and "vino".

Q-123 Would you say he was drunk
A-123 I would say he was under the influence of liquor

Q-124 Did you give him anything to eat from the time he was arrested until he signed the statement
A-124 No sir nothing, none of us had anything to ear

Q-125 Did he have any sleep
A-125 No sir not until after breakfast

Q-126 Did he have all of his faculties when he signed the statement
A-126 I would say yes, sir

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CROSS-EXAMINED BY DEFENDING OFFICER

Q-127 You say it took about ten minutes to rouse him
A-127 Yes sir

Q-128 And you shook him by the shoulder to rouse him, nothing else?
A-128 Nothing else

Q-129 You shook him for ten minutes
A-129 About ten minutes, yes sir

Q-130 Did you put any water on him
A-130 None whatever, sir

Q-131 No water
A-131 No sir

Q-132 Who changed his clothes for him
A-132 There were no clothes changed whatever sir

Q-133 Not at any time at all
A-133 Not at any time at all sir

Q-134 Was the accused issued with any underclothes
A-134 No sir, we have none except what are issued to the men

In the opinion of the Court and the J.A. it is not necessary to comply with R.P.83(B)

The witness withdraws

THE COURT is closed to consider the question of the admissibility of the alleged voluntary statement produced by the first witness for the prosecution.

THE COURT is re-opened. The ruling of the Court on the objection of the defence to the statement produced by the first witness for the prosecution is that the statement will not be admitted, the opinion of the Court being based on para 79, Chap VI, p.93, M.M.L. which states: "Though a confession obtained by fraud or deception, or under a promise of secrecy or from a drunken man or by other questioning may be legally admissible, yet the person obtaining it will expose himself to judicial censure, and the judge may even consider himself justified in excluding the statement if the confession was an unguarded answer made in circumstances that made it unreliable. pr for some other reason unfair to be allowed in evidence against the prisoner." The law is further stated in Stone's Justices' Manual, p.283, which states: "It has long been established as a positive rule of English criminal law that no statement by an accused person is admissible in evidence against him unless it is shown by the prosecution to have been a voluntary statement, in the sense that it has not been obtained from him either by fear or prejudice or hope of advantage exercised or held out by a person in authority. The prosecution must satisfy the judge that it was free and voluntary."

For these reasons THE COURT decide to maintain the objection of the defence to the statement and the statement is not admitted in evidence.

At 12.15 p.m. the Court adjourn for lunch and re-assemble at 1.30 p.m, at which time the accused is again brought before the Court and the trial proceeds.

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SECOND WITNESS FOR THE PROSECUTION. Cavallaro Grazia di Mario, aged 43 years, 69 Via Alessandro Volta, Santa Venerina, Sicily, being duly sworn is examined by the prosecutor:

Q-135 Your name
A-135 Cavallaro Grazia di Mario

Q-136 Age?
A-136 43 years

Q-137 Where do you live
A-137 69 Via Alessandro Volta, Santa Venerina

Q-138 Do you recognize the accused
A-138 I recognize him well

Q-139 Will you tell the Court in your own words what happened
A-139 This man came to my house and rapped on my door, he wakened me from my sleep and I got out of bed

Q-140 What time was that
A-140 I cannot say exactly but I believe it was between ten o'clock in the evening and ten-thirty

Q-141 The date?
A-141 The night of the 12th-13th December. He went on hammering at my door, I opened it and he said "Signora, vino". At first I tried to close my door but I could not, and threatening me with the weapon he was carrying he repeated "Signora, vino".

Q-142 Do you recognize this weapon (producing Exhibit "A") as the one or a similar weapon
A-142 I have the impression that his was black and I seem to remember that the end of it was smaller, It resembles that weapon but I have the impression that it was black and the end was smaller.

Q-143 Continue your evidence, please
A-143 I tried to explain to him that I had no wine, he continued to threaten me with the weapon. I took a partly filled bottle of wine which I had and a glass and poured him out a drink. He drank the wine and then struck me with the weapon and threatened my fifteen year old boy who was present. He chased my son out of the house. He then shot off a number of rounds. He kept saying over and over again "Signora, vino". I was left alone with him in the house and I was very worried, I kept saying "There is no wine left". Thinking I could get him out of the house I said "Let us go and get some more wine" and made him understand by gestures that we were to go together.
A few yards from my house we passed a well, I could not speak his language, but I tried to make him understand that a drink of water would do him good. He was carrying the bottle which we were going to fill with wine in the village. He smashed the bottle on the well and tried to take me by the waist and throw me in. I shook myself loose and kept saying to him "Come, come, let us get wine in the village".
A few steps from there he took off his greatcoat put it on the ground and motioned me to lie down on it. I kept saying to him "Come, come, let us buy wine in the village". I picked up his greatcoat and a few steps from there he struck me with the weapon he was carrying. The force of the blow made me fall to the ground and there was a struggle; he pointed the weapon at me, I got to my feet, I do not know how, and made for the house of my neighbour Salvatore di Bella.
He followed me to this house. I knocked on the door saying "Open, I need help" or something of the kind. They opened the door, he asked for wine and cigarettes. They told him they

A-143 (cont) no wine and he then threatened them with the gun. I tried to calm him. Salvatore di Bella found a finger of wine which he gave him, and he gave him some Sicilian fruit which he did not touch probably because he did not know what it was. Somebody came to lend a hand but they were not able to come as far as the house because he was threatening them. We were inside the house of Salvatore di Bella. A few minutes later he threatened Salvatore di Bella and told him to get out. As Salvatore di Bella went out of the house this soldier fired several rounds in the direction in which he had gone. There then remained in the house two women and the children. He motioned the wife of Salvatore di Bella towards the bed in the house. He tried to take the clothes off the wife of Salvatore di Bella. This poor woman pointed to her children and pleaded with him saying "You are making a scandal", then I took him by the arm; he turned and struck me splitting my lip. I cried out and then he placed his hand over my mouth. While this was going on the wife of Salvatore di Bella made off with two of her children. I could not escape myself. He kept pointing the weapon at me and made me understand that I was to lie down. Then he carried me, using force, to the bed in the other room. That individual then tore off my clothes and did to me those brutal things he wanted to do.

Q-144 Explain exactly what he did
A-144 He raped me by force and with his gun in one hand

Q-145 What exactly did he do
A-145 He introduced his organ into my body

Q-146 What do you mean by his organ
A-146 I know no other word for it, I mean his male organ. I do not know the learned words for these things

Q-147 Continue, please
A-147 When he had satisfied his desires on me he carried me into the other room, he made me sit on the other bed, I do not know what he wanted me to do. Something happened in the other room, he went to see what it was, something happened, I do not know what, but I escaped. He remained behind in the house of Salvatore di Bella with an eight year old girl. I do not know more because I went away. I was carried back to the house after this soldier had been put under arrest.

CROSS-EXAMINED BY DEFENDING OFFICER

Q-148 How many times were you struck
A-148 By the fist or with the rifle?

Q-149 With the rifle
A-149 He struck me once with the rifle and cut my head

Q-150 And the fist?
A-150 One fist blow

QUESTIONED BY THE COURT

Q-151 Was there any passage of money between you and the accused
A-151 He gave me 20 lire to buy wine when in the house. When we reached the house of Salvatore di Bella he took that money from me and gave it to Salvatore di Bella.

Q-152 Did you at any time consent to the act of rape taking place
A-152 I yielded to threat and menace

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Q-153 What nature of threats were you subjected to
A-153 He kept threatening me with the weapon, if I tried to go he would cut me down, if I did not consent he would shoot me

Q-154 At the time you were being carried to the bed and your clothes being torn off did you offer any resistance
A-154 I resisted while he was carrying me to the bed then he tore off my clothes violently

Q-155 Did you offer any resistance after your clothes were torn off
A-155 I resisted up until the time the act was accomplished

In the opinion of the Court and the J.A. it is not necessary to comply with R.P.83(B)

The witness withdraws

THIRD WITNESS FOR THE PROSECUTION. Signor Dottore Salvatore Finnochiere, 154 Via Vittorio Emmanuele, Santa Venarina, Sicily, being duly sworn is examined by the prosecutor:

Q-155 Your name, please
A-155 Dottore Salvatore Finnochiere

Q-156 Your age
A-156 43 years

Q-157 Where do you live
A-157 154 Via Vittorio Emmanuele, Santa Venerina

Q-158 What is your profession
A-158 I am a medical doctor

Q-159 Did you at any time examine Signora Cavallaro Grazia
A-159 Yes I did examine her

Q-160 When
A-160 At approximately three o'clock on the morning of 13 DEC 43

Q-161 How thorough an examination did you make
A-161 I gave her an external examination only

Q-162 Did you examine her genital organs
A-162 I did not examine her genital organs

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE

QUESTIONED BY THE COURT

Q-163 What was the result of your external examination
A-163 This woman had a gash on the left parietal region of the head about 2 c.m. in length. She had another wound on the left side of the upper lip.

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with Rule of Procedure 83(B)

The witness withdraws

THE PROSECUTION IS CLOSED

At 5.00 p.m. the Court adjourns until 10.00 a.m. 27 DEC 43

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At 10.00 a.m. 27 DEC 43 the Court re-assemble, present the same members as on adjournment.

The accused is again brought before the Court.

The trial proceeds.

DEFENCE

THE ACCUSED. No A-55806 Gnr Kenneth Christopher Maitland, 1 Canadian Survey Regiment, R.C.A., having been previously sworn is examined on his former oath by the defending officer:

Q-164 Would you tell the Court in your own words exactly how you spent your time after duty on the 12 DEC 43

A-164 Right after supper, I believe it was at 4.30 me and two other fellows went down to the town down below the hill and started drinking wine. We drank wine right up until about just before time for roll call, then I missed them in the town and went back for roll call to camp. Things were getting pretty hazy then, I do not remember much but I remember getting to barracks and finding one of the fellows was not in I went out to look for him. I can't remember anything after that.

Q-165 What time was it you came back

A-165 I believe it was about five minutes or so before roll was called

Q-166 That was at 2100 hrs was that the usual time

A-166 I do not know for sure sir

Q-167 You say it was soon after 4.30 p.m. you went out

A-167 Yes

Q-168 About what time would you reach the village

A-168 About five or a quarter after five

Q-169 You started drinking wine

A-169 Yes sir

Q-170 And you drank steadily

A-170 Yes sir

Q-171 Do you remember where you were drinking this wine

A-171 Yes sir we were in a small barber shop on the main street

Q-172 Any other place

A-172 No sir

Q-173 Did you go to any private house

A-173 No sir

Q-174 None at all

A-174 No sir

Q-175 About how much wine did you drink

A-175 I can remember three bottles, there were quite a few bottles floating around

Q-176 What was your condition when you got back to the barracks

A-176 I could remember a little bit, not very much

Q-177 Were you drunk

A-177 Yes sir

A-178 Very drunk

A-178 Yes sir

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Q-179 Who saw you when you came back to barracks
A-179 I imagine all the fellows in my room

Q-180 You say you went out to look for this man, did anyone try to stop you going out
A-180 I don't remember

Q-181 What way is there out of your barracks
A-181 Just one door sir

Q-182 You would pass the sentry going out
A-182 Well he makes a circular go around the house so it would be possible to go out without him seeing you

Q-183 Is there any other sentry
A-183 I believe there are two on the house, I am not certain, sir

Q-184 To your knowledge nobody stopped you or spoke to you in any way going out
A-184 No sir

Q-185 Have you any memory of what happened after that
A-185 No sir

Q-186 None at all
A-186 No sir

CROSS-EXAMINED BY THE PROSECUTOR

Q-187 Who went to the village with you
A-187 Gnr Argent & Gnr Farrell

Q-188 You say you remember going to look for somebody after returning to your quarters, who was it?
A-188 Gnr Argent, sir

Q-189 Is Gnr Argent a friend of yours
A-189 Yes sir

Q-190 What reason would you have to take a Tommy Gun when you went to look for Gnr Argent
A-190 I do not know sir

Q-191 Do you remember taking the Tommy Gun with you
A-191 No sir

QUESTIONED BY THE COURT

Q-192 Did you have any dealings with or any trouble with civilians up to the time you reported back for roll call
A-192 Just buying wine off them sir

Q-193 Did you feel that you had been cheated or badly treated by any civilians in the village
A-193 Not that I can remember sir

Q-194 What sort of a shop did you purchase this wine in
A-194 It was a barber shop full of civilians

Q-195 Was it a regular drinking place or a barber shop that sold wine?
A-195 No sir, they had to go outside to get it

Q-196 What was the first thing you remember happening after roll call
A-196 All I can remember is talking a little bit with fellows in my room

Q-197 After that, later on in the evening
A-197 When the provost were throwing water on me

Q-198 Where did they throw the water on you, on your face?
A-198 All over me

Q-199 Where were you at the time
A-199 In the truck sir

In the opinion of the Court and the J.A. it is not necessary to comply with R.P.83(B)

SECOND WITNESS FOR THE DEFENCE. B-44713 Gnr L.W. Argent, 1 Canadian Survey Regiment, R.C.A., being duly sworn is examined by the defending officer:

Q-200 Your number, name and unit
A-200 B-44713 Gnr L.W. Argent, 1 Cdn Svy Regt, RCA

Q-201 How long have you known Gnr Maitland
A-201 Approximately seven months sir

Q-202 Would you describe your actions after duty on the night of the 12 DEC 43
A-202 After we had supper at 4.30, soon after that, Gnr Maitland, Gnr Farrell and myself, went down to town, and soon after we got there we were standing around the barber shop and a "civvy" came in and sold us a bottle of wine. We finished that and got another one and after that I got a shave. I came back out and Gnr Maitland and Gnr Farrell were standing there still drinking and very much intoxicated. Soon after that I went up to the drug store and that was the last I saw of Gnr Maitland that night

Q-203 You say they were quite intoxicated when you came back from the shave
A-203 Yes sir

Q-204 Does your expression quite mean the same as very
A-204 Yes sir

Q-205 To your knowledge they had had two bottles of wine
A-205 No sir, I helped them to finish the two before I went for a shave and as I was going in there was another one they got

Q-206 Have you been out with Gnr Maitland before
A-206 Yes sir

Q-207 What has his behaviour previously been
A-207 Up in Redhill I saw Maitland quite often and he was more or less happy when intoxicated

Q-208 Have you ever known him to be in trouble with civilians before
A-208 No sir

Q-209 Does he get aggressive when he has been drinking, to your knowledge
A-209 No sir, he does not

Q-210 Have you ever known him to be in trouble before
A-210 Yes sir

Q-211 What sort of trouble
A-211 Well one night at Redhill he went to a dance with fatigue clothes on other than that that is all

Q-212 What would your opinion of him be as an individual, not as a soldier

A-212 Well sir I found him quite alright

Q-213 You accepted him as a friend, you would be glad to have him as a friend
A-213 Yes sir

CROSS-EXAMINED BY THE PROSECUTOR

Q-214 What time did you return to barracks on the night of the 12 DEC 43
A-214 I believe 2150 hrs

Q-215 Did you go to look for Gnr Maitland
A-215 Yes sir

Q-216 Did you find him
A-216 No sir

Q-217 Did you find anything out about him, where he might have gone
A-217 No sir, all I know is that he was back in for roll call

QUESTIONED BY THE COURT

Q-218 When you say he was very drunk what do you base this on
A-218 Well sir he was acting very violent that night

Q-219 What did he do? What were these violent actions?
A-219 He was talking with the Italian civvies, I could not understand and he was shouting very loud

Q-220 What was he saying
A-220 I do not know

Q-221 When you woke up on the morning of the 13th December how did you feel
A-221 I was quite alright myself sir

Q-222 Do you know the name of the town where this drinking took place
A-222 No sir, I can't remember

In the opinion of the Court and the J.A. it is not necessary to comply with R.P.83(3)

The witness withdraws

THIRD WITNESS FOR THE DEFENCE. B-44641 Gnr K.J. Farrell, 1 Canadian Survey Regiment, R.C.A., being duly sworn is examined by the defending officer:

Q-223 Your number, name and unit
A-223 B-44641 Gnr K.J. Farrell, 1 Cdn Survey Regt

Q-224 How long have you known Gnr Maitland
A-224 Ever since he was with the Sound Ranging Battery back in England

Q-225 How long would that be
A-225 About three months I imagine

Q-226 Would you tell the Court just what you did after duty on the night of December 12th
A-226 Well after duty we went down town and we had quite a bit to drink

Q-227 Who is we?
A-227 Gnr Maitland, Gnr Argent and me. I was pretty tight and I imagine Gnr Maitland was the same, in fact I am sure he was

Q-228 Anything else, I want you to tell everything you did
A-228 We got broken up down town and I do not know what happened I came right straight home after I missed Gnr Maitland

Q-229 About what time did you reach the town
A-229 About six o'clock I imagine

Q-230 What town was this
A-230 Santa Venerina

Q-231 You started drinking immediately
A-231 Yes sir

Q-232 And about how much did you have
A-232 I could not say I had enough to get intoxicated

Q-233 You were drinking with Gnr Maitland
A-233 Yes

Q-234 Would you say he drank as much as you did or less
A-234 About the same

Q-235 What time did you get separated from Maitland
A-235 About eight or eight-thirty approximately

Q-236 What time did you get back to barracks
A-236 About ten minutes to nine, something around that

Q-237 Was Gnr Maitland there
A-237 I do not know sir, I did not see him

Q-238 Do you sleep in the same room
A-238 No sir, I do not

Q-239 Have you been out with Gnr Maitland any other place before
A-239 Yes sir, I have

Q-240 Where
A-240 Back in England is the only place, Redhill

Q-241 What was his behaviour on any of these previous occasions
A-241 He was a good fellow to go out with

Q-242 Have you known him to get into trouble with civilians before
A-242 No sir

Q-243 Not to your knowledge
A-243 No sir

Q-244 Have you known him when he was drinking before, been with him?
A-244 Yes sir, once before

Q-245 What was his behaviour
A-245 Very good, he never got into any trouble and never bothered anyone, just went along normally

THE PROSECUTOR DECLINES TO CROSS-EXAMINE

In the opinion of the Court and the J.A. it is not necessary to comply with R.P.83(B)

The witness withdraws

THE ACCUSED. A-55806 Gnr Kenneth Christopher Maitland, 1 Canadian Survey Regiment, R.C.A., is with the permission of the Court again placed on the stand and examined on his former oath by the defending officer:

Q-246 I want to ask you if there had been anything previous to the night of 12 DEC 43 which might have been worrying you, anything at all which might have upset you and caused you to act other than you normally would

A-246 I was taking V.D.S. treatments and it had been quite a while since I had had my last shot and I was worried about that

Q-247 When did you contract V.D.S.

A-247 In the fall of 1942

Q-248 Had you taken a course of treatments since then

A-248 I took a course and it failed and then took the slow treatment

Q-249 You were still under the M.O's care?

A-249 Yes

Q-250 You were due for a treatment

A-250 Yes sir, it was a little overdue

Q-251 Did that fact worry you

A-251 Quite a bit

Q-252 What is the effect these treatments have on you

A-252 They make you rather sick something of the feeling as if you had been drinking asoline

Q-253 What is the general effect of the disease combined with the treatment does it affect your point of view or feelings

A-253 It just makes you feel a little dull, not much ambition

Q-254 Had you been warned or advised at any time not to drink while you had this disease

A-254 No sir

Q-255 Did drinking aggravate it of affect you more than usual, more than normally

A-255 Well I have not been drinking very much, just before we left England when I got into trouble was about the only time I took much to drink

Q-256 Had you spoken to anybody about this

A-256 No sir

Q-257 But had it still been worrying you

A-257 Yes sir, I spoke once or twice about it to Argent

Q-258 Do you think it would have made it less worrying if you had been able to speak to someone about it, if you had felt free to speak to someone

A-258 I don't know sir

THE PROSECUTOR DECLINES TO CROSS-EXAMINE

QUESTIONED BY THE COURT

Q-259 On the evening in question was there anything special worrying you that would lead to excessive drinking

A-259 Not that I can remember sir

Q-260 You have seen a Thompson Sub Machine Carbine produced as an

Q-260 (cont) exhibit in this Court by the provost sergeant, whose gun is that
A-260 I believe it is mine I do not know the number of it

Q-261 Are you issued with a Tommy gun
A-261 Yes

Q-262 Where do you keep it normally
A-262 I keep it in my billets

Accused identifies the Tommy Gun, Exhibit "A", as being the gun which was issued to him

Q-263 Had you any other worries which worried you somewhat
A-263 No sir

Q-264 Are you married
A-264 No sir

Q-265 What is your occupation in civil life
A-265 Electrical apprentice

Q-266 Have you any family dependents
A-266 Just a sister, sir, she graduated this fall

Q-267 Is she receiving Dependents' Allowance from you
A-267 She did for a while, but she wrote and told me she was workin

Q-268 How many other members of your family are there
A-268 Five

Q-269 Are your parents both living
A-269 My father is living

QUESTIONED BY THE JUDGE/ADVOCATE

Q-270 How old were you when you enlisted
A-270 Nineteen

Q-271 How old are you now
A-271 Twenty-three

Q-272 Where did you live before the war
A-272 Michigan

Q-273 Is your family still living there
A-273 Yes sir

QUESTIONED BY THE COURT

Q-274 How did you manage to get into the Canadian Army? You are an American!
A-274 Yes sir, it was before the U.S. came into the war

Q-275 Where did you join up
A-275 In Windsor, Ont

In the opinion of the Court and the Judge-Advocate it is not necessary to comply with R.P.83(B)

FOURTH WITNESS FOR THE DEFENCE. Captain Samuel David Rusen, 1 Cdn Survey Regt, R.C.A., upon making the prescribed solemn declaration is examined by the defending officer:

Q-276 Please identify yourself to the Court
A-276 I am Capt S.D.Rosen, RCAMC, M.O., 1 Cdn Survey Regt

Q-277 Do you know the accused
A-277 I do

Q-278 In what way did you become acquainted with him
A-278 The accused is under treatment at present

Q-279 For what
A-279 For V.D.S.

Q-280 His treatment is not completed
A-280 No, not completed

Q-281 Has Gnr Maitland spoken to you about his disease
A-281 From time to time he has

Q-282 Could you tell the Court what his attitude was in regard to it
A-282 He seemed to take the matter seriously and reported regularly for treatment, otherwise his attitude was quite normal

Q-283 When you say he took the matter seriously would you say he was worried about it, about his condition
A-283 Yes, I think he was worried about it

Q-284 When did he take his last treatment
A-284 His last actual treatment was about six weeks ago

Q-285 How often are they given
A-285 Normally they are given every week, but he has been having rest periods

Q-286 When was his next treatment due
A-286 It is due now

Q-287 Is it overdue
A-287 A week or so overdue

Q-288 These treatments, was it important to miss no treatments in order to effect a cure
A-288 Yes it is important a patient should not miss any treatments

Q-289 He has missed one now. Had he missed it on the date of 12 DEC 43, was it past due then?
A-289 I cannot be sure about that

Q-290 When was the last time he came to see you
A-290 I cannot give you the exact date of that, ever since we came to Zafferani I do not think I have seen him since we came here, for treatments that is

Q-291 Could this disease affect a man mentally, that is cause him excessive mental worry and thereby affect his actions or normal behaviour, is that possible?
A-291 Yes, it is

Q-292 Do you think it might have done in Maitland's case, did you get the impression that he was worrying enough to cause anything like that
A-292 I do not think I understand your question

Q-293 Did you notice the extent to which Maitland was worried more than other patients you may have had
A-293 No I do not think he was unduly preoccupied

Q-294 Is mental worry associated with this disease in some stages more than others
A-294 Yes

Q-295 Is Maitland's stage at present one of those where mental worry is more noticeable

A-295 People who suffer from this disease may worry at any stage of it, some people worry even before they have it; there is a definite pysche-neurosis peculiar to such people, but I do not think he was suffering from that

CROSS-EXAMINED BY THE PROSECUTOR

Q-296 Was it explained to Gnr Maitland that there would be rest periods in his treatment

A-296 Yes he was aware that he was having a rest period at the time

Q-297 How long are these rest periods

A-297 Usually a month, sometimes longer

QUESTIONED BY THE COURT

Q-298 In what stage of V.D.S. is the accused at present

A-298 I do not think I can answer that question , I can tell you he was in the primary stage when the treatment was taken

Q-299 Can you say whether it has progressed or been arrested

A-299 It has been arrested, definitely

Q-300 In its present stage is there any likelihood of their being an aggravation of sex desire

A-300 I cannot answer that question

Q-301 At the stage of the disease at which the accused is now would alcohol have a greater than normal effect upon him

A-301 I have never heard of that being the case

Q-302 Is the present stage of the disease communicable

A-302 No, I do not think it is in this case

Q-303 Do you think the fact these treatments were overdue would lead to more mental anxiety than usual

A-303 I think it is possible. I know he came several times during the rest period asking when treatment would be given. During this time we were on the move and did not have the material. Normally they do not come for treatment and you have to get them paraded

Q-304 The accused took a conscientious interest in becoming cured

A-304 Yes

Q-305 What effect would the disease have, apart from the psycho-neurological effect would it have any?

A-305 There is no evidence of syphilis affecting his brain or nerves, at the same time all patients with syphilis tend to worry

In the opinion of the Court and the J.A. it is not necessary to comply with R.P.83(B)

The witness withdraws

THE DEFENCE IS CLOSED

DEFENDING OFFICER'S CLOSING ADDRESS

I have not a great deal to say in summing up, sir, except that from the evidence that has been brought I think it is plain that the accused was quite drunk and not altogether responsible for what he was doing at the time combined with this worry from the disease that he had.

I think that also from the evidence in regard to the first charge no real proof has been brought that he did commit that offence. I think the amount of resistance that the woman put up, well I do not think it was adequate, that it shows entire unwillingness on her part.

Other than that I do not think there is a great deal I can say other than the other charges he pleaded guilty to, but at this time there is nothing more.

THE PROSECUTOR ADDRESSES THE COURT.

I think the evidence of the victim in this case of rape, Cavallaro Grazia, is quite clear as to the defence statement that there were signs of co-operation.

I fail to see that as she suffered a wound on the scalp as well as one on the face for resisting, she was threatened by a loaded Tommy Gun and had there been any co-operation she would not have gone to a neighbour's house where she would be under observation.

The question of the accused being under the influence of liquor does not hold a great deal of weight as drunkenness is no excuse for any offence, this has been laid down and I think is understood by all members of the Canadian Army.

A5/13

THE JUDGE-ADVOCATE MAKES THE FOLLOWING SUMMING UP.

1. The accused before the Court is charged under Section 41 of the Army Act, with:

"When in a place not within His Majesty's Dominions, committing a civil offence, that is to say, rape, in that he, in the Field, at Santa Venerina La Nera, in Sicily, on or about 12 DEC 43, did rape Cavallaro Grazia di Mario, fu Anna d'Urso."

2. Section 41 of the Army Act introduces the jurisdiction of this Court over a purely civil offence.

3. Now what is the offence as charged. The definition of "rape" as we find it in, Ch.VII, para 37, p.113 of M.M.L. is:

"Rape is the act of a man having carnal knowledge without her consent of a female who is not his wife. Penetration is considered to constitute carnal knowledge; it must therefore be proved that there was actual penetration of the female organ by some part of the male organ. The slightest penetration will be sufficient."

It will be up to the Court to decide whether there was evidence of penetration. The woman, Cavallaro Grazia, states that the organ of the accused penetrated into her body.

4. Now the other essential element which has to be proved, and which it is up to the prosecution to prove, is lack of consent. It will be up to the Court to decide from the evidence whether there was consent or lack of it. On this question of consent or lack of consent quoting from the same section and paragraph of M.M.L. we find:

"Consent, to be an excuse, must be actual consent, and not mere submission, and it must be voluntary, and not extorted by force or duress or fear of immediate bodily harm."

It is again up to the Court to decide whether Cavallaro Grazia was actuated by fear in submitting, if she did submit, to the assault. There is evidence that the accused had a Tommy Gun, and if the Court comes to the conclusion that this was sufficient to put fear into the victim you have evidence there was lack of consent.

5. If on the other hand the Court consider the victim should not have feared and her consent might have been given, then again it will be for the Court to decide according to the evidence.

6. Now as far as drunkenness is concerned. The accused has brought in defence the fact that he was drunk to such an extent he does not remember what happened. Again I quote from M.M.L. Chap.III. para 48, p.25 which states:

"Drunkenness often has to be considered by Courts-Martial not as an offence itself, but in relation to greater offences, which it accompanies. It is a principle of English law that drunkenness is no excuse for crime. But where intention is of the essence of the offence drunkenness may justify a Court-Martial in awarding a less punishment than the offence would otherwise have deserved, or reduce the offence to one of a less serious character."

Now also I wish to quote Stone's Justices' Manual, Part V, page 686, on the question of criminal responsibility:

"Insanity whether produced by drink or otherwise is a defence to a criminal charge even though it is only temporary as a result of drunkenness. Where a specific intent is a necessary ingredient of the offence charged, evidence of a state of drunkenness rendering the accused incapable of forming such intent should be taken into consideration with the other facts proved in determining whether he had that intent. Evidence of drunkenness falling short of that incapacity though it may establish a more ready tendency to some violent passion does not rebut the presumption that a man intends the natural consequences of his acts."

Again it will be a matter for the Court to decide whether the accused was in such a state of drunkenness that he could not form any kind of intent, and could not form an intent as to any act he might have done.

On the same point Chap.VII, para 8, p.105 of M.M.L. reads:

"A person cannot be convicted on a criminal charge in respect of an act done or omission made by him if it is proved that at the time when he did the act or made the omission he was labouring under such defect of reason through disease of the mind as made him incapable of knowing the nature and quality of the act he was doing, or, if he did know it, that such an act was wrong.-----Every person is however presumed to be sane and to be responsible for his acts until the contrary is proved, and it must, therefore, be clearly established by the defence that the accused is brought within the terms of the exception as above laid down before he can have the benefit of it."

so again it will be up to the Court to decide if the accused was sane or if evidence was brought to establish that the accused was in a state of temporary insanity on account of his drunkenness

In closing may I add that the duty of the J.A. is to advise the Court on points of law, it is for the Court and the Court alone to decide on any question of fact raised in the trial.and in coming to any decision I must point out to the Court that should there be any reasonable doubt in their minds that the accused did not commit the offence as alleged then such reasonable doubt must be rendered in favour of the accused.

PLEA IN MITIGATION OF PUNISHMENT.

I would like to say in mitigation of punishment that the accused is an American citizen and was not called upon to join the Canadian Army but did so presumably because he thought the cause was one of which he was in favour.

During his time in the Army he has had several offences, nothing serious, nothing in any way like the charges against him now, an A.W.L. and a charge of drunkenness. In no case has he been violent, his whole behavious in this case is entirely at variance with anything known about him previously.

I would like to point out that he has only been a short time in this country and was entirely unfamiliar with the effect of this wine. A person who could drink a certain amount in England finds he cannot drink the same amount here. There have been cases of a number of persons becoming violent after drinking wine.

He also was suffering from a disease causing him a great deal of mental worry. I think a combination of the two could quite easily make him behave in quite an unusual manner.

I have seen myself a man in the last ten days who fortunately for himself was near barracks and who had to be held down by about ten men, it was entirely due to the wine.

As far as the rape charge is concerned, I think it is so foreign to the man in every way. There must be some explanation other than sexual desire. I do not think he was responsible in any way for what he did, and I think his record in the Army proves that.

THE ACCUSED STATES IN MITIGATION.

I have not much to add to that, sir, ever since I have been in the Army I have been in hospital most of the time, but it does not seem possible that I could rape a woman when I was drunk because I never felt that way about them when I was drunk. I do not think I could even have an erection. I was drunk and I guess that is about all, sir.

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Exhibit "B"
CHC

I Dr. H C Hartland
went to a small villa
in a nearby village
after ~~[illegible]~~ roll call
on the nite of Dec 12-1942
and demanded wine &
women. Being as I had
made such a disturbance
at the gate the occupants
left before I got inside
so I chased the
women across the
Vineyard to another
house nearby &
demanded of them a - #2
sexual intercourse

The women would not agree to this so I hit her with my TSMG. After I had finished I went to sleep & was awakened by the Chm. & Provost Corps.

(#9) I also chased the male occupant of the house outside after forcibly demanding that he give me food. For this food I gave him $2/6.

#55806 Jno R Spittard
"P" Battery 1st Svy. Rgt RCA

Exhibit D 11 WBHR

SUMMARY OF EVIDENCE in the case of A-55806 Gnr Kenneth Christopher MAITLAND, "Q" Battery, 1 Cdn Svy Regt, R.C.A.

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

FIRST WITNESS. Cavallaro Grazia di Mario, daughter of the latem D'Urso Anna, 69 Via Alessandro Volta, Santa Venerina, Sicily, being duly sworn, stees:

I recognize the accused as theseoldier who came to my house on the night of the 12 DEC 43. I last previously saw the accused on that night.

I was in bed on the night in question and had been sleeping fer some time when I was awakened by a loud knocking at the door - the time would be somewhere between 10.30 and 11.00 o'clock.

I went to the door and the accused said to me "Signora, vino. I told him I had none. He then thrust the Tommy gun which he was carrying into my stomach md came into the house.

Thinking I could calm him by giving him a glass of wine I got a half filled bottle which I had and a glass and poured him out a drink.

My 15 year old son was in the room and the accused pointd his gun at the boy, swore at him, thratened him and chased him out.

When he had finished the wine he demanded more - I had no more. By gestures I made him understand that the two of us should go out together and get some wine hoping to get him out of the house in this fashion.

We set out to get some more wine and as we were passing the well near my house I asked him whethe or not hewanted a drink of water. I finally made him understand and he became vey angry and took and teck the bottle which I was carrying to get the wine and threw itinto the well. He then seized me by thewaist and attempted to throw me into the well. I shook myself loose and took him by the arm saying "Come, come, let us go along and get the wine."

About 20 yards further on he took off his coat and threw it on theground and by gestures told me to lie down on it. I refused. He then struck me with the gun and wounded me on the left side of the head. I fell to theground. While I was lying there he pointd the gun at me. I rolled ove quickly and got to my fet, and wet along to the house of my neighbour Salvatoreedi Bella who was at home with his wife and three children.

The accused came in and sat down and pointing his gun he demanded wine. ~~He was gifen I mean when I was coming out in the [illegible] Salvatore di Bella. He drank Either the wine was gone~~ He tried to remove a ring, a wedding ring from the third finger of my left hand.

~~[illegible]~~

He then motioned me and the wife of Salvatore di Bella towards the bed and this woman begged ith me to take the man away.

For no apparent reason he decided to shot off a few shots from his gun firing in the gneral direction in which Salvatore di Bella had disappeared.

I trie to coax him to come away quietly and he turned on me and struck me full in the mouth with his fist splitting my lower lip. I cried out and he covered my mouth with his hand. While this was going on the wife of Salvztore di Bella and the two younger children left the house, a nine year old girl was left behind.

The nine year old girl remained in another room. The accused picked me up carried me to the adjoining room placd me on the bed and raped me. He threw me on the bed, he tore off my underclothes he laid himself on my body and raped me. His penis entered my body.

Afterwards he carried me back to the other room and was walking about the rom with his penis hanging out of his clothes and carrying the gun, some civilians passed and he pointed the gun in thir direction and while his attention was directed towards them I escaped.

(The witness identified the Tommy Gun, exhibit "A" as being similar to the one used by the accused)

The acused declines to cross-examinethe witness.

Cavallaro Grazia

SECOND WITNESS. Signore Dottore Salvatore Finocchiero, fu Sebastiano, 154 Via Vittorio Emmanuele, Santa Venerina, aged 43 yemrs, being duly sworn, states:

I am a medicà doctor. On the 13 DEC 43 at approximately 0300 hrs I was called to the house of Cavelleria Grazia di Mario, daughter of the late D'Ursa Anna, and having examined her found a gash approximately 2 c.m. long on the left parietal rgion of the head and a cup on top of the left lip all the way through about 1 c.m. long, this ut required two stitche to close. Unless complications set in the wound should behealed in about ten days: The lip wound could have been caused by the blow of a fist, and the wound on the head could only have ben caused by a blow from some blunt instrument like a stick or the butt of a weapon

The acusd declines to cross-examine the witness.

Dr Finocchiaro Salvatore

THIRD WITNESS. Signora Scandurra Sebastiana, fu Alfio di Conti Venera, agd 40 years, 60 Via Provinciale, Santa Vaerina, being duly sworn, states:

On the 12 DEC 43 at approximatby 2300 hours the accused and a woman Cavalleria Grazia di Mario, knocked at my door, the woman begging "Please open the door, I am wounded, I am bleding and need help" They came in and the accusdd pointed a weapn at me and by gestures explained I was to lay down on the bed. I pleaded with him, the woman Cavaleria Grazia di Marie attracted his attention and I immediately got my twoyounger children and went out of the house with them.

Cross-examind by the accused.

Q-1 Which one of you had the money?
A-1 I do not understand

Q-2 Did I give you any money?
A-2 The only mmtion of money that I know about was made when the accusdd came to my house earlis in the evening looking for wine and offering to pay for it.

Scandurra Sebastiana

FOURTH WITNESS. Salvatore di Bella, agd 34 yers, 60 Via Provinciale, Sata Venerina, being duly sworn, states:

I recognize the accused as the soldier wb came to my house on the 12 DEC 43 at approximately 1130 hrs p.m. He came to my house with Signora Cavallero Grazia di Mario. She called for help, I opened the door ad then the accused pointed a weapon at me (identifies weapon as similar to one filed as Exhibit"A") he came in and fired one or two shots in the ceiling. The acusdd then threatened me, my wife, the other woman and the children with the weapon. Having asked for wine and food of which I had none theaccused gave me two shillings to go and get some and pointing the gun at me ordered me to do so. I went away. I hereby produce the money. (Filed as Exhibit "C")

The accused declines to cross-examine the witness.

Di Bella Salvatore

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FIFTH WITNESS. Gaetta Antonino, L/Sgt, Royal Custom House Guards, Santa Venerina, being duly sworn, states:

At about midnight on 12 DEC 43 I saw the accused in the house of DiBella Salvatore. He was standing with a weapon (identified as being similar to the weapon produced as Exhibit "A") in his hands.

Accused then opened fire on me and another guard. We waited for the Canadian military police who had been called.

The accused declines to cross-examine this witness.

Sgt Gaetta Antonino

SIXTH WITNESS. Maganzi Sirio, L/Cpl. Royal Custom House Guard, Santa Venerina, being duly sworn, states:

At approximately midnight on 12 DEC 43 I and my comrade went to the house of Salvatore di Bella where I saw the accused with a weapon (identified as being similar to the one filed as exhibit "A") in his hands.

When we approached the house calling "Polizia" accused opened fire on us firing a burst of six or seven rounds. We took cover behind a wall. We later fired twoshots into the air to try and intimidate him, and waited for the arrival of the Canadian military police.

Questioned by the accused.

Q-1. Did I fireafte you fired the two rounds.

A-1 No you did not fire any more.

L/Cpl Maganzi Sirio

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SEVENTH WITNESS. H-6399 Sgt W.J. Inge, No 3 Coy, Cdn Provost, Corps, being duly sworn, states:

At about 0230 hrs 13DEC 43 on information reeived accompanied by Cpl Yule and three other ranks and an interpreter I proceded to Santa Venerina where we arrived at about 0300 hrs. There we met DiBella Salvatore who took us to his house, wewent in thefirst room which was in disorder, we then entered the second room and found the accused lying on the bed with a TSMG by his side with a charged magazine in the gun. I produce this gun No 107801 as Exhibit "A". There were four loded clips and two empty clips lying around the room. There were bullet holes through a bed lamp near the bed and through a small cabinet table, also some in the ceiling. The accused was asleep. We woke him up and put him under arest. Therewas a little but of blood on the foresight of the Tommy Gun. Blood was also found on the greatcoat of the accused on both sides and on thecatre of the back. This blood was just starting to turn black when we saw it.

At about 0630 hrs 13 DEC 43 I cautioned the acused as follows, in the presence of Cpl Yule and L/Cpl Wilson "Anything you say may be used in evidencegainst you, you ned not say anything if you don't want to, but if you do it will be used in evidence against you."

Thosewas my exactwords I then questioned the accused Cpl Yule and L/Cpl Wilson also asked qestions. After a while the accused wrote down a statement of his own accord and I produce this statement as Exhibit "B". I produce five filled and two empty TSMG magazine clips. (Filed as Exhibit "D"

The accused decline to cross-examine the witness.

W J Inge Sgt

THE ACCUSED No A-55806 Gnr Kenneth Christopher Maitland, "Q" Bty, 1 Cdn Survey Regt, R.C.A., being warned as follows:

"Do you wish to make any statement or givevidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidenceyou give will be taken down in writing and may be given in evidence."

states: I have nothing to say.

Certified that Rule of Procedure 4 (C) (D) (E) and (F) have ben complied with.

Taken down by me in thepresence and hearing of the accused this 20th day of December, 1943.

C.R. Crocker Capt

(C.R. Crocker) Capt.
Officer taking Summary of Evidence.

CERTIFIED TRUE COPY

No A-55806 Name MAITLAND K.S. Sqn, Battery or Company Corps RCA Date of enlistment 13 Nov 41 GC Badges Service or Proficiency Pay n/a MFM 6 (AFB 122) 40/P&S/136 (3458)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
D.D. #1 (Can)	DO 253 d/29 Nov 41	Gnr		AWL from 2359 hrs 28 Nov 41	-	-	-	-	-
"12B.T.C.(AF)	DO#7 22 Jan 42	Gnr		A W L 1 day 11 hrs 50 mins		5 days C.B. 2 days pay FR&I 149 1 (a)	-	-	-
C.A.T.C. (Can)	DO 56 Mar 42	Gnr		AWL 4 Mar 42 Apprehended at Windsor Ont. 6 Mar 42		7 days C.B. 3 days pay FR&I 149 (1)a Cost of app $19.09 D.O. 66 d/19 Marc 42	-	-	-
FIELD	DO 288 11 Nov 42	Gnr		A.A. Sec 11		2 days pay	-	-	-
FIELD	11-9-43	Gnr		A.A. Sec 15 (1) Absenting himself without leave from 2300 hrs 11 Sept 43 until 2200 hrs 12 Sept 43 (Absent 23 hrs.)	Sgt Goddard L/Bdr Allnutt	14 days C.B. Forf 5 days pay FR&I 149 (2)	14 Sep 43	Major J.H. Hewitt	Forf 1 days pay FR&I 149 1 (a) Total Forf 6 days pay

Exhibit "H"

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
FIELD	21 Sep 43	Gnr		(1) A.A. Sec 10 (4) Breaking out of Barracks in that he left the Sty Area while serving 14 days C.B. and was seen in South Nutfield (2)	L/Bdr Bregg Gnr Wisse				
FIELD	22 Sept 43		1	A.A. Sec 19 DRUNKENESS found drunk while on duty as Fire Piquet at 0100 hrs 22 Sept 43	Lt Mathias L/Sgt Carson Sgt Goddard	21 days F.P 21 days forf pay FR&I 149 (1) (b)	22 Sep 43	W.D. Kirk Major RCA	

COMPILED FROM MFM 6 APPLIED TO THIS UNIT AND MFM 14
" CERTIFIED BY ME TO BE A TRUE COPY OF THE REGIMENTAL BOOKS IN MY CUSTODY"

Lorne McKee Capt RCA
Adjutant
for Officer Commanding 7th Lt Ack Regt RCA

Exhibit "G" AD. WPOYR

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
A-55806	Gnr	Maitland, K.C.	1 Cdn Survey Regt, RCA.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not entered in the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, precedence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment
For AA 15 (1)	One times	Four times.
For AA 10 (4)	One times	One times.
For AA 19	One times	One times.
For AA 11	Nil times	One times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or civil court, or under section 47 of the Army Act, or under section 68 of the Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused is undergoing sentence of imprisonment for the [illegible] day of [illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~Seven~~ Fourteen (Chandler Capt) days in military custody, making a total of ~~Seven~~ Fourteen (Chandler Capt) days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 22 years 163 (Chandler Capt) 365 days

6. The date of his ~~enlistment~~ attestation specified in his ~~attestation paper~~ record of service is 13 Nov 41

~~7. The accused is entitled to [illegible] on discharge or [illegible]~~

~~8. The accused is entitled to deferred pay or gratuity in respect of [illegible]~~

9. The accused is entitled to reckon 2 years 365 (HH Chandler Capt) service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~or is in possession of or entitled to [illegible]~~

11. ~~[illegible]~~ ~~The accused before he was [illegible] [illegible]~~

12. ~~[illegible]~~ ~~The accused before he was [illegible] [illegible]~~

(*15280) Wt.15882/144 125,000 6/41 A.&E.W.Ltd. Gp.498

7

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A-55806 Rank Gnr Name Maitland, K.C. of 1 Cdn Survey Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20 27 day of December 1943.

Chaker Capt

Adjutant

Ruben McKelvey Capt
1 Cdn Survey Regt
RCA

13. REMOVED FROM STRENGTH OF REGIMENT OR DETACHMENT

In the rank of years.

In the rank of years.

In the rank of years.

In the rank of years.

Date of Promotion.

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) ~~The Court~~ is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. I wish to give evidence on oath. Do you intend to call witnesses on your behalf? Ans. Yes Sir. Are they witnesses as to character only? Ans. No Sir.
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(~~s~~).(1) The finding(~~s~~) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened. AD
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2) AD AD
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

~~E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?~~(1) AD
Ans. .....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(~~s~~)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex G and Ex H respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(~~s~~), and in mitigation of punishment? Ans. Yes Sir.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A-55806 GNR KENNETH CHRISTOPHER MAITLAND, 1 Can Survey Rgt RCA.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 41 AA	NOT GUILTY	GUILTY	
2nd Sec 41 AA	GUILTY	GUILTY	
3rd Sec 40 AA	GUILTY	GUILTY	
4th Sec 40 AA			withdrawn by Prosecutor in accordance with RP 35(4)
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1) AA

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which 14 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer penal servitude for the term of ten years.

(Sgd) Kind Sir Robin Capt. Judge-Advocate, if any. 27 Dec 43 Date awarded. (Sgd) W Roy Reynolds President. (RP 35, 50.) Major.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation by superior authority

Date 30 Dec 43 (Sgd) H S Crom Lt-Col Commanding Comd H Q REME 1 Can Corps Troops

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings on the 2nd and 3rd charges but not confirm the finding on the 1st charge. I confirm the sentence but commute six (6) years penal servitude

I direct ~~that the accused be not committed to prisoner detention barracks until further orders.~~ (*)

(1. AA 57A. Delete if not used.)

(Sgd) P J Montague (P. J. Montague) Major-General i/c Administration Canadian Military Headquarters Confirming Officer.

Date 2 [illegible] 1944 Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A-55806 Gnr. Maitland, K.C.	23 Jul 44	(Sgd) W. D. Kirk Lt Col 1 Can Survey Regt RCA

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

1 Cdn Survey Regiment R.C.A. (CMF)

F.G.C.M. 24 & 27 Dec 43
A-55806 Gnr Maitland K.C.

Part IV Promulgated and extracts taken

A-55806 Gnr Maitland, K C

1 Cdn Survey Regiment RCA

23 Feb 44

W D Kirk .....Lt.-Col. RCA
(W.D. Kirk)
Commanding
1 Cdn Survey Regiment R.C.A.

Extracts entered as No. 3462 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this day of 19...

I DIRECT that a part, not exceeding 2 years, of the sentence of 10 years penal servitude awarded to A 55806 Gnr MAITLAND, K.C., w.e.f. 27 Dec 43, shall be served in a Military Prison.

P J Montague

(P. J. Montague) Major-General
I/c Administration
Canadian Military Headquarters

5-MAY 1944

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

H.Q.C. 55-M-1654

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MAC-NAUGHTON. VERNON F.44842 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1654

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which returned cannot be expressed on one line, add minute to file and enter here "With Minute")		
				J.A.G.	NEW FILE	C.R.	AUG 1 1945
				Admin	Re request for [illegible]	E.C.M.	11.4.46
MAY 4 1945	[illegible]	P.A.	[illegible]	J.A.G.	Returned per	WOS	28.4.45
JUL 9 1945	9-7-45	P.A.	[illegible]	Admin	Per Regulation R.C. JUL 9 1945		
JUL 26 1945		P.A.	[illegible]	E.C.M.	Per Regulation C.R. JUL 18 1945		
AUG 9 1945	[illegible]	[illegible]	[illegible]	E.C.M.	With Papers C.R. AUG 6 1945	[illegible]	
				Admin			
AUG 24 1945	23-8-45	P.A.	WOS	Admin	Per Regulation C.R. AUG 22 1945		
~~SEP 5 1945~~ SEP 5 1945	~~31-7-45~~	~~P.A.~~	~~[illegible]~~	~~J.A.G.~~	With Papers C.R. AUG 31 1945	[illegible]	
SEP 1 - 1945	5-9-45	P.A.	WOS	Admin	to note [illegible]	[illegible]	31-8-45
SEP 19 1945	20.9.45	P.A.	WOS	D. Adm.	PER B.F. SEP 20 1945		
OCT 5 - 1945	5 OCT 45	P.A.	[illegible]	C.M.B.R.	Per Regulation C.R. OCT 5 1945		
JAN 8 - 1946	7-1-46	P.A.	WOS	C.M.B.R.	Per Regulation C.R. JAN 4 1946		
JUN 12 1946	JUN 11 1946	P.A.	WOS	D.P.B.	Per Regulation C.R. MAR 25 1946		
JAN 20 1947	20 Jan 47	P.A.	J.A.	[redacted]	Per Regulation C.R. JAN 9 1947		

NOTICE

1. FF.s should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-44842 Private Vernon MacNAUGHTON

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd	GUILTY	GUILTY	
3rd	GUILTY	GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ "HHU" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: The Court sentence the accused F44842 Pte Vernon MacNAUGHTON, 48 Highrs of Canada, to be imprisoned with hard labour for the term of two years.

(Sgd) ..... Judge-Advocate, if any. 29 May 1944 Date awarded. (Sgd) "H.H. Usher" Major President (RP 45, 50.) (H.H. Usher) Major HAST & PER

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) "DCS" Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~

(1. AA 57A. Delete if not used.)

(Sgd) "D.C. Spry" Brig

Date 5 June 44 Commanding 1 Cdn Inf Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F44842 Pte MacNaughton V. 48th Highrs.	June 7/44	"BS" Capt. 48th Highrs

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY

Spare copy. TTP/RP

(D. GEN) Lieut.

CPA96 (In lieu of AFA87) 40-P & S/1008 (25604)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier D.C. Spry Comd 1 Can Inf Bde dated 27 May 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 152, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F 44842	PRIVATE		Vernon	MacNAUGHTON	48 Highrs

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 29 May 1944.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed. "HHU"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) "HHU"

(1. As to use of Summary of Evidence see RP 17 fn 5. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences. "HHU"

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) "HHU"

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ "HHU"

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans ..... "HHU"~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans ..... "HHU"~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No, sir (2) "HHU"

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: "HHU"

President	Major	H.H. Usher	Hast & PER
Member	Captain	H.J. McCutcheon	48 Highrs
Member	Lt.	W.J. Powers	R.C.R.
Judge-Advocate			
Prosecutor	Lt.	W.B. Reid	48 Highrs.
Defending Offr	Lt.	N.B. Bell	48 Highrs.

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI, p 3.) "HHU"

A8. The accused F-44842 Pte. V. MacNaughton before arraignment make(s) (no) plea "HHU" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. "HHU"

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form .....

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 80(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No, sir. (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (~~their~~) plea(s) of Guilty to Not Guilty on the three charge(s). ~~The accused is (are) re-informed, and he (they)~~ "HHU" ~~"HHU" "HHU"~~ ~~charge(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~ "HHU".

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ "HHU" (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex "C" initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 22-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No, sir.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans (i) No, sir (ii) No, sir (Ex. "D") (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, RP 48. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"B2" "H.H. Usher"

48th Highlanders of Canada

CHARGE SHEET

The accused F.44842 Pte. Vernon MacNAUGHTON, "D" Coy, 48th Highlanders of Canada, a soldier of the Canadian Army Overseas, CMF, when on Active Service, is charged with:-

1st CHARGE
A.A. Sec 15 (1)

When on Active Service, absent without leave,

in that he,
In the Field, ITALY, absented himself without leave from 1600 hrs 18 Dec 43 until surrendering himself to CMP at TORINO, ITALY, at 2145 hrs 20 Jan 44. (Time absent 33 days, 5 hrs, 45 mins).

2nd CHARGE
A.A. Sec 15 (1)

When on Active Service, absent without leave,

in that he,
In the Field, ITALY, absented himself without leave from 1600 hrs 28 Jan 44 until apprehended by Regimental Police of the Carleton & York Regt. at 1600 hrs 18 Feb 44. (Time absent 21 days)

3rd CHARGE
A.A. Sec 15 (1)

When on Active Service, absent without leave,

in that he,
In the Field, ITALY, absented himself without leave from 0530 hrs 28 Feb 44 until apprehended by CMP at POLLUTRI at 1200 hrs 30 Mar 44. (Time absent 31 days, 6 hrs, 30 mins).

In the Field
9 May 44.

"Ian S. Johnston"
(IS. JOHNSTON) Lt-col,
Commanding Officer,
48th Highlanders of Canada.

To be tried by Field General Court Martial.

"D.C. Spry"

In the Field
27 May 44

(D.C. Spry) Brigadier
Comd., 1 Cdn Inf Bde.

"B" "H.H. Usher"

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AFAB) 40/P&S/1697 (1968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 44842	PRIVATE		Vernon	MacNAUGHTON	48 Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 May 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. ~~And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary (general Court-Martial) and that it is not practicable to delay the trial for reasons (e.g. service, political, etc.)~~ "DCS"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to APPOINT (a) an Offr to form the Court, (b) a Fd Offr as President, for the reason I have attached below.~~ "DCS"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I hereby appoint as Judge-Advocate thereof the Officer detailed hereunder.~~ "DCS"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	H.H. Usher	Hast & PER

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	H.J. McCutcheon	48 Highrs
Lt.	W.J. Powers	R.C.R.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt.	G.K. Wright	R.C.R.

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

"D.C. Spry" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(D.C. Spry)
Commanding 1 Canadian Infantry Brigade
Convening Officer.

Date 27 May 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE KR (CAN) 557 "HHU"

I certify that I have this morning examined No F.44842 Pte MacNAUGHTON, V. of 48th H. of C. and, in my opinion he is fit/unfit to undergo trial by Court Martial

Station In Field

Date 29 May 44

"Wm Byers" Capt.RCAMC
Medical Officer

"C"

Summary of evidence in the case of F.44842 Pte. MacNAUGHTON, V., "D" Coy, 48th Highlanders of Canada.

By direction of Lt-col. I.S. Johnston, DSO, ED, Commanding Officer, 48th Highlanders of Canada, all evidence is taken on oath.

1st CHARGE

1st Witness for the Prosecution: B.73492 Cpl. FOX, H., 17 Pl, "D" Coy, 48th Highlanders of Canada, having been duly sworn states:- "At the time the accused went absent I was acting Pl Sgt., "D" Coy, 48th Highlanders of Canada. When I called the roll at 1600 hrs 18 Dec 43 the accused failed to answer his name. I searched the area and the accused was absent and has continued absent since that date. I checked the Pl daily from 18 Dec 43 until 20 Jan 44 and had he returned during that period I would have known it. He did not return".

"Harry Fox"
B.73492 Cpl. Fox, H.

The accused declines to cross examine the witness.

2nd Witness for the Prosecution: B.73532 Sgt. RANNEY, J.J., R.H.Q., 48th Highlanders of Canada, having been duly sworn states:- "I in my capacity as orderly room Sgt. of the 48th Highlanders of Canada wish to present as Exhibit "A" certificate of surrender of Pte. MacNAUGHTON to the C.M.P. at 2145 hrs 20 Jan 44. I recognize Pte. MacNAUGHTON as the person referred to in the above mentioned certificate of surrender".

"JJ Ranney"
B.73532 Sgt. Ranney, J.J.

The accused declines to cross examine the witness.

The accused having been warned as follows: "do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement or give evidence.

2nd CHARGE

1st Witness for the Prosecution: C.63003 Sgt. ROSS, G.A., 16 Pl, "D" Coy, 48th Highlanders of Canada, having been duly sworn states:- "At the time the accused went absent I was 16 Pl Sgt., "D" Coy, 48th Highlanders of Canada. When I called the roll at 1600 hrs 28 Jan 44 the accused failed to answer his name. I searched the area and the accused was absent and has continued absent since that date. I checked the Pl daily from 28 Jan 44 until 18 Feb 44 and had he returned during that period I would have known it. He did not return".

"GA Ross Sgt"
C.63003 Sgt. Ross, G.A.

The accused declines to cross examine the witness.

2nd Witness for the Prosecution: B.73532 Sgt. Ranney, J.J., B.H.Q., 48th Highlanders of Canada, having been duly sworn states:- "I in my capacity as orderly room Sgt. of the 48th Highlanders of Canada wish to present as exhibit "A" statement in lieu of certificate of surrender of Pte. MacNAUGHTON to the Carlton and York Regt., at 1600 hrs 18 Feb 44. I recognize Pte. MacNAUGHTON as the person referred to in the above mentioned certificate of surrender".

"J J Ranney"
B.73532 Sgt. Ranney, J.J.

The accused declines to cross examine the witness.

The accused having been warned as follows: "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing any may be given in evidence".

The accused declines to make a statement or give evidence.

3rd CHARGE

1st Witness for the Prosecution: B.88149 Pte. PEDERSON, A.C.B., 16 Pl, "D" Coy, 48th Highlanders of Canada, having been duly sworn states:- "At the time the accused went absent I was acting Pl Sgt., 16 Pl, "D" Coy, 48th Highlanders of Canada. When I called the roll at 0530 hrs 28 Feb 44 the accused failed to answer his name. I searched the area and the accused was absent and has continued absent since that date. I was present with the Pl daily from 28 Feb 44 until 30 Mar 44 and had he returned during that period I would have known it. He did not return".

"A.C.B. Pederson"
B.88149 Pte. Pederson, A.C.B.

The accused declines to cross examine the witness.

2nd Witness for the Prosecution: B.73532 Sgt. RANNEY, J.J., B.H.Q., 48th Highlanders of Canada, having been duly sworn states:- "I in my capacity as orderly room Sgt. of the 48th Highlanders of Canada with to present as exhibit "A" record of declaration of a Court of Inquiry on the illegal absence of Pte. MacNAUGHTON". I wish to present as exhibit "B" statement in lieu of certificate of arrest of Pte. MacNAUGHTON at POLLUTRI, ITALY at 1200 hrs 30 Mar 44 by Sgt. A Wilkinson 49 C.H.F.

J J Ranney"
B.73532 Sgt. Ranney, J.J.

The accused declines to cross examine the witness.

The accused having been warned as follows: "do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement or give evidence.

I certify that Rules of Procedure 4 (b),(c),(d),(e) and (f) have been complied with.

Taken down by me in the presence and hearing of the accused In the Field this 6th day of May, 1944.

"C.J. Seagram" Lt.
(C.J. SEAGRAM) Lieut.,
48th Highlanders of Canada.

"D" "HHU"

Plea of Mitigation of sentence in the case of
F.44842 Pte. Vernon MacNaughton -

Pte MacNaughton joined the Canadian Army in 1938. He was called up with the Picton Highlanders on the day that war was declared, and came overseas early in 1940 with the W.N.S.R. He was with that Reg't until he came to Italy and joined the 48 Highrs in Dec. 1943.

While in England Pte MacNaughton was married and has had many domestic worries.

Realizing that he has committed an offense against the A.A. he has thrown himself on the mercy of the court.

I feel that he would be of much greater use fighting with his unit then in a detention camp, and I would like to recommend to the court that he receive the minimum sentenc e and be returned to his unit as soon as possible.

"W.B. Bell" Lieut.

Defending Officer.

No F44842 Name MacNaughton, V. Sqn, Battery, or Company

Corps C.I.C.

Date of enlistment 1-9-39

GC Badges

Service or Proficiency Pay

MFM 6 "HHU" (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet

No and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13 Dec 41	Pte		WOAS-neglecting to obey Coy standing Orders in that he on the night 13 Dec 41 while the Coy was on STAND TO was out of bounds A.A. Sec 11 (2) Conduct to the prej. tec. in that he left a parade without permission. A.A. Sec 40	Sgt. Monhall L/Cpl. MacLean	21 days F.P. 21 days pay F.R.& I. 149 (1)b	15 Dec 41	Maj. F.G. Cantrey	
Field	15 Mar 42	Pte		WOAS - AWL from 2230 hrs ~~XXXXX~~ 14 Mar 42 to 0130 hrs 15 Mar 42. Sec 15	L/Cpl. Swagg	Forfs 7 days pay F.R.&I.149(2)	16 Mar 42	Maj. F. Cantrey	
Field	27 Apr 42	Pte		WOAS - AWL from 2230 hrs 27 Apr 42 to 2230 hrs 28 Apr 42. Sec15	Cpl. Mordely	1 days pay	30 Apr 42	Lt.Dyer	
Field	12 May	Pte		WOAS - walking out improperly dressed. Sec 40 A.A.	QMS Condon	7 days C.B.	13 May 42	Lt.Dyer	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18 May 42	Pte.		WDAS-Neglect prej. etc failing to make up his kit before going on parade. A.A. Sec 40	Lt. Hemmi-lna, W. PSM Black	7 days C.B.	18 May 42	Lt. Dyer	
Field	17 Jun 42	Pte		WDAS-AWL from 2000 hrs until 0600 hrs 18 Jun 42. absent from place of parade. A.A. Sec 15(1)	CQMS Condon	7 days C.B.	18 Jun 42	?	
Field	27 Nov 42	Pte		WDAS-AWL from 2359 hrs 26 Nov 42 to 2215 hrs 27 Nov 42 (21 hrs 16 mins) A.A. Sec 15(1)	L/Cpl. J.R. Barrett	7 days C.B. 7 days pay FRI 149(2)	28 Nov 42	Lt-col W. Lawson	1 days pay FR & I 149(1)a
Field	24 Dec 42	Pte		WDAS-AWL in that he while on Gd. duty at B Coy 24 DEC 42. Absented himself from 1900 hrs -2200 hrs Sec 15(1)a	Cpl Beeler	28 days F.P. 28 days pay FRI 149(1)b	26 Dec42	Lt-col. Bogul	

I as officer i/c Regtl. records, certify this to be a true and exact copy.

"BS Eby" Capt., Adjt.

No. F44842 Name MacNaughton, V. | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 1-9839 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/135 (8438) "HHQ"

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 Sep 40	Pte		WOAS Neglecting to obey a command given by a superior officer A.A. Sec 40	Sgt Marshall	14 dys Detn 14 dys pay FRI 149(1)b	7 Oct 40	Lt-col M.F. Gregg	
Field	2 Jan 41	Pte		WOAS neglecting to obey an order given by a superior officer. A.A. Sec 40	Cpl Wright	7 days C.B.	3 Jan 41	Capt. W. Clement	
Field	14 Jan 41	Pte		WOAS neglect to the prej. etc in that he neglected to perform his duties as room orderly AA40	Sgt Sabran	7 days C.B.	15 Jan 41	Capt. M.G. Clement	
Field	15 Jan 41	Pte		WOAS Refusing to obey superior officer when ordered to scrub equipment. (2) Refusing to obey an order when ordered to clean bathroom. A.A. Sec 9(1)	Sgt Marshall	28 dys F.F. 28 dys pay FRI 149(1)b	20 Jan 41	Maj. A.A. Swift	

(P70)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 10	Jun	Pte		WOAS - Neglect to the prej. etc in that he did not appear on duty in the men's mess. Sec 40	CQMS Condon	7 days C.	12 Jun 41	Lt. Dyer	
Field 21	Jul 41	Pte		WOAS - AWL from 2230 hrs 21 Jul 41 to 0630 hrs 22 Jul 41. Sec15	L/C. Troop	7 days C.B.	23 Jul 41	Maj. Cantry	Forfs 1 dys pay FR&I 149(1)a
Field 16	Sep 41	Pte		WOAS - Neglecting to wear his Resp after being duly warned to do so. A.A. Sec 40	Cpl Miller CQMS Condon	7 days C.B.	17 Sep 41	Maj.Cantry	
Field 16	Oct 41	Pte		WOAS -AWL from 2230 hrs 16 Oct 41 to 0310 hrs 17 Oct 41. Sec 15	Cpl Miller	7 days C.B.	17 Oct41	Maj.Cantry	Forfs 1 dys pay FR&I. 149(1)a
Field 20	Oct41	Pte		WOAS(1) Leaving camp when Coy confined to barracks. (2)causing disturbance in cookhouse. Sec 40	CQMS Condon	10 days F.P. 10 days pay	21 Oct 41	Lt-col A. Witt.	
Field 11	Nov41	Pte		WOAS-improperly dressed and in possession of alcholic stimulants AA Sec 40	Pte. Pierce	7 days C.B.	13 Nov41	Capt Smith	
Field 29	Nov 41	Pte		WOAS Failing to report at Qd. Room. A.A. Sec 11	L /Cpl Swaze	7 days C.B.	1 Dec 41	Capt Cameron	

HQC 55-M-1654
(JAG/D)

OTTAWA, 31 August, 5

District Officer Commanding
Military District No. 6
HALIFAX, N.S.

Field General Court-Martial
F-44842, Pte. MacNAUGHTON, V.

Receipt is acknowledged of your H. Mac-454 (JAG) dated 27 Aug 45, under cover of which you forwarded to this Headquarters the proceedings of the marginally-noted Field General Court-Martial together with A.F.A3104 in respect thereof.

(R.J. Orde) Brigadier
Judge Advocate General

/jm

DOC 6 reports on H.121-1-1 4/14/9/45

F-44842 Pte. MacNAUGHTON, V.: A.F.A3104 returned to NDHQ under cover of our H. Mac-454 (JAG) d/27 Aug 45, receipt ackd on your HQC 55-M-1654 (JAG/D) d/31 Aug 45. Only report on conduct: while in detention o/s, conduct was good. Authority has been granted by this HQs to discharge this soldier under R.O. 1029(8) when he is released with earned remission on 1 Oct 45. (Mac-454)

noted on card
gcs

29

IN REPLY PLEASE QUOTE
No. H. Mac-454 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

338695

Headquarters, M. D. No. 6,
Halifax, N. S., 27 Aug 45. 194

AUG 30 1945

Secretary,
Department of National Defence,
Ottawa, Ontario.

C.S.S.M.-1654
Referred to J.O.S.

F-44862 Pte. MacNAUGHTON, V.
S.U.S. Ex-Italy

Ref HQS 8536-6 Vol.3 Admin 3(b)2 d/23 Aug 45.

2. The m/n soldier will be released 1 Oct 45 and discharged under R.O. 1029(8) if he earns full remission for good conduct hereafter.

3. A3104 and Proceedings are herewith returned.

(D.A. White) Brigadier,
D. O. C., M. D. No. 6.

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N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

Army Form A3104

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL

CANADIAN SECTION PAY SECTION 1944 2nd ECHELON

I.—Case of No. F.44542, Pte. MacNAUGHTON, V. Unit 48 Highrs

Sentenced to Imprisonment with hard labour for two years on 29 May 44

Age on, and date of enlistment 19yrs-1 Sept 39 Term of service Duration

---

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
30 JUL 1944	I direct that the proceedings be brought before me on 29 Nov 44.	Ewen Fraser (E. S. WEEMS) Major, Brigade Maj. 30 JUL 1944	
	No remission. B/F 1 Mar 45.	Ewen Fraser (E. S. WEEMS) Major, Brigade Maj. 29 NOV 1944	
	No remission. Return to Canada in custody under sentence	C.O. Booth (C. S. BOOTH) Brigadier, D.A.G. Canadian Military Headquarters. 12 APR 1945	

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

27 A

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. 1st Charge W.O.A.S. Absent without leave, (33 days,5 hrs & 45 mins). AA 15 (1)	18 Dec 43	29 May 44
2nd Charge W.O.A.S. Absent without leave, (21 days) AA 15 (1)	28 Jan 44	29 May 44
3rd Charge W.O.A.S. Absent without leave, (31 days,6 hrs & 30 mins) AA 15 (1)	28 Feb 44	29 May 44
Capt., & Adjt. Signature of Officer making entry.		

VIII.—Second Trial.

Signature of Officer making entry.

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
7 Jun 44	I recommend that Pte. MacNAUGHTON, V. serve his full sentence of two years hard labour.	Lt-col, O.C. 48 Highrs.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
11 Jun 44	In view of seriousness of offence I agree with remarks of C.O.	D.C. Spry (D C Spry) Brigadier Comd 1 Cdn Inf Bde.

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RECORDED AT HQ TT AB 160a TTT-199

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFAB) 40/P & S 1656 (2954)

Convened by Order of Brigadier D.C. Spry Comd 1 Cdn Inf Bde dated 27 May 44.

ACCUSED.

As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R ~~or A/Appmt.~~	Full Christian Names.	Surname.	Unit.
F 44842	PRIVATE		Vernon	MacNAUGHTON	48 Highrs

PROCEEDINGS REVIEWED
REVIEWING OFFICER, JAG BRANCH
CANADIAN SECTION DISCIPLINE & PAY SECTION 21 JUN 1944

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date(s)*) 29 May 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn KOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No, Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.H. Usher	Hast & PER
Member	Captain	H.J. McCutcheon	48 Highrs
Member	Lt.	W.J. Powers	R.C.R.
Judge-Advocate			
Prosecutor	Lt.	W.B. REID	48 Highrs
Defending Offr	Lt.	N.B. BELL	48 Highrs

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused F 44842 Pte. V. MacNaughton before arraignment make(s) (no) (a) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form .....

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....No, Sir.....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on the charge(s). ~~The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on the charge(s). Part I of the Schedule is amended accordingly.~~ NHC

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "C", initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND ~~NOT GUILTY.~~

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

NHC

25A

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

48th Highlanders of Canada

"B2"

CHARGE SHEET

The Accused F.44842 Pte. Vernon MacNAUGHTON, "D" Coy, 48th Highlanders of Canada, a soldier of the Canadian Army Overseas, CMF, when on Active Service, is charged with:-

1st CHARGE
A.A. Sec 15 (1)

When on Active Service, absent without leave,

in that he,
In the Field, ITALY, absented himself without leave from 1600 hrs 18 Dec 43 until surrendering himself to CMP at TORINO, ITALY, at 2145 hrs 20 Jan 44. (Time absent 33 days, 5 hrs, 45 mins).

2nd CHARGE
A.A. Sec 15 (1)

When on Active Service, absent without leave,

in that he,
In the Field, ITALY, absented himself without leave from 1600 hrs 28 Jan 44 until apprehended by Carleton & York ~~Regiment~~ Regt at 1600 hrs 18 Feb 44. (Time absent 21 days)
Regimental Police of the

3rd CHARGE
A.A. Sec 15 (1)

When on Active Service, absent without leave,

in that he,
In the Field, ITALY, absented himself without leave from 0530 hrs 28 Feb 44 until apprehended by CMP at POLLUTRI at 1200 hrs 30 Mar 44. (Time absent 31 days, 6 hrs, 30 mins).

In the Field
9 May 44.

(I.S.JOHNSTON) Lt-col,
Commanding Officer,
48th Highlanders of Canada.

To be tried by Field General Court Martial.

In the Field
27 May 44

(D.C. Spry) Brigadier
Comd., 1 Cdn Inf Bde.

24

"B"

H.H. Usher

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAB) 40/1RB/1697 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 106. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 44842	PRIVATE		Vernon	MacNAUGHTON	48 Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 27 May 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. [redacted]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(AA 49, RP 106(5), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	H.H. Usher	Hast & PPR

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	H.J. McCutcheon	48 Highrs
Lt.	W.J. Powers	R.C.R.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt.	G.K. Wright	R.C.R.

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

D.C. Spry (Signed personally. RP 105 fn 2.) — Brigadier (Rank.)

(D.C. Spry)

Date 27 May 44 — Commanding 1 Canadian Infantry Brigade

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

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MEDICAL CERTIFICATE KR (CAN) 557

I certify that I have this morning examined No E. 44842
PTE MACNAUGHTON, V. of 48TH H.F.C. and, in my opinion
he is fit/unfit to undergo trial by Court Martial

Station Dr. field
Date 29 May 44

W. Byers Capt. RCAMC
Medical Officer

22

"D"

Plea of Mitigation of sentence in the case of
F. 44842 Pte. Lemon Mac Naughton —

Pte Mac Naughton joined the Canadian Army in 1938. He was called up with the Picton Highlanders on the day that war was declared, and came overseas early in 1940 with the W.N.S.R. He was with that Regt. until he came to Italy and joined the 48 Highrs in Dec. 1943.

While in England Pte Mac Naughton was married and has had many domestic worries.

Realizing that he has committed an offense against the A.A. he has thrown himself on the mercy of the court.

I feel that he would be of much greater use fighting with his unit than in a detention camp, and I would like to recommend to the court that he receive the minimum sentence and be returned to his unit as soon as possible.

M.B. Bell Saint.
Defending Officer.

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Summary of evidence in the case of F.44842 Pte. "C" MacNAUGHTON, V., "D" Coy, 48th Highlanders of Canada.

By direction of Lt-col. I.S. Johnston, DSO, ED, Commanding Officer, 48th Highlanders of Canada, all evidence is taken on oath.

1st CHARGE

1st Witness for the Prosecution: B.73492 Cpl. FOX, H., 17 Pl, "D" Coy, 48th Highlanders of Canada, having been duly sworn states:- "At the time the accused went absent I was acting Pl Sgt., "D" Coy, 48th Highlanders of Canada. When I called the roll at 1600 hrs 18 Dec 43 the accused failed to answer his name. I searched the area and the accused was absent and has continued absent since that date. I checked the Pl daily from 18 Dec 43 until 20 Jan 44 and had he returned during that period I would have known it. He did not return".

Harry Fox
B.73492 Cpl. Fox, H.

The accused declines to cross examine the witness.

2nd Witness for the Prosecution: B.73532 Sgt. RANNEY, J.J., B.H.Q., 48th Highlanders of Canada having been duly sworn states:- "I in my capacity as orderly room Sgt. of the 48th Highlanders of Canada wish to present as Exhibit "A" certificate of surrender of Pte. MacNAUGHTON to the C.M.P. at 2145 hrs 20 Jan 44. I recognize Pte. MacNAUGHTON as the person referred to in the above mentioned certificate of surrender".

J J Ranney
B.73532 Sgt. Ranney, J.J.

The accused declines to cross examine the witness.

The accused having been warned as follows: "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement or give evidence.

2nd CHARGE

1st Witness for the Prosecution: C.63003 Sgt. ROSS, G.A., 16 Pl, "D" Coy, 48th Highlanders of Canada, having been duly sworn states:- "At the time the accused went absent I was 16 Pl Sgt., "D" Coy, 48th Highlanders of Canada. When I called the roll at 1600 hrs 28 Jan 44 the accused failed to answer his name. I searched the area and the accused was absent and has continued absent since that date. I checked the Pl daily from 28 Jan 44 until 18 Feb 44 and had he returned during that period I would have known it. He did not return".

G A Ross Sgt
C.63003 Sgt. Ross, G.A.

The accused declines to cross examine the witness.

2nd Witness for the Prosecution: B.73532 Sgt. Ranney, J.J., B.H.Q., 48th Highlanders of Canada, having been duly sworn states:- "I in my capacity as orderly room Sgt. of the 48th Highlanders of Canada wish to present as exhibit "A" statement in lieu of certificate of surrender of Pte. MacNAUGHTON to the Carlton and York Regt., at 1600 hrs 18 Feb 44. I recognize Pte. MacNAUGHTON as the person referred to in the above mentioned certificate of surrender".

J J Ranney

B.73532 Sgt. Ranney, J.J.

The accused declines to cross examine the witness.

The accused having been warned as follows: "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement or give evidence.

3rd CHARGE

1st Witness for the Prosecution: B.88149 Pte. PEDERSON, A.C.B., 16 Pl, "D" Coy, 48th Highlanders of Canada, having been duly sworn states:- "At the time the accused went absent I was acting Pl Sgt., 16 Pl, "D" Coy, 48th Highlanders of Canada. When I called the roll at 0530 hrs 28 Feb 44 the accused failed to answer his name. I searched the area and the accused was absent and has continued absent since that date. I was present with the Pl daily from 28 Feb 44 until 30 Mar 44 and had he returned during that period I would have known it. He did not return".

A.C.B. Pederson

B.88149 Pte. Pederson, A.C.B.

The accused declines to cross examine the witness.

2nd Witness for the Prosecution: B.73532 Sgt. RANNEY, J.J., B.H.Q., 48th Highlanders of Canada, having been duly sworn states:- "I in my capacity as orderly room Sgt. of the 48th Highlanders of Canada wish to present as exhibit "A" record of declaration of a Court of Inquiry on the illegal absence of Pte. MacNAUGHTON". I wish to present as exhibit "B" statement in lieu of certificate of arrest of Pte. MacNAUGHTON at POLLUTRI, ITALY at 1200 hrs 30 Mar 44 by Sjt. A Wilkinson 49 C.M.P.

J J Ranney

B.73532 Sgt. Ranney, J.J.

The accused declines to cross examine the witness.

The accused having been warned as follows: "do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement or give evidence.

I certify that Rules of Procedure 4 (b), (c), (d), (e) and (f) have been complied with.

Taken down by me in the presence and hearing of the accused In the Field this 6th day of May, 1944.

C J Seagram Lt

(C.J. SEAGRAM) Lieut.,
48th Highlanders of Canada.

19

EXHIBIT "H"

747

CERTIFICATE OF ARREST UNDER A.A. 163 (1) (ii).

I, Capt. E. Y. Hunt certify that No. F.44842 Rank PTE.

Name MacNaughton, V. Unit 48th. HIGHLANDERS OF CANADA.

was arrested at TORINO di SANGRO about 2145 hrs. on the 20 Jan 1944.

He was dressed in Uniform
~~civilian clothes~~.

E. Y. Hunt Captain.
Officer Commanding.
230 L of C Provost Company.
The Officer into whose custody the above named person was taken on arrest.

18

EXHIBIT "8"
1st charge

Carleton & York Regiment

12 Apr 44

In lieu of certificate of arrest.

I certify that F.44842 Pte. MacNaughton of 48th Highlanders of Canada was arrested 1600 hrs 18 Feb 44 by our Regimental Police

D. Sharpe Capt,
Carleton & York Regiment.

17

EXHIBIT C

STATEMENT OF **EVIDENCE** IN THE CASE OF:-

No. F. 44842. Pte. MACNAUGHTON.V.
48 HIGHLANDERS OF CANADA.

Sir,

At POLIANI on 30th March 1944 about 12.00 hrs I was on duty accompanied by Lieut. COLBSTONE, C.M. POLICE, when I saw the above named soldier. He was working in a farm and was wearing uniform. From information received I knew him to be absent from his unit.

I arrested him and conducted him to my Detachment H.Q. where he was detained to await an escort.

No. 2655190. A. Wilkinson Sgt.
49 Coy C.M. POLICE.

Field.
31.Mar.44.

REMARKS

16

Ref 87/3/G.

CHARGE

Army Form B.252
(See King's Regulations)

48 HIGHLANDERS OF CANADA.

Regiment
(Battery
(Squadron
(Troop or
(Company

CHARGE against No. F. 44842. Rank Pte.

Name MACNAUGHTON, V.

Place FIELD. Date of Offence ???

OFFENCE W.O.A.S.

Absent from ???? until apprehended by the Military Police at POLLAERI on 30. March 1944 about 12.00 hrs.

W. Lavender Capt.
O.C. 40th COY., C.M.P., (T.C.)

Names of Witnesses :— S.Jt. A. WILKINSON, Lieut. M.J. GOLDSTONE. } 49 Coy C.M. POLICE.

Signature of O.C. Battery) Squadron, Troop or Company)

Punishment) Awarded)

By whom) Awarded)

Adjutant.

1917 50,000-871 MPS-14-1-44

P.T.O.

16A

No. F44842 Name MacNaughton, V Sqn., Battery, or Company: Corps C.I.C. Date of enlistment: 1-9-39 G.C. Badges: Service or Proficiency Pay:

M.F.M. 6 (A.F. B.122) 40/P & /8136 (2965)

Date of last entry in Company Conduct Sheet: No. and date of last drunk: Period not reckoning towards freedom from extra fine: Sheet No.: Signature O.C. Company, etc.: Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13 Dec 41	Pte		WOAS-neglecting to obey Coy standing Orders in that he on the night 13 Dec 41 while the Coy was on STAND TO was out of bounds A.A. Sec 11 (2)Conduct to the prej. etc. in that he left a parade without permission. A.A. Sec 40	Sgt. Monhall L/Cpl. MacLean	21 days F.P. 21 days pay F.R.& I. 149 (1)b	15 Dec 41	Maj. F.G. Cantrey	
Field	15 Mar 42	Pte		WOAS - AWL from 2230 hrs 14 Mar 42 to 0130 hrs 15 Mar 42. Sec 15	L/Cpl. Swagg	Forfs 7 days pay F.R.&I.149(2)	16 Mar 42	Maj. F. Cantrey	
Field	27 Apr 42	Pte		WOAS - AWL from 2230 hrs 27 Apr 42 to 2230 hrs 28 APr 42. Sec15	Cpl.Mordely	1 days pay	30 Apr 42	Lt. Dyer	
Field	12 May	Pte		WOAS - walking out improperly dressed. Sec 40 A.A.	CQMS Condon	7 days C.B.	13 May42	Lt. Dyer	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award	Officer awarding punishment	Remarks
Field	18 May 42	Pte.		WOAS-Neglect prej. etc failing to make up his kit before going on parade. A.A. Sec 40	Lt. Hemmilna, W. PSM Black	7 days C.B.	18 May 42	Lt. Dyer	
Field	17 Jun 42	Pte		WOAS-AWL from 2000 hrs until 0600 hrs 18 Jun 42. absent from place of parade. A.A. Sec 15(1)	CQMS Condon	7 days C.B.	18 Jun 42	?	
Field	27 Nov 42	Pte		WOAS-AWL from 2355 hrs 26 Nov 42 to 2115 hrs 27 Novx 42. (21 hrs 16 mins) A.A. Sec 15(1)	L/Cpl. J.R. Barrett	7 days C.B; 7 days pay FRI 149(2)	28 Nov 42	Lt-col. W; Lawson	1 days pay FR &I 149(1)a
Field	24 DEC 42	Pte		WOAS-AWL in that he while on Gd. duty at B Coy 24 DEC 42. Absented himself from 1900 hrs - 2200 hrs Sec 15(1)a	Cpl Beeler	28 days F.P. 28 days pay FRI 149(1)b	26 Dec42	Lt-col. Bogul	

I as officer i/c Regtl. records, certify this to be a true and exact copy.

.K.....B.S.Bg.....Capt.,Adjt.

No. F44842 Name MacNaughton, V | Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment 1-9-39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /8138 (20625)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7-Sep 40	Pte.		WOAS Neglecting to obey a command given by a superior officer A.A. Sec 40	Sgt Marshall	14 dys Detn 14 dys pay FRI 149(1)b	7 Oct 40	Lt-col M.F. Gregg	
Field	2 Jan 41	Pte		WOAS neglecting to obey an order given by a superior officer. A.A. Sec 40	Cpl Wright	7 days C.B.	3 Jan 41	Capt. M. Clement	
Field	14 Jan 41	Pte		WOAS neglect to the prej. etc in that he neglected to perform his duties as room orderly A.A. Sec 40	Sgt Sabran	7 days C.B.	15 Jan 41	Capt. M.G. Clement	
Field	15 Jan 41	Pte		WOAS Refusing to obey superior officer when ordered to scrub equipment. (2) Refusing to obey an order when ordered to clean bathroom. A.A. Sec 9(1)	Sgt Marshall	28 days F.P. 28 days pay FRI 149(1)b	20 Jan 41	Maj. A.A. Ewitt	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10 Jun 41	Pte		WOAS - Neglect to the prej. etc in that he did not appear on duty in the men's mess. Sec 40	CQMS Condon	7 days C.B.	12 Jun41	Lt. Dyer	
Field	21 Jul 41	Pte		WOAS - AWL from 2230 hrs 21 Jul 41 to 0630 hrs 22 Jul 41. Sec 15	L/C. Troop	7 days C.B.	23 Jul 41	Maj. Cantry	Forfs 1 dys pay FRI 149(1)a
Field	16 Sep 41	Pte		WOAS - Neglecting to wear his Resp after being duly warned to do so. A.A. Sec 40	Cpl Miller CQMS Condon	7 days C.B.	17 Sep 41	Maj. Cantry	
Field	16 Oct 41	Pte		WOAS - AWL from 2230 hrs 16 Oct 41 to 0310 hrs 17 Oct 41. Sec 15	Cpl Miller	7 days C.B.	17 Oct 41	Maj. Cantry	Forfs 1 dys pay F.R.&I. 149(1)a
Field	20 Oct 41	Pte		WOAS (1) Leaving camp when Coy confined to barracks. (2) causing disturbance in cookhouse. Sec 40	CQMS Condon	10 Days F.P. 10 dys pay	21 Oct 41	Lt-col A. Swift	
Field	11 Nov 41	Pte		WOAS - improperly dressed and in possession of alcholic stimulants A.A. Sec 40	Pte. Pierre	7 days C.B.	13 Nov 41	Capt Smith	
Field	29 Nov 41	Pte		WOAS-Failing to report at Gd. Room. A.A. Sec 11	L/Cpl Swagg	7 days C.B.	1 Dec 41	Capt Cameron	

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
F.44842	Pte	MacNAUGHTON, V.	48th Highlanders of Canada

1. The following is a fair and true summary of the entries in the regimental [redacted] conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 477, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, precedence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 40	----- times	9 times.
For A.A. Sec 15(1)	----- times	8 times.
For A.A. Sec 11	----- times	2 times.
For A.A. Sec 9(1)	----- times	1 times.
For	times	times.

Number of instances of gallantry or distinguished conduct, N/A

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, [redacted] beginning on the _____ day of _____.

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and 9 days in military custody, making a total of 9 days, of which NO days were spent in hospital.

5. The present age of the accused according to his record of service [redacted] is 23 yrs, 4 mos, 8 dys.

6. The date of his [redacted] attestation specified in his record of service [redacted] is 1 Sept 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon 4 yrs 8 mo 8 dys service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or [redacted] (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A, dated _____, and in his regiment (or corps or department) the rank of N/A, dated _____

(P1622) Wt.15882/144 125,000 6/41 A.&E.W.Ltd. Gp.498

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Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F.44842 Rank Pte Name MacNAUGHTON V. of 48 Highrs Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		The accused has NOT previously been tried by Civil Court or Field General Court Martial.		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of Apr 44.

(Blair S.EKY) Capt. Adjt.
48th Highlanders of Canada.

In the rank of N/A years.

In the rank of years.

In the rank of years.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck out, except that in the case of a Trial by Field General Court-Martial the information may be collected from such courses as are available and the paragraphs concerned amended accordingly.*)

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion

SUBJECT : V.D.

V.D. Expansion
att. 98th Br Gen Hospital.
Date 17 . 5 . 44

O.C. 48 HIGHLANDERS OF CANADA

B 138459 PTE RICHARDSON. E.

The above named of the Unit under your command was admitted to this Hospital on 16 . 5 . 44 suffering from V.S. NYD.

J Priest

Major RAMC
O i/c VD Expansion, 98th Br Gen Hospital.

14

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

~~D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(2)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E below.~~ N.A.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No, sir.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. (i) No, sir. (ii) Yes, sir. (Ex. "D")(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6). RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

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PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-44842 Private Vernon MACNAUGHTON

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd	GUILTY	GUILTY	
3rd	GUILTY	GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: The Court sentences the accused F 44842 Pte Vernon MacNAUGHTON, 48 Highrs of Canada, to be imprisoned with hard labour for the term of two years.

(Sgd) ..... Judge-Advocate, if any. 29 May 1944 Date awarded. (Sgd) H. H. Usher Major President. (RP 45, 90.)

(See back of Convening Order as to assembly and disposal of record after trial.) (H.H. Usher) Major Hast & PER

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding ..... US

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

Extracts entered as No. 3455 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 3 day of May 1944

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 5 June 1944 (Sgd) D. C. Spry Brig

Commanding 1 Can Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F 44842 Pte McNaughton V.	June 7/44	[illegible] Capt 48th Highrs

13 A

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

HQS 8536-6 Vol 3
Adm 3(b)2

CONFIDENTIAL
AIRMAIL
SPECIAL DELIVERY

OTTAWA, 23 Aug 45

District Officer Commanding,
Military District No 6,
HALIFAX, N.S.

District Officer Commanding,
Military District No 3,
KINGSTON, Ont.

F-88221	Pte BOUTILIER, J R	(Ref HQC 55-B-1701)
F-41651	Pte BURKE, R S	(Ref HQC 55-B-1702)
F-87610	Pte FRANCIS, L M	(Ref HQC 55-F-490)
F-16763	Pte HUNT, S W	(Ref HQC 55-H-815)
F-95526	Pte MacLAUGHLIN, R M	(Ref HQC 55-M-1676)
F-4484[illegible]	Pte MacNAUGHTON, V	(Ref HQC 55-M-1654)
F-7583[illegible]	Pte McNEIL, J A	(Ref HQC 55-M-1682)
F-458[illegible]6	Pte NICKERSON, J N	(Ref HQC 55-N-204)
F-526[illegible]7	Pte WATSON, A J	(Ref HQC 55-W-685)
F-51132	Pte ZWICKER, K W	(Ref HQC 55-Z-67)

Ref JAG 9963 d/21 Aug 45 and tel conversation your Capt Dwyer and Capt Parlee of this HQ:-

2. Enclosed herewith copy of CMHQ letter for each of the above SUS. It will be noted that this letter indicates in para 1 in each instance the conduct of the SUS while undergoing sentence up to the date of despatch to Canada.

3. DOC, MD 3, has been requested to forward AFA 3104 and all other pertinent documents.

4. DOC, MD 3, will inform DOC, MD 6, by telegram if in any individual case conduct while at No 89 MDB has been unsatisfactory. If such information is not received, it may be assumed that conduct has been good.

(A E Walford),
Major-General,
Adjutant-General.

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WOP:OAJ
Encl.

HQC 55-M-1654
Adm 3(b)2

CONFIDENTIAL

8 Aug 45

District Officer Commanding,
Military District No 6,
HALIFAX, N S

F.44842 Pte MACNAUGHTON, V

Ref H. Mac-454 (JAG) dated 2 Aug 45.

2. As requested, enclosed herewith Proceedings of FGCM.

3. May these Proceedings be returned when they have served their purpose, pls.

(A E Walford)
Major-General
Adjutant-General

Encl.

WOP:da

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IN REPLY PLEASE QUOTE
No. H. Mac-454 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, M. D. No. 6,
Halifax, N.S., 2nd Aug 45. 194

333723

CENTRAL REGISTRY Army
CONF. SEC.
AUG 5 1945
File 6.33-M-1654
Chgd. to
Referred to

CONFIDENTIAL

Secretary,
Department of National Defence,
Ottawa, Ontario.

F-44842 Pte. MacNAUGHTON, V.

Ref H.Q.C.55-M-1654 (ICM) dated 26 Jul 45.

2. In order to review this case with understanding may copy of the Court-Martial proceedings be forwarded, please, to this Headquarters.

(D.A. White) Brigadier,
D.O.C., M. D. No. 6.

10

N.D. 23
3000M-10-44 (5789)
H.Q. 1772-101-43

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55-M-1654 (ICM)

NDHQ Ottawa, Ont.

26 Jul 1945

CONFIDENTIAL
F.G.C.M.

~~District Officer Commanding~~
~~Military District No. 6,~~
~~HALIFAX, N.S.~~

F.44842 Pte. MacNAUGHTON, V.

Ref

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford)
Major-General
Adjutant-General

9

COPY

6

SECRET

KINGSTON. ONTARIO 0611300/JULY 45

A.G. (ACTION)

7568 CMDG 6 HALIFAX N.S. RPTD SECRETARY OTTAWA

SECRET

RELET KS 674 VOL 2 (A) DATED 4 JULY 1945 AND HQC 9039 -1-1 ADMIN 3 DATED 15 JUNE 1945 FROM DEFENSOR

THE FOLLOWING SOLDIERS UNDER SENTENCE AT SERIAL 2089 WILL ARRIVE HALIFAX UNDER ESCORT 2230 HOURS 10 JULY 1945.

F. 3913 BAKER RD

F 55221 RUSHTON S

F 2488 WILSON HJ

F 45876 NICHERSON JN

F 44842 MACNAUGHTON V

F 51132 ZWICKER K W

REQUEST TRAIN BE MET ON ARRIVAL BY ESCORTS AND PERSONNEL PLACED IN SERIAL 2946. OFFICER IN CHARGE 2ND ECHELON CENTRAL BROCKVILLE HAS BEEN NOTIFIED TO FORWARD ALL DOCUMENTS DIRECT TO OC SERIAL 2946.

CMDG 3 KINGSTON

30741/MDJ/0700300/JULY 45

8
Handwritten

THIS COPY FOR H.Q. C.55-M-1654
M.D. 10/MacNaughton V/1

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. F.44842 Name MacNAUGHTON. Vernon

Rank Pte Unit "D" Coy 48th High of Can

Charge (1st) A.A. 15 (1) - W.O.A.S. A.W.L.

(2nd) A.A. 15 (1) - W.O.A.S. A.W.L.

(3rd) A.A. 15 (1) - W.O.A.S. A.W.L.

Date of Crime (1) 18-12-43; (2) 28-1-44; (3) 28-2-44

Date of Arrest (1) 20-1-44 ; (2) 18-2-44; (3) 30-3-44 Charge Signed 9-5-44

Orders for F.G. C.M. ~~[illegible]~~ Brig Cmdg 1 C.I.B.

Place and Date of Trial Field 29-5-44

Sentence Imprisonment W.H.L. 2 yrs

Date of Confirmation 5-6-44

Date of Promulgation 7-6-44

Entered in Records of J.A.G. as No. 3485

Date 18-4-45

MEMO

7

153

for for Judge Advocate-General

10M-1-45 (M-4629)

Quote No. H.Q.C.55-M-1654 (JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

OTTAWA, Canada

1 May 45

Canadian Military Headquarters,
2 Cookspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

F.44842 Pte. Vernon MacNaughton,
"D" Coy., 48th Highlanders of Canada.

1. Receipt is acknowledged of your 10/MacNaughton, V/1 dated 1 Apr 1945, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

E. M. Capt.
for (R.J. Orde), Brigadier,
Judge Advocate General.

MM

6

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

OTTAWA, Ontario

CONFIDENTIAL

27 Apr 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

F.44840 Pte MACNAUGHTON, V

SUS EX ITALY

This SUS is being returned from O/S in custody and is to be posted to No 3 DD and to be committed to No 89 MDB, in accordance with HQS 8536-6 Vol 2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of **imprisonment with hard labour.**

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

3. ~~This SUS is to be ultimately discharged with ignominy in accordance with the sentence of the Court under CARO 1029(9).~~

for (A E Walford)
Major-General
Adjutant-General

Encl. 3

5

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/MacNaughton, V/1

CANADIAN MILITARY HEADQUARTERS

LONDON 1 Apr 45

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

C.55-M-1654

F-44842 Pte MacNaughton, V.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 29 May 44 for 3 offences under AA Sec 15(1). He has so far earned full remissions for good conduct while serving his sentences, and the earliest date on which he should be released, if he continues so to do is 1 Oct 45.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the offences of which this soldier has been convicted, his previous record and all available reports, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has not misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 29 May 44, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters.

Enc. 4.

3785

1/39a CMHQ 1000:76
40/F & S/803 (6739)

4

C O P Y

BOMBER
CONFIDENTIAL

AIR MAIL

CANADIAN MILITARY HEADQUARTERS

LONDON

1 Apr 45

The Secretary,
Department of National Defence
OTTAWA, Canada.

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(E.G. Weeks) Major-General,
In charge of Administration
Canadian Military Headquarters

Enc.4.

COPY

AIR MAIL

BOMBER
CONFIDENTIAL

CANADIAN MILITARY HEADQUARTERS
LONDON

1 Apr 45

The Secretary,
Department of National Defence
OTTAWA, Canada.

F-44842 Pte MacNaughton, V

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(E.G. Weeks) Major-General,
In charge of Administration
Canadian Military Headquarters

Enc.4.

2

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS F-44842 Pte MacNaughton, V. of 48 th Highlanders was by Field General Court-Martial held in the field convicted of the offence~~s~~ of Absence without leave (3 charges)

and by a sentence signed on the 29th day of May 194 4 sentenced to undergo Imprisonment with hard labour for 2 years

said sentence of imprisonment commencing on the aforesaid day, and such sentence has been confirmed by Comd 1 Cdn Inf Bde. as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 1st day of Apr 194 5.

(J. Beech) Brigadier
Deputy Adjutant General
Canadian Military Headquarters.

COUNTER NUMBER 13549

HOUR 09:30

OPERATOR'S INITIALS aw

RELIEVING OPERATOR JWR

H.Q.C. 55-M-1655

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL
MOSCA. ANTONIO D.651987 GNR.

CONFIDENTIAL
H.Q.C. 55-M-1655

CENTRAL REGISTRY	DATE	P.A. OR D.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 25 1945				J. Alex	NEW FILE C.R.		APR 17 1945
				J.A.	With Papers C.R. MAY 4 1945		
MAY 10 1945				ecm	To note, file	M.M.	9-5-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC.55-M-1655 (JAG/D)

9 May 45

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

Standing
D.651987 - Gnr. Antonio MOSCA, Court Martial
(RCA) No. 2 D.D., C.A.

T-20-M-20247 (AJAG)

Receipt is acknowledged of your
dated 2nd May, 194 , under cover of which you
returned to this office for Standing the proceedings
of the marginally noted Court-Martial.

/AB

E.L.M.
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

Notice
L.H. Clayton
L.H. CLAYTON
Lieut.-Colonel,
Director of Court Martial
MAY 10 1945

E.D.

IN REPLY PLEASE QUOTE No. T-20-M-20247 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY 111202

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
2nd May, 1945.

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
D-651987 - Gnr. Antonio MOSCA,
(RCA) No. 2 District Depot, C.A.

Reference H.Q.C.55-M-1655 (JAG/D-3) dated 24th April, 1945.

2. Returned herewith proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O. 4567(7)(C)(e).

3. Pursuant to H.Q.55-1-41 F.D.74 (Adm) dated 16th January, 1945, it is considered that no administrative action is necessary.

(A. E. Potts)
Major-General
D.O.C. M.D. 2.

Refer to 55-M-1655
Cl. Rgt. to
Referred to JAG

NAT. DEF. B. 440
2000M 4-44 (A320)
H.Q. 1070-59-287

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, TORONTO, Ontario

on the 10th day of April 19 45 at 1415 hours,

for the trial of: B 651987 Gunner Antonio MOSCA
Number Rank Full Name

(RCA) No 2 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major R.D. EVANS (Lorne Scots of Canada) Headquarters M.D. 2

PROSECUTOR: Major N.M. MENZIES R.D. Headquarters M.D. 2
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Major A.R. JUDD (Duff's Hald Rifles) No 2 District Depot CA
Rank Full Name Unit Attachment, if any

FINDING: GUILTY OF THE CHARGE

SENTENCE: TO UNDERGO DETENTION FOR NINETY (90) DAYS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF $21.51 IN RESPECT OF THE COST OF APPREHENSION AND RETURN TO HIS UNIT

Signed at TORONTO, Ontario this 10th day of April 1945.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered at 34864 in the Record of Courts-Martial held in the Office of the Judge Advocate-General this 19 day of Apr. 1945

President,
Standing Court-Martial

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to B14465 Pte F.R. LeBLANC (Can Prov.Corps) R.M.P. No 2 District Depot, C.A. as interpreter ?

Answer: No, sir.

Question to the accused. Do you object to M11059 S/Sgt I.C. GORSON R.M.A.C. No 2 Det C.M.C.C. as shorthand writer ?

Answer: No, sir.

The shorthand writer and interpreter (~~if any~~) are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or by a General Court-Martial~~ ?

Answer: No, sir, he was remanded.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ the charge against you, which you have heard read ?

Answer: Guilty, sir.

~~*Question to the accused.* Are you guilty or not guilty of the second charge against you, which you have heard read ?~~

Answer.

~~*Question to the accused.* Are you guilty or not guilty of the third charge against you, which you have heard read ?~~

Answer.

~~*Question to the accused.* Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

20-M.

B2- [illegible] Major.
President. S.C.M.

CHARGE SHEET

The accused, No. D-651987, Gunner Antonio MOSCA, (RCA), No. 2 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:-

CHARGE
Sec. 15 (1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE:

- in that he -

at Exhibition Barracks, Toronto, Ontario, on the 5th day of December, 1944, absented himself without leave from No. 2 District Depot, C.A., at 0830 hours, on said 5th day of December, 1944, until he voluntarily surrendered himself to Military Authorities, at Montreal, Quebec, at 1155 hours, on the 2nd day of April, 1945, dressed in military uniform, cost of return to his unit, being Twenty-one Dollars and Fifty-one Cents, ($21.51).

[illegible] Colonel
Officer Commanding,
No. 2 District Depot, C.A.

Toronto, Ontario,
6th April, 1945.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge.

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

The Prosecutor offers to the Court the following documents:

K.F.B. 375
M.F.M. 216
M.F.B. 1481 and 1482.

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. Yes, sir. (See following page).

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

~~(Statement of the accused to be recorded on a separate page.)~~

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

STATEMENT BY ACCUSED:

When he left to go on the loose..

---PRESIDENT: Just say when I left.

When I left to go on the loose, I only left to go for three days. When I was going to come back my mother was sick in bed and she was scared they were going to send me overseas; and my mother is a mother that could die any minute; and my sister told me if I left it was really the end of my mother.

I tried to come back after, but it was always the same thing; they were always saying the same story.

In the end of four months I decided to come back anyway.

That's all.

---PRESIDENT: Ask him if there is anything further ~~now~~ he would like to say.

---ACCUSED: That is the only reason, sir.

---PRESIDENT: That's all he wishes to say.

---INTERPRETER: That is all he wishes to say.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. He wishes his officer to speak for him.

(See following page)

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

STATEMENT BY THE DEFENDING OFFICER IN MITIGATION OF PUNISHMENT:

Sir, in view of the statement made, and conversation with the accused, it seems to me that he has a very sympathetic nature; also the reason for him being absent without leave is on account of his own people, his mother being sick and liable to pass out at any time. His father is not in the best of health. Through the love of his mother and father the boy could not break away.

He is willing, as he told me, to do a good job at soldiering, but under the circumstances, he was unable to do it, on account of his family.

I would ask the Court to be as lenient as possible in the sentence to be imposed on the accused; also to take into consideration he has also been eight days while waiting trial.

That's all, sir.

---PRESIDENT: Major Judd, may I ask you several questions. Can you tell me if the accused is married or single ?

---DEFENDING OFFICER: Single.

---PRESIDENT: Would you tell me where his mother and father live ?

---DEFENDING OFFICER: I don't know.

---PROSECUTOR: Look in his documents.

---DEFENDING OFFICER: Mr. Louis Mosca, address of next-of-kin, 7059 Drolet Street, Montreal Quebec.

---PRESIDENT: Will you give his PULHEMS profile.

---DEFENDING OFFICER: Two under the "M"; the others all one. I have no record of his training at all.

Y. [illegible] Capt
President S.C.M.

M.F.H. 355
50M—9-42 (5993)
H.Q. 1772-30-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D.651987,	Gunner	Antonio MOSCA, (RCA)	No. 2 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Conduct Sheet~~ enrolment ~~Conduct sheets~~ ~~of the accused~~, exclusive of convictions by a Court-Martial or a Civil Court, ~~of summary awards~~ under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.W.L.	1 times	A.W.L. 1 times
For	times	times
For	times	times
For	times	times

~~[illegible]~~

2. The accused has not been previously convicted ~~[illegible]~~

3. The accused is not under sentence at the present time. ~~[illegible]~~

4. The accused has been in confinement awaiting trial on the present charges for Nil days in civil custody, and 48 days in military custody, making a total of 48 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ enrolment paper is 21 years, 3 months.

6. The date of his ~~enlistment~~ enrolment specified in his ~~[illegible]~~ enrolment paper is 14th. March, 1944.

~~[illegible]~~

16

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th. day of March, 1945. Mayles Capt.& Adj
No. 2 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. D-651997 Name MOSCA, A | Sqn., Battery, or Company | Corps RCAMC. | Date of enlistment 14-3-44 | G.C. Badges | Tradesmen's Rates of Pay | M.F.M. 6 (A.F.B. 122) 700M—19-10 (7537) H.Q. 1179-39-1943

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. One | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa	19-7-44			Sec. 15 (1) A.A. AWL 5 days .		14 days C.B.	24-7-44	W.S.Finney LT.Col.	5 Days FR&I.
				Previous Sheet Destroyed 23-8-44					
CEIH	19-7-44			Date of last entry					

CERTIFIED TRUE COPY..... Capt. & Adj.
No. 2 District Depot, C.A.

(P.T.O.)

T. Atkinson Capt
Provost SCAP.

35 day

Exhibit "A"

SOS Des DO 9 d/11 Jan 45 Eff. 8 Jan 45 Struck off S.O.M. Exhibition Barracks, Toronto, Ontario.

RECORD of the Declaration of a Court of Inquiry assembled at Toronto, Ontario.

on the 8th day of January 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D.651987, Pte. MOSCA, A.

DECLARATION

The Court declare that No. D.651987 (Regt'l No.) PRIVATE (Rank) Antonio MOSCA (Full Name), Placement Wing, No.2 District Depot, C.A. (Unit) illegally absented himself without leave from No.2 District Depot C.A. at Toronto, Ont. (Place) at 0830 hours on the 5th day of December, 1944, that he is still so absent, and that on the 2nd day of January 1945. he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		
CLOTHING SECTION "A"			CLOTHING SECTION "B" Contd.		
Anklets, web, prs.	1	.56	Drawers woollen prs.	2	2.10
Gloves woollen khaki prs.	1	.50	Vests woollen	2	1.80
Greatcoats drab	1	11.66	Shirts under cotton	2	.66
Overalls, comb, prs.	2	3.78	Drawers cotton short prs	2	.64
Dressing, first field	2	.20	Jersey pullover	1	1.24
Coats waterproof army	1	5.18	Shoes, canvas prs.	1	1.72
Mitts, pullover leather prs.	1	.70	Socks, army prs.	4	1.40
CLOTHING SECTION "B"			Jackets K.D. O.C.	1	2.57
Trousers, battle dress prs.	2	9.82	Trousers K.D. long prs.	1	1.35
Blouses, battle dress	2	9.76	Trousers, K.D. short prs.	3	2.94
Boots, ankle, prs.	2	8.74	Jacket serge drab O.C.	1	8.10
Caps, field service	2	1.06	Trousers, serge drab NP pr.	1	3.25

B. Grossberg Capt. (Ir.R. of C.) President
(Name) (Rank) (Unit) No.2 District Depot, C.A.

Signed at Toronto, Ontario. ..... Member (Name) (Rank) (Unit)

this 8th day of January 19 45 ..... Member (Name) (Rank) (Unit)

Signature of Commanding Officer G.M. Alexander, Lt.Col. (Name) (Rank) Officer Commanding No.2 District Depot, C.A. (Unit)

Certified true copy F.B. Revell (Name) Capt. & A/Adjt. No. 2 District Depot, C.A. (Rank) (Unit)
(Signature of Officer having custody of original record)

(F.B. Revell)

M.F.B. 375
A.F.B. 115
150M—10-42 (5530)
H.Q. 1772-39-257

CLOTHING SECTION "B" Contd.		
Shoes, leather black prs.	1	3.63
Shirts cotton khaki	3	3.48
Mufflers khaki	1	.70
Puttees prs.	1	.75
CLOTHING SECTION "C"		
Belts, waist leather brown	1	.26
Neckties, black	1	.15
Pins, collar	1	.05
Socks, black	2	.42
Towels, hand	2	.46
Bags kit MkII	2	1.90
Braces prs.	1	.21
Sticks, button	1	.03
Brushes button	1	.08
Brushes, cloth	1	.13
Brushes, hair	1	.30
Brushes, boot polishing	1	.17
Brushes, shaving	1	.32
Brushes, tooth	1	.07
Caps, comforter	1	.31
Combs, hair	1	.03
Forks, table	1	.06
Spoons table	1	.06
Knives table	1	.14
Holdalls	1	.17
Housewives	1	.26
Razors safety	1	.32
CLOTHING SECTION "D"		
Badges cap	1	.07
Buttons G.S.	8	.06
Badges Emb.Unit title prs.	3	.33

SECTION "A-1"		
Bags, ration	1	.03
Belts waist W.E.37	1	.57
Bottle,water	2	.49
Braces, W.E. R&L	1	.51
Carriers waterbottle	1	.28
Frogs bayonet	1	.14
Haversacks, W.E.37	1	1.72
Helmets steel	1	1.79
Packs, W.E.37	1	1.70
Ponches basic	1	1.54
Straps, shoulder haversack	2	.48
Straps web supporting	2	.21
Tins, mess	1	.43
SECTION "A-2"		
Capes, anti-gas	1	3.32
Respirators A.G. Comp.	1	4.51
Ointment A.G.	2	.40
Outfits anti-dimming	1	.11
Eyeshields A.G.	6	.78
Detectors A.G. Ind.Prs.	2	.42
SECTION "J-1"		
Sheets ground	1	1.79
TOTAL SHORTAGES		115.85

CERTIFIED CORRECT

D.G. Sweet Capt. Adjt.
No.2 District Depot, C.A.

Veterans Legislation
President S.C.M.

Exhibit "B"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942. and in General Order No. 127. 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel S. ECHENBERG Commanding No. 4 District Depot C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-651987 Pte MOSCA, Antonio
(Number) (Rank) (Name in full)

of the RCA, CA. Att'd. No. 2 DD.
(Unit and attachment, if any)

Strike out words not applicable } ~~apprehended~~ (surrendered to) D-137283 Cpl.
(Number) (Rank)

KLOPFER, P. No. 4 District Depot Guard Room, CA.
(Name) (Unit or appointment)

at Montreal South, Que. at 1155
(Place) (Hour)

on the 2nd day of April 19 45

Strike out words not applicable } ~~as a deserter~~ or absentee without leave), and that at the time of his arrest he was wearing military (~~civilian~~) uniform ~~(and not in civilian dress)~~.

Dated at Montreal South, Que. this 2nd day of April 19 45

(Signature, Number, Rank, Unit or appointment)
(S. ECHENBERG) Colonel
Commanding No. 4 District Depot, CA.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

Exhibit "C"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Captain F.H. Britton, RCASC, Issuing Officer for DS&TO, M.D.#2
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transportation for escort

Complete — to proceed from Toronto, Ontario. (Place) to Montreal, Que. (Place)

and return to Toronto, Ontario. (Place) for the purpose of escorting

Full description of soldier being escorted — D.651987 (Number) Pte. (Rank) Mosca, A. (Name in full)

#2 D.D. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~the transportation required~~ and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
TRANSPORTATION	
ESCORT: B.75997 Cpl. Sinclair, J.D., #2 D.D.	
One return second class, Toronto to Montreal, Que.....	11.14
TAX:15%	1.70
ACCUSED	
One single second class, Montreal to Toronto, Ontario.	5.57
TAX:15%	.85
MEALS: (3 @ 75¢)	
Covered by M.D.#2 Transport Warrant No. C.925467 dated April 3, 1945.	
TOTAL $19.26	$19.26

Dated at Toronto, Ontario this 3rd day of January A.D. 1945.

F.H. Britton CAPTAIN, RCASC,
Issuing Officer for DS&TO, M.D.#2

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~authorizing transportation~~

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
125m—39-42 (1655)
H.Q. 1172-89-1481

Exhibit "D"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(INCIDENTAL EXPENSES)

Complete description — I, B.75997 (Rank) Cpl. SINCLAIR (Name) J.D. (Unit) #2 D.D.,

Strike out words not applicable — as (escort) ~~[illegible]~~ consisting of myself

Members of escort

detailed to proceed from Toronto, Ont. (Place) to Montreal, P.Q. (Place)

Name and description of soldier escorted — to return D.651987 Pte. MOSCA, A. #2 D.D.

alleged to be a deserter or absentee without leave, to No.2 District Depot, C. A. (Place),

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
1 meal on train for escort (supper) 3-3-45	.75
1 " " " " " (breakfast) 3-3-45	.75
1 " at station " " (lunch) 3-3-45	.75
Covered by M.D.#2 Transport Warrant No. C.925467 dated 3 April, 1945.	
Total	$ 2.25

Dated at Toronto this 5th day of March A.D. 1945

J. D. Sinclair
Signature of rank
~~[illegible]~~ (escort)
Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1482
75M—5-43 (8826)
H.Q. 1772-59-1536

MEDICAL OFFICER'S REPORT

I certify that No. D.651987 Gnr. MOSCA, A.

of No.2 District Depot, is in a good state of health,

and is fit to undergo trial by Court martial.

R Stebbings Capt. Capt.
Medical Officer RCAMC
attached to No.2 District Depot CA

Station Exhibition Barracks,
Toronto, Ontario.

Date 10th April 1945

Robertson Major
President. S.C.M.

M. F. B. 246
25M—10-42 (5503)
H.Q. 1772-39-480

HQC.55-M-1655 (JAG/D-3)
Your File T.20-M-20247

24 Apr 45

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

STANDING COURT-MARTIAL

D.651987 - Gnr. Antonio MOSCA,
(RCA) No. 2 D.D., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde), Brigadier,
Judge Advocate-General.

EMC/AB

THIS COPY FOR H.Q.C.55-M-1655
M.D.T.20-[illegible]-29247

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D.651987 Name MOSCA, Antonio

Rank Gnr Unit (RCA) No. 2 D.D. C.A.

Charge A.A. 15 (1) - AWL

Date of Crime 5-12-44

Date of Arrest 2-4-45 Charge Signed 6-4-45

Orders for D.C.M.

Place and Date of Trial Stanley Brks Toronto Ont 10-4-45

Sentence Det 90 days; stoppages $21.51

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36864

Date 19-4-45

MEMO

M.D. 2 - No. 2 D.D.

Absent Sentence

4 mos. Det. 90 days

for Judge Advocate General

10M-1-45(M-4629)

23 April 1941

Passed - no engineering notes

IN REPLY PLEASE QUOTE No. T-20-M-20247 (AJAG)

In reply please quote No.

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
13th April, 1945.

CONFIDENTIAL

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.55-M-1655

STANDING COURT-MARTIAL

D-651987 - Gnr. Antonio MOSCA,
(RCA) No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

Major.

Permanent President
Standing Courts-Martial

36864

NAT. DEF. B. 440
(3000M-4-44 (4520))
H.Q. 1172-39-267

H.Q.C. 55-M-1656

CONFIDENTIAL

M.F.B. 5570

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MURPHY. GERALD F.55206 PTE.

3B

CONFIDENTIAL
H.Q.C. 55-M-1656

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "See Minute")		
				J. A. G.	NEW FILE	C.R.	APR 17 1945
				Admin	Per request, file returned	S.E.M.	19/10/45
MAY 4 1945		PA		JAG.	Returned		28.4.45
				ADM	File returned	MB	25 9 45
				SE(AG)	SE		28.7.45
				Ind			28.7.45
				SEAG	Minute		31/7/45
				Admin	returned		1/8/45
				SE(AG)	SE		3.8.45
				Ind			4.8.45
				SE(AG)		MBD	10.8.45
AUG 14 1945		PA	MB	Admin	returned		11.8.45
				CMBR	For Requisition C.R. OCT 2 1945		
				AG	Fol 30		OCT 20 1945
NOV - 6 1945	5.11.45	PA	GDB	Adm	Passed file.	GDB	20/10/45
				Admin	For Requisition C.R. NOV 26 1945		
				SE(AG)	SE	GDB	07/11/45
DEC 1 - 1945	1/12/45	PA	MD	BJ			29.11.45
JUN 17 1946	14/6/46	PA	WAS	KDVPB	For Requisition C.R. APR 3 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-M-1656
Adm 3(a)3

27 Nov 45

SE 6200/3335B/
2626B d/23 Nov 45

TO: PS

F.55206 Pte MURPHY, G

Ref your min on copy of your reply to Mr Clarence Gillis, MP of 20 Nov 45 which did not require a reply. The following facts are submitted in order that you may have the infm on your file.

2. This case was reviewed by CMBR on 16 Oct 45 and recommendation was made for immediate release.

3. Accordingly on 25 Oct 45 DOC MD 6 remitted one year and 29 days of the m/n soldier's sentence eff 29 Oct 45.

(A E Walford)
Major-General
Adjutant-General

GLB:6293:sp

FINAL

MINISTERS OFFICE
NOV 29 1945
DEPT. N.D. OTTAWA

41

E.55M 1656

U R G E N T
SPECIAL ENQUIRY

DATE NOV 23 1945

TO: D: Admin FO: 620C/3335B/2626B

The attached corres ondence received from the P.S is passed for necessary action. No report need be submitted on this enquiry.

A.G. Control & Co-ordination
(J.E. Section)

40

A.G. (Co-ord.B)

For consideration, please.

D L Bentley

P.S.

920-84

20 November 1945

Clarence Gillis, Esq., M.P.,
House of Commons,
Ottawa.

Dear Mr. Gillis:

Re: F-55206, Pte. Gerald Murphy

I have your letter of the 14th of November, with reference to the above named soldier.

I am sure I need not explain that it is not the desire of the Department to keep any soldier in detention for any longer than the interests of justice and discipline require, and for that reason periodic reviews are made.

I am however bringing your letter to the attention of the appropriate officers of the Department and Mrs. Murphy can be assured that when her son's case is again reviewed, no extenuating circumstances in connection with it will be overlooked.

Yours very truly,

RECEIVED
NOV 23 1945
ADMIN.
312-12

Doris L. Bentley,
Private Secretary.

MD/DLB
wt

39

IN REPLY PLEASE QUOTE
No. H. N-4469 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, M. D. No. 6,
Halifax, N. S., 30 Oct 45. 194

CONF. REC.
6828
NOV 2 1945
File CDS-PM-1656
Chgs. to Admin
Referred to Admin

CONFIDENTIAL

Secretary,
Department of National Defence,
Ottawa, Ontario.

F-55206 Pte. G. MURPHY

Reference RANKS 1062 RESTRICTED.

2. Forwarded herewith completed Remission of Sentence Form remitting 1 yr and 29 days of the m/n soldiers' sentence, effective 28th October 45.

3. Also forwarded herewith Army Form A3104 re the m/n soldier duly completed in Part VI.

(J.C. Stewart) Brigadier,
D. O. C. M. D. No. 6.

38

N.D. 33
3000M—10-44 (5769)
H.Q. 1772-101-33

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. F.55206 Pte. Murphy, G. Unit C.B.Highlanders

Sentenced to Prison for 2 yrs.without hard labor on 27 Nov 44

Age on, and date of, enlistment 16 yrs. 1 Jun 40 Term of service 4 yrs 6 mos.

FIRST TRIAL.

For details of offences, see paragraph VII.
For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to .....
and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(*22048) Wt.30636/511 60,000 11/42 A.& E.W.Ltd. Gp.495 Form/A.3104/11.

37

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.»

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	No remission. B.F. 13 May 45.	(W. G. H. Roat) Brigadier O i/c Cde Sec 1 Ech A.F.H.Q. 14 MAR 1945	
	Non-remission. Return to Canada in custody under sentence	(G. S. ROUTH) Brigadier Deputy Military Headquarters. 12 APR 1945	
25 Oct45	Remit one year & 29 days of sentence eff 29 Oct45	(J. C. Stewart) Brigadier, D. O. C., M.D. No. 6.	

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. A.A.Sec .12(1)a WOAS, Deserting his Majesty's Service, in that he, in the Field, absented himself without leave, with intent to avoid battle at 1900 hrs, 5 Oct 44 until apprehended at Gagli at 1900hrs. 9 Oct 44.	5 Oct 44	27 Nov 44
(2nd Chg.) A.A.Sec.15(1) WOAS, Absenting himself without leave while under close arrest at 1400 hrs 21 Oct 44 until apprehended by C.5126 A/Cpl. Pierce, of 1 Can Base Rft. Depot Bn. 1 CB BD(RP) at Canada Bks at 0820 hrs. 6 Nov 44.	21 Oct 44	27 Nov 44
Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
29 Nov 44	I recommend that this sentence be NOT reduced.	R B Armstrong Lt Col

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
30 Nov 44	I recommend that this sentence be not reduced	Brig Comd 11 Cdn Inf Bde

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF
SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No: HQC.86-M-1686
District File No: N.M-4489 (JAG)

PART I

No. F-55206 Rank Private NAME G. MURPHY
Unit No. 6 District Depot, C.A.

PART II

Date of Trial 27th November, 1944.
Charge(s) Sec.12(1)(a)A.A., While on Active Service, Deserting His Majesty's Service.
Sec.15(1) A.A., While on Active Service, Absenting Himself Without Leave.
Sentence Prison for ~~two~~ (2) years without hard labour
Confirmation -(a) Authority:
(b) Date :

PART III
REMISSION

I, the undersigned, being the competent military authority under Section 67 (2) of the Army Act, do hereby remit (~~xxxxxxxxxxxxxxxxxx~~ one year and twenty-nine (29) days of his sentence, effective 25th October, 1945.

Signed at Halifax, N. S., this 25th day of October, 1945.

(A. C. STEWART) Brigadier,
D. O. C., M. D. No. 6.

PART IV
PROMULGATION

Remission (~~commutation~~)(~~mitigation~~) promulgated and extracts taken at Halifax, N. S. this 29th day of October, 1945.

Sgt. G.A. Braine Capt.
Officer i/c Documents.
(G.A. BRAINE) Captain,
No. 6 District Depot, C.A.

(Unit, attachment and appointment to be stated)

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. F-55206 Rank Private Name MURPHY, G.
The sentence of Two (2) years imprisonment
awarded by F.C. Court-Martial on the 27 Nov 44 194,
has been remitted one year and twnety-nine day of sentence
on the 25th Oct 194 5, by D.O.C., M.D.No.6.
Unit
Certified True Extract of Daily Orders Part II of No. 6 District Depot, C.A.
No. 259 Place Halifax, N.S. Date 29 Oct 45.

Sgt. L.H. LeBlanc Capt.
Adjutant
(L.H. LEBLANC), Captain,
No.6 District Depot, C.A.

35

File: K.55-M-5578-C(DAPM)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

KINGSTON, Ontario, 22 October, 1945.

SPECIAL DELIVERY

CONFIDENTIAL

District Officer Commanding,

Military District No. 6,

HALIFAX, N.S.

F.55206 Pte. MURPHY, G.

Ref HQC 55-M-1656(CMBR) d/5 Oct 45. Confidential.

2. Enclosed herewith:-

(a) AFA 3104

(b) Review Sheet

3. Pursuant to AA 57A, GO 245/45 and the provisions of CARO 5913, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

4. May a receipt for these documents be forwarded to this Headquarters, please.

Copy to: Secretary,
Dept. of National Defence,
OTTAWA, Ontario.
(for information)

E H Watts
Major,
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

34

AG 2010

COPY

VER V CIA NRS 20 21 & 22

FROM COMMANDING THREE KINGSTON ONT 221206R

TO DOC MD NO 6 HALIFAX N.S

TO OC NO 6 D D HALIFAX N S

TO SECTY DND OTTAWA ONT

OR 129 BT

KD 241 RESTRICTED

RELET KS 674(A) DATED 21st OCTOBER 45 BEING DESPATCHED AIRMAIL THIS DATE STOP FOLLOWING S U S AT NO 20 MILITARY DETENTION BARRACKS WILL CEASE ATTACHMENT THAT UNIT AND SOS NO 3 DISTRICT DEPOT WEF 24 OCTOBER 45

F.43095 PTE WARD H

F.55206 PTE MURPHY G

STOP REGIMENTAL DOCUMENTS OF EACH SOLDIER BEING DESPATCHED REGISTERED MAIL DIRECT TO OFFICER COMMANDING NO 6 DISTRICT DEPOT STOP REQUEST TRAIN BE MEET ON ITS ARRIVAL AT HALIFAX N S AT TRAINSIDE AT 2250 HOURS 25 OCTOBER 45 STOP ADDRESSED COMMANDING SIX REPEATED OFFICER COMMANDING NO 6 DISTRICT DEPOT AND DEFENCOR

BT 221442R WE B

CR(e) PA on file
es-s- M-1656
DOJ.

noted
JGS.

Admin 3 (b)2

33

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

HQC 55-M-1656, Adm 3(a)

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE

PLACE	DATE
OTTAWA, Ont	20 Oct 45.

District Officer Commanding,
Military District No 3,
KINGSTON, Ont.

RANKS 1082 (RESTRICTED)

REVIEW REF AG 0267 D/18 OCT 45 REFERS

F-55206 PTE MURPHY G (.) CMBR RECOMMENDS

IMMEDIATE RELEASE (.) AG CONCURS (.) ACK

ADJUTANT GENERAL

Infm copy to: AG
CMBR
JAG

GDB:EW

GDB Capt

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	WHO MAY BE HELD LIABLE IF MESSAGE PUBLISHED. INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

32

HQC 55-M -1656 (CMBR-1)/eh
4 Oct 45
Case No 0211

PAGE 1.

REVIEW OF SENTENCE

1. No, Rank and Name; F-55206 Pte MURPHY, G.

2. Unit at date of offence: Cape Breton Highlanders, CMF

3. Charge: AA Sec 12 (1)(a) - WOAS was AWL for 4 days with intent to avoid front line service (apprehended)

AA Sec 15 (1) - WOAS was AWL for 15 days 18 hrs while under close arrest.

4. Place and Date of Trial: In the field, Italy, 27 Nov 44

5. Finding: Guilty

6. (a) Sentence; 2 years with hard labour

(b) Date of Sentence: 27 Nov 44

7. Date of Confirmation: 28 Nov 44

8. Date of Promulgation: 29 Nov 44

9. Being served at 89 M.D.B. in MD 3

51

(N.B. - Discharged under RO 1029 ( ) for wef).

Case No----------

CONDUCT

11. (a) Prior to conviction: Good

Date of enlistment: 1 Jun 40

Date of enrolment: Age: 23

(b) After conviction: Good

(Earliest date of release if full remissions earned 29 Mar 46)

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

The accused has fought with this unit since the original landing at Salerno . At the time of his crime accused was in action for over 6 months. His previous record is good. He is married and has a child.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC Reviewing Offr, etc).

CMHQ: To serve sentence in full and to be discharged for his misconduct.

Rev Offr Release at once in view of previous good conduct and on compassionate grounds.

Reviewed by [illegible] Capt
A.B. O'Keefe Capt

---

14. Decision of the Board:

Date:----------194---.

Chairman/Member/Secretary.

14. Recommendation of the Board

Immediate Release.

Date OCT 16 1945

W A Stickwell Major

Secretary
Courts-Martial Board of Review

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55- M 1656 (ICM)

NDHQ Ottawa, Ont.

13 Aug 45 1945

CONFIDENTIAL
F.G.C.M.

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

F 55206 Pte. MURPHY, G

Ref

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford)
Major-General
Adjutant-General

28

MEMORANDUM

Department of National Defence
(Army)

To:

HQC 55-M-1656 Adm 5(b) 4 AM 3

M.S. OTTAWA, Ontario 3 Aug 45

S.E. 3335B/2626B d/ 1 Aug 45
Min File: 994-87

RECEIVED
A. G. CONTR

F.55206 Pte MURPHY, G

This soldier was sentenced 27 Nov 44 to 2 years imprisonment without hard labour. RO 5913 states that,

"in cases where the SUS, upon arrival in Cda, has not served one-half of his sentence,.... review may be postponed to coincide with the review which (in the case of soldiers sentenced in Cda) will take place prior to the date when one-half of the sentence will have been served."

2. In the present case, this means that sentence need not be reviewed until shortly before 27 Nov 45.

3. As this soldier was only returned from O/S recently, there has not yet been sufficient time for the DOC to judge his conduct. It is therefore, not considered that a review should be ordered at the present time.

(A E Walford)
Major-General
Adjutant-General

FINAL

WFB:da

MILITARY SECRETARY
AUG 8 1945
RECEIVED

MINISTERS OFFICE
AUG 5 1945
DEPT. N.D. OTTAWA.

RECEIVED
A.G. CONTR

27

SPECIAL ENQUIRY

Date AUG 1 1945

To: D Admin

No. 3335B/2626B

Reply addressed to M.S. will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

OFFICE OF THE MINISTER OF NATIONAL DEFENCE

MEMORANDUM To:

MIN. FILE 994-87

H. Q. FILE C 55-M-1656

Adjutant-General

July 31, 1945.

Re: F-55206, Pte. G. Murphy

With reference to your minute, 26 July, 1945, it is observed that the sentence of this soldier was reviewed overseas.

It is noted, however, that as provided in C.A.R.O. 5913, paragraph 9, a review should be made immediately on arrival in Canada and it is requested that a report be forwarded for the Minister's information as to the result of any such review, please.

(H.L. Cameron) Colonel,
Military Secretary.

RECEIVED
AUG 1 1945
ADMIN.

76

MEMORANDUM

Department of National Defence
- Army -

TO: MS

HQC 55-M-1656 Adm 3(b)4

OTTAWA, 26 Jul 45

SE: 2626B

F-55206 Pte MURPHY, Gerald

On 27 Nov 44 in Italy this soldier was convicted by FGCM of -

(1) Desertion with intent to avoid battle;

(2) Absenting himself while under close arrest;

He was sentenced to two years imprisonment without hard labour.

2. This SUS has now been returned to Canada. On review of sentence Overseas it was recommended that the sentence be not reduced.

3. With respect to the enquiry of Mr Gillis as to policy, CARO 5913 covers this subject.

4. Correspondence is returned herewith.

for N A Stilwell
(A E Walford),
Major-General,
Adjutant-General.

FINAL

WFB/6293/oaj

MINISTERS OFFICE
JUL 28 1945
DEPT. N.D. OTTAWA.

MILITARY SECRETARY
994-8 7/M
AUG 20
RECEIVED

74

C 55 mc
1655

SPECIAL ENQUIRY

Date JUL 17 1945

No. 2626B

To: D Admin

Reply addressed to M.S. will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned for the A.G.

73

A.G. Control & Co-ordination
(S.E. Section)

Min. File 994-87

16 July, 1945.

Clarence Gillis, Esq., M.P.,
25 Union Street,
Glace Bay, Nova Scotia.

Dear Mr. Gillis,

Re: F.55206, Private Murphy

General McNaughton has asked me to acknowledge receipt of your letter of 7 July, 1945, in connection with the above mentioned soldier, and he has directed me to secure full information on the offence, sentence and any review which has taken place in this case.

In your letter you ask whether the Department has worked out a policy as to the future of the large number of soldiers returned to Canada in custody. I am not quite sure whether I have caught your exact meaning. These men, however, are not in any different position from men who have remained overseas in custody or the ones who were sentenced here in the first place. Their sentences are reviewed from time to time with the object of releasing any soldier from detention just as soon as the interests of justice and military discipline are considered to warrant such action being taken.

If I have not entirely covered the point here, perhaps you would like to write me again on this subject.

Yours very truly,

Private Secretary to
Minister of National Defence

RECEIVED
17 1945

3(b)2

A.G.

With reference to the attached correspondence, may a report please be forwarded for the Minister's information on the offence, sentence and any review which has taken place in this case. May the correspondence please be returned.

Colonel, M.S.

405-M-29708

COPY

HOUSE OF COMMONS

CANADA

25 Union St,
Glace Bay, N.S.
July 7, 1945.

The Hon A G L McNaughton,
Minister of National Defence,
Ottawa.

Dear Sir:

I am writing you on behalf of Mrs Michael Murphy, Reserve Mines, Nova Scotia, Her son #F-55206 with five years service was wounded, went absent without leave and was sentenced to two years detention. He is presently back in Canada in detention in Kingston.

This boy was eighteen years of age when he enlisted. In consideration of his service I feel after serving approximately a year in detention something could be done regarding his release and returning him to civil life as he is serving no useful purpose where he is, and the parents are in need of his help.

I wonder if you might drop me a line and advise me if the department has worked out a policy as to the future of the large number of boys returned to Canada presently undergoing detention. Your co-operation in this matter will be appreciated, I am

Very truly yours,

"Clarence Gillis, MP"

CAPE BRETON SOUTH

CG/MM

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THIS COPY FOR H.Q. C.55-M-1656
W.D. 10/Murphy G/4

3

MEMORANDUM - FIELD GENERAL ~~DISTRICT~~ COURT-MARTIAL

No. F.55206 Name MURPHY, Gerald

Rank Pte Unit "D" Coy Capte Breton High CMF

Charge (1st) A.A. 12 (1) (a) - W.O.A.S. Desertion

(2nd) A.A. 15 (1) - W.O.A.S. A.W.L.

Date of Crime (1) 5-10-44; (2) 21-10-44

Date of Arrest (1) 9-10-44; (2) 6-11-44 Charge Signed 24-11-44

Orders for F.G. C.M. Brig Cmdg 11 Cdn Inf Bde

Place and Date of Trial Field 27-11-44

Sentence Imprisonment W.O.H.L. 2 yrs

Date of Confirmation 28-11-44

Date of Promulgation 29-11-44

Entered in Records of J.A.G. as No. 3486

Date 18-4-45

MEMO

70

for for Judge Advocate-General

10M-1-45 (M-4629)

Quote No H.Q.C.55-M-1656 (JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

OTTAWA, Canada
1 May 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

F.55206 Pte. Gerald Murphy,
"D" Coy., Cape Breton Highlanders, CMF

1. Receipt is acknowledged of your **10/Murphy, G/4** dated **1 Apr** 1945, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

E.L.M.
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

MM

77
19

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

OTTAWA, Ontario

CONFIDENTIAL

27 Apr 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

F.55206 Pte MURPHY, G

SUS EX ITALY

This SUS is being returned from O/S in custody and is to be posted to No 3 DD and to be committed to No 89 MDB, in accordance with HQS 8536-6 Vol 2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of **imprisonment.**

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

3. ~~This SUS is to be ultimately discharged with ignominy in accordance with the sentence of the Court under CARO 1029(9).~~

A. E. Walford
(A E Walford)
Major-General
Adjutant-General

Encl. 3

18

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Murphy, G/4

CANADIAN MILITARY HEADQUARTERS

LONDON 1 Apr 45

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

C.35-M-1656

F-55206 Pte Murphy, G.

1. The m/n soldier is now serving a sentence of 2 years imprisonment awarded by FGCM 27 Nov 44 for an offence under AA Sec 12(1)(a) and an offence under AA Sec 15(1). He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released, if he continues so to-do, is 29 Mar 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the serious nature of the offence of which this soldier has been convicted, his previous record and all available reports, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 27 Nov 44, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

Enc. 4.

3484

pr (E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters

39a CMHQ 1000/76
40/P & S/805 (6739)

COPY

BOMBER
CONFIDENTIAL

AIR MAIL

CANADIAN MILITARY HEADQUARTERS

LONDON

1 Apr 45

The Secretary,
Department of National Defence
OTTAWA, Canada.

F-55206 Pte Murphy, G

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2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

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(E.G. Weeks) Major-General,
In charge of Administration
Canadian Military Headquarters

Enc.4.

16

C O P Y

BOMBER
CONFIDENTIAL

AIR MAIL

CANADIAN MILITARY HEADQUARTERS

LONDON

1 Apr 45

The Secretary,
Department of National Defence
OTTAWA, Canada.

F-55206 Pte Murphy, G

1. The m/n soldier is now serving a sentence of 2 years imprisonment awarded by FGCM 27 Nov 44 for an offence under AA Sec 12(1)(a) and an offence under AASec 15(1). He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released, if he continues so to do, is 29 Mar 46.

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(E.C. Weeks) Major-General,
In charge of Administration
Canadian Military Headquarters

Enc.4.

15

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS **F-55206 Pte Murphy, G.** of **C.B. Highlanders** was by Field General Court-Martial held in the field convicted of the offence(s) of **Desertion and Absence without leave**

and by a sentence signed on the **27th** day of **November** 194**4** sentenced to undergo **imprisonment** for **2 years**

said sentence of **imprisonment** commencing on the aforesaid day, and such sentence has been confirmed by **Comd 11 Cdn Inf Bde.** as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this **1st** day of **April** 194**5**

(C.C. Booth) Brigadier
Deputy Adjutant General
Canadian Military Headquarters.

14

RECORD PAGE CMHQ IN AB 100 4K-28

RECEIVED 11 JAN 1945 JAG BRANCH

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P N R 1098 (3084)

Convened by Order of Brig. I. S. JOHNSTON Dso, FR Comd 11 Cdn Inf Bde dated 26 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for shewing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F55296	Pte		Gerald	MURPHY	C.B.H.

PROCEEDINGS RECEIVED Under Minister Lieut 11 Jan 45 REVIEWING OFFICER, JAG BRANCH C.M.H.Q. MLF

PROCEEDINGS REVIEWED 27 Dec 44 Can Sec Cdn Corps Lt Col AJ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 27 Nov 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2F-74

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused (1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.B. Sulgrove	Perth R.
Member	Capt	G.A. Maybee	LRC
Member	Capt	J.F. Lockman	C.B.H.
Judge-Advocate	—	—	—
Prosecutor	Lieut	L.E. Burman	C.B.H.
Defending Offr	Lieut	J.A. MacDonald	C.B.H.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~a~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

B3/77 PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

18

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No. (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does~~ not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. do neither. Do you intend to call witnesses on your behalf? Ans. yes. Are they witnesses as to character only? Ans. yes.
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. Yes Sir - character witness.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. C and Ex. D respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes Sir. (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see inserts on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F55206 Pte Gerald Murphy

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd	Not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

HAS present under ~~sentence for~~ ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 31 days, of which NO days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned for two years without hard labour.

(Sgd) ..... Judge-Advocate, if any. 27 Nov 44 Date awarded. (Sgd) H. Dulgaroo Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Extracts entered as No. 3466 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 3 day of May 1942

Date ..... (Sgd) .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the Court.

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~
(1. AA 57A. Delete if not used.)

(Sgd) Arm Johnston Brig

Date 28 Nov 44.

Commanding 11 Can Inf Bde.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F55206 Pte Murphy, G.	29 Nov 44	R.B. [illegible] Lt Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused F33206 Pte Murphy, Gerald, "D" Coy Cape Breton Highlanders, C.M.F. is charged with:

FIRST CHARGE
AA SEC 12(1) a

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he,

In the field, absented himself without leave, with intent to avoid battle at 1900 hrs 5 Oct 44 and remained absent until apprehended at Gaeta at 1900 hrs 9 Oct 44.

SECOND CHARGE
AA SEC 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the field, while under close arrest absented himself without leave at 1600 hrs 21 Oct 44 and remained absent until apprehended by Cpl Pierce, J.N. of the 2nd Bde Det R.C.M.P. (Re), at CANADA Barracks at 0820 hrs 5 Nov 44.
(Absent 15 days 16 hrs 20 mins)

FIELD,
24 Nov 44

(D B McDonald) (Donald B. Macdonald) (Somerville) Lt. Col.,
Commanding Officer,
Cape Breton Highlanders.

To be tried by Field General Court Martial.

In the Field
26 Nov 44

(T S Johnston) Brig
Comd ~~11~~ Can Inf Bde

17

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 55206	Pte		Gerald	MURPHY	CBH

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 25 Nov 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	H A Snelgrove	PWRTH

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G A Maybee	IRC
Capt	J F Lockman	CBH

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	G S Baulé	PLF

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(I S Johnston) (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Date 25 Nov 44

Commanding 11 Can Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (In Rec of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

11

MEDICAL OFFICERS CERTIFICATE

This is to certify that I have examined No. F55206 Rank Pte

Name Murphy, G. and find him in a fit/~~unfit~~ state of

health to undergo trial by RGCM.

27.11.44.

R. W. Boyden (R.W.BOYDEN) Major,
Medical Officer,
Cape Breton Highlanders.

10

F55206 Pte Gerald Murphy

Prosecution

First Witness. F54965 Sgt MacLean F.C.
having been sworn states:
At approx 1900 hrs 5 Oct 44 checked my pl prior to going into the line and found the accsd - whom I recognize here - to be absent. I previously warned pl that we were going into battle. We were 3 miles from front. under shell fire. Pte Murphy did not move off with pl into the line.

X exam:- In this area 48 hrs. Under slight shell fire. definite danger of shells falling close to house. I warned pl by calling them together. I saw Pte Murphy among them. approx 29 in pl. I called roll and gave warning order about 2 hrs before moving off.

Re-exam:- nil.

Court:- Next saw accsd when unit was stationed near Rimini.

RP 83 (6) complied with

Second Witness:- Lt. L.E. Brennan
O Coy C.B.H. - sworn - presents certificate of arrest. - Exhibits "A" and "B"

RP 83 (6) complied with

Third Witness:- F89093 Cpl Price J.L.
D Coy C.B.H. - sworn - states:-
On 21 Oct 44 1400 hrs I was in charge of coy guard room. I left gd room for a short time and when I returned the accsd - whom I recognize here - was missing.

X-exam:- There were 2 sentries on door. Some windows in guard room were open

No sentries around the house - Was an opportunity for accsd to escape.
Re-exam :- nil.
Court :- questioned sentries when I returned - had not seen accsd.
RP 83 (B) complied with

Fourth Witness: F55611 CSM McQueen sworn - states: 21 Oct 44 at 1400 hrs Cpl Price reported to me - accsd whom I recognize here - had been close arrest. The next time I saw accsd was 15 Nov 44 at 1600 hrs.
x exam - Reported accsd absent after checking barracks.
Re-exam :- nil
Court :- nil
RP 83 (B) complied with
Prosecution ends - no closing addresses.

Defence

Character witness:
F54965 Sgt MacLean F.C. - sworn states :- known accsd since 1940. Same pl at Ortona and all through Gothic line. Somewhat nervous but always on job.
RP 83 (B) complied with

Defence in mitigation of sentence:
Accsd served long period in line. Married, one child. Has CVSM and clasp. MFM 6 shows no serious crime.

H.R. Sullivan
Maj

6A

CANADIAN UNDER ARMY ACT Sec 163 (1) (a)

Certificate

I certify that No. H59206 Pte MURPHY G, 'D' Coy, 1st Platoon, 1st Bn, The Cape Breton Highlanders was arrested at CAPLI at 1900 hrs on 9th October, 1944.

..... Capt
Commanding, 71 Company CAP (TRAFFIC CONTROL)
the Officer into whose custody the above-named person was taken on arrest.

644 Exhibit "B"

J.E. Pierce

CERTIFICATE OF ARREST IN ACCORDANCE WITH
ARMY ACT, SEC. 163 (1) (jj).

- - - - - - - - - - - - - - - - - -

This is to certify that F. 55206, Pte. Murphy, G., of the Cape Breton Highrs. (field unit) was placed under arrest by C.5126, A/Cpl. Pierce, J.E., of the 1 Cdn Base Rft Bn, 1 C.B.R.D. Regtl Police at Canada Barracks at 0820 hrs. 6 November, 1944.

Vincent McKenna Lt-Col.
(VINCENT McKENNA,)
Officer Commanding,
1 Cdn Base Rft Bn, 1 CBRD

7 November 1944.

7

Ex. "C"

Substitute for AFB 296
or MFB 3

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No. F55206 Rank. Pte Name. Murphy, G. Unit. C.B.Highr's

Age. 22 Married or Single. M No of Dependents. One

Date of Attestation. 1 Jun 40

Number of days ic Close Arrest awaiting trial .....

Civil..... Military. ~~24 days~~ 31 Hospital..... Total. ~~24 days~~ 31 HB

Dates of appointments, promotions etc (if any).....

.....

.....

.....

Decorations. CVSM&C

In the Field

Date. 27 Nov 44

Submit Copy

Officer i/c Regt'l Books

Cape Breton Highlanders

Unit

6

Note: Certified true copy of MFM 6 must accompany this form.

Certified True Copy-20 Nov 44

No 755206 Name Murphy, G. Sqn, Battery, or Company Corps Inf.

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment 1-6-40 | GC Badges | Sheet No 1. | Signature OC Company, etc | Service or Proficiency Pay | MFM 6 (AFB 122) 40/F&S/136 (5438)

Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	19/8/41	Pte		AA Sec 40 failing to obey an order given by an NCO		8 days C.B.	19-8-41	WM McKinnon Major	
	19/9/41	Pte		AA Sec 40 insubordinate		7 days pay			
	6/10/41	Pte		AA Sec 15(1) overstaying a pass		14 days pay			
	10/9/42	Pte		Absent 1 day 1 hr 11 mins. Awarded forf 4 days pay FR&I 149 (2) for an offence under AA Sec 40.		4 days pay	8-10-41	Col Small	
						4 days pay	17-9-42	Major TR Gray	
Field	17/8/43	Pte		AA Sec 15(1) NOAS overstaying his leave AWL from 0700 hrs 11-8-43 until 1500 hrs 12-8-43 Absent 1 day 8 hrs)	Cpl McKeigan J.S.	10 days pay 10 days C.B.	20-8-43	J.B. Weir Lt. Col.	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3/12/43	Pte		AA Sec 40 conduct to the prej etc, in that he at about 1600 hrs 3 Dec 43 was found in a brothel in BARI which was out of bounds to all troops.	Doc Evid	5 days C.B.	15 Dec 43	Major WW Ogilvie	
Field	24/4/44	Pte		AA Sec 15(1) WOAS AWL from 0800 hrs 24-4-44 until 1020 hrs 27-4-44 Absent 3 days 2 hrs 20 minutes.	Documentary	14 days C.B. 7 days pay	2-5-44	Major RD Clendenning	
Field	2/6/44	Pte		AA Sec 15(1) WOAS, AWL from approx 1300 hrs 2-6-44 until approx 1730 hrs 2-6-44 Absent 4 hrs 30 Mins.	Documentary	4 days C.B.	6-6-44	AO Gunn, Capt.	

SUMMARY OF EVIDENCE

Summary of evidence in the case of F55206 Fte Murphy, Gerald, "D" Coy Cape Breton Highlanders, C.M.F. charged with one offence under section 12 (1) a, and one offence under section 15(1) of the Army Act.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS: F54965 Sgt MacLean, F.C., "D" Coy, Cape Breton Highlanders, having been duly sworn states:

I am F54965 Sgt MacLean, F.C. of "D" Coy Cape Breton Highlanders. On 5 Oct 44 "D" Coy C.B.H. was in an area approximately 2 miles behind the front line, and was under intermittent shell fire. At approx. 1900 hrs 5 Oct 44 I checked my platoon prior to moving into the line, I found F55206 Fte Murphy, G. whom I know and recognize here as the accused to be absent. I had warned him previously along with the rest of the platoon that we were moving into the line. I searched the Company area for Fte Murphy, G. but could not find him. I did not see Fte Murphy, G. at any time during our tour of duty in the line.

F.C. MacLean .....

The accused declines to cross examine the witness.

SECOND WITNESS: Capt. A.V. Smith, Adjutant, Cape Breton Highlanders, having been duly sworn states:

I am Capt. A.V. Smith, Adjutant, Cape Breton Highlanders. I produce a certificate of arrest purporting to be signed by Capt. C. Yates, Commanding, 71 Company, CMP (Traffic Control) showing the accused was arrested at Calli at 1900 hrs 9 Oct 44. I also produce a certificate of arrest purporting to be signed by Lt. Col. Vincent McKenna, V.C. 1 Can Base Hvy Bn, 1 CBRD, showing the accused was arrested by CMPES a/Cpl Fitzroe, J.E. of the Can Base Hvy Bn, 1 CBRD (Bx) at Oakalla Barracks at 0520 hrs 6 Nov 44.

A.V. Smith Capt .....

The documents referred to by the above witness is attached hereto and marked Exhibits "A" and "B".

Lieut. Col. Dist. .....

The accused declines to cross examine the witness.

THIRD WITNESS: F89093 Cpl Price, J.L. "D" Coy Cape Breton Highlanders having been duly sworn states:

I am F89093 Cpl Price, J.L. of "D" Coy. C.B.H. at approx. 1400 hrs 21 Oct 44 I was guard commander of "D" Coy Guard. At approximately 1400 hrs 21 Oct 44 I returned to my billets to get my equipment ready to proceed to the front. On my return back to the guard room I found the accused F55206 Pte Murphy, G. absent. I then searched the company area but could not find the accused. I returned immediately to the Company office and reported Pte Murphy, G. as breaking close arrest.

J.L. Price
.....

The accused declines to cross examine the witness.

FOURTH WITNESS: F55611 CSM MacQueen, J.H. "D" Coy Cape Breton Highlanders, having been duly sworn states:

I am F55611 C.S.M. MacQueen, J.H. of "D" Coy C.B.H. On 21 Oct 44 at approx. 1400 hrs F89093 Cpl Price, J.L. who was Company Guard Commander at that time, reported to me that F55206 Pte Murphy, G. broke close arrest and was absent from the Company Guard Room. To the best of my knowledge F55206 Pte Murphy, G. has not appeared on any parades from 21 Oct 44 until he was apprehended and turned over to me on the 18 Nov 44 at approx. 1600 hrs.

J.H. MacQueen
.....

The accused declines to cross examine the witness.

The accused was warned as follows:
Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused, "I have nothing to say at this time".

G. Murphy
.....

I certify that Rule 4 has been complied with.

Taken by me in the field, in the presence and hearing of the accused this 24th day of November 1944.

Lieut. L.E. Brannen
OFFICER TAKING SUMMARY

F55206 Pte. Murphy, Gerald.

I desire the convening officer to detail an officer to represent me at my forthcoming trial by Court Martial.

I desire the services of ~~Capt. [illegible]~~ Lieut G.A. McDonald. if he is available.

Cape Breton Highlanders

G. Murphy.....

2

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F 55206 Pte Gerald MURPHY

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	
2nd	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

"HAS" ~~[illegible]~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 31 days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO BE IMPRISONED FOR TWO YEARS WITHOUT HARD LABOUR

(Sgd) ..... Judge-Advocate, if any. 27 Nov 44 Date awarded. (Sgd) "H A Snelgrove" Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I CONFIRM THE FINDING AND SENTENCE OF THE COURT

~~[illegible]~~ "ISJ"

(1. AA 57A. Delete if not used.)

(Sgd) "Ian S. Johnston" Brig

Date 28 Nov 44 Commanding 11 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F55206 Pte Murphy, G.	29 Nov 44	"R.B. Somerville" Lt Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY (D.M. Owen) Capt

Spare copy. 4A-28

CFA96 (In lieu of AFA31) 40/P & S/1696 (40/61) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig I.S. Johnston DSO ED Comd 11 Cdn Inf Bde dated 26 Nov 44.
Cdn Sec GHQ 2 Ech AFHQ

4 JAN 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.55206	Pte	Gerald	MURPHY	CBH

PROCEEDINGS REVIEWED
"W.P. TAYLOR" Major
27 Dec 44 DJA
Cdn Sec GHQ 2 Ech AAI

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy as (date(s)) 27 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 2. RP 11-13, 23, 24.)

"HAS" A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused is not to be tried by court-martial because of being dealt with summarily by the CO.(2)~~ "HAS"

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans ~~[illegible]~~ "HAS"

The Interpreter is sworn.(1) Do you object to ~~[illegible]~~ as shorthand writer? Ans .....
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H A Snelgrove	Perth R
Member	Capt	G A Maybee	IRC
Member	Capt	J.F. Lockman	CBH
Judge-Advocate	---	---	----
Prosecutor	Lieut	L.E. Brennan	CBH
Defending Offr	Lieut	J.A. MacDonald	CBH

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~ plea "HAS" ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ "HAS" not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

"HAS" B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

"HAS"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

"HAS" D2. The Prosecutor makes (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is reopened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... "HAS" charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. do neither ..... Do you intend to call witnesses on your behalf ?
Ans. Yes ..... Are they witnesses as to character only ? Ans. Yes .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on the charge(s) to be released forthwith and that the proceedings are accordingly terminated, but of the charge(s) stated and signed.(2) "HAS"
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Yes Sir - Character witness .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. C and Ex. D respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes Sir .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused F 55206 Pte Murphy, Gerald, "D" Coy Cape Breton Highlanders C.M.F. is charged with:

FIRST CHARGE
AA SEC 12(1)a

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he,

in the field, absented himself without leave, with intent to avoid battle at 1900 hrs 5 Oct 44 and remained absent until apprehended at GAGLI at 1900 hrs 9 Oct 44

SECOND CHARGE
AA SEC 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field, while under close arrest absented himself without leave at 1400 hrs 21 Oct 44 and remained absent until apprehended by C 5126 A/Cpl Pierce, J.E. of the 1 Cdn Base Rft Bn. 1 CBRD (RP) at CANADA Barracks at 0820 hrs 6 Nov 44.
(Absent 15 days 18 hrs 20 mins)

FIELD
24 Nov 44

"R.B. SOMERVILLE"
.....(R.B. Somerville) Lt.Col
Commanding Officer,
Cape Breton Highlanders

To be tried by Field General Court Martial.

In the Field
26 Nov 44

"Ian S. Johnston"
(I S Johnston) Brig
Comd 11 Cdn Inf Bde

"HAS"

CFA96 (In lieu of AFA8)
40/PAM/1697 (2nd)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 55206	Pte		Gerald	MURPHY	CBH

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 25 Nov 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

"ISJ"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am satisfied (a) that offrs before the Court, (b) that the President for the reason that~~ ~~are not detailed hereunder~~

"ISJ"

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I do appoint a Judge Advocate therefor the offr mentioned hereunder~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Name	Unit.
Major	H A Snelgrove (Must be named. RP 106.)	PERTH

MEMBERS.

Rank.	Name	Unit.
Capt	G A Maybee	IRC
Capt	J F Lockman (Named or detailed. RP 106.)	CBH

WAITING MEMBER.

Rank.	Name	Unit.
Capt	G S Baulé (Named or detailed, if any. RP 106.)	PLF

JUDGE-ADVOCATE.

Rank.	Name	Unit.
	(Must be named, if any. RP 106.)	

On Active Service in the Fd

in Italy (Country.)

"Ian S. Johnston"
(I.S. Johnston)
(Signed personally. RP 105 fn 2.)

Brig (Rank.)

Date 25 Nov 44

Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"HAS"

MEDICAL OFFICERS CERTIFICATE

This is to certify that I have examined No. F55206 Rank Pte

Name Murphy, G. and find him in a fit/~~unfit~~ state of

health to undergo trial by FGCM.

27.11.44

"R.W. Boyden" (R.E. BOYDEN) Major,
Medical Officer
Cape Breton Highlanders.

"HAS"

F.55206 Pte Gerald Murphy.

PROSECUTION

First Witness: F54965 Sgt MacLean F.C. having been ~~duly~~ sworn states:

At approx 1900 hrs 5 Oct 44 checked my pl prior to going into the line and found the accsd - whom I recognize here - to be absent. I previously warned pl that we were going into battle. We were 3 miles from front. Under shell fire. Pte Murphy did not move off with pl into the line.

Cross Examine: In this area 48 hrs. Under slight shell fire. definite danger of shells falling close to house. I warned pl by calling them together. I saw Pte Murphy among them. Approx 29 in pl. I called roll and gave warning order about 2 hrs before moving off.

Re-Exam:- Nil

Court: Next saw accsd when unit was stationed near Rimini.

R.P. 83 (B) complied with.

Second Witness : Lt L.E. Brennan D Coy CBH sworn - present certificate of arrest - Exhibit "A" and "B".

Third Witness : F 89093 Cpl Price, J.L. D Coy CBH - sworn - states:

On 21 Oct 44 1400 hrs I was in charge of coy guard room. I left gd room for short time and when I returned the accsd - whom I recognize here - was missing.

Cross Exam:- There were 2 sentries on door. Some windows in guard room were open. No sentries around the house - was an opportunity for accsd to escape.

Re Exam:- nil

Court:- Questioned sentries when I returned - had not seen accsd.

R.P. 83 (B) complied with.

Fourth Witness: F55611 C&M McQueen - sworn - states - 21 Oct 44 at 1400 hrs Cpl Price reported to me - accsd whom I recognize here - had broken close arrest. The next time I saw accsd was 15 Nov 44 at 1600 hrs.

Cross Exam: I reported accsd absent after checking barracks.
Re-Exam:- Nil
Court :- Nil

R.P. 83 (B) Complied with.

Prosecution ends - No closing address.

66VERPAGE

Over Page (Cont'd)

DEFENCE.

Character Witness:

F. 54965 Sgt MacLean F.C. - sworn states:- known accsd since 1940. Same pl at Ortona and all through Gothic Line. Somewhat nervous but always on job.

R.P. 83 (B) complied with.

Defence in mitigation of Sentence:

Accsd served long period in line. Married, one child. Has CVSM and clasp. MFM 6 shows no serious crime.

"H.P.Snelgrove" Maj

CERTIFICATE UNDER ARMY ACT Sec 163 (1)(ii) "B.E. Brennan"
Exhibit "E"

I certify that No. F 55206 Pte MURPHY, G. 'D' Coy, 18 Platoon, 1st Bn, The Cape Breton Highlanders was arrested at GAGLI at 1900 hrs on 9th October 1944.

undecipherable
"???".....Capt
Commanding, 71 Company CMP (TRAFFIC CONTROL)
the Officer into whose custody the above-named person was taken on arrest.

"HAS"

---

644 Exhibit "B"
"B.E. Brennan"

CERTIFICATE OF ARREST IN ACCORDANCE WITH
ARMY ACT SEC 163 (1)(ii).

This is to certify that F. 55206 Pte Murphy, G., of the Cape Breton Highrs. (field unit) was placed under arrest by C.5126, A/Cpl Pierce, J.W., of the 1 Cdn Base Rft Bn, 1 C.B.R.D. Regt'l Police at Canada Barracks at 0820 hrs 6 November 1944.

"Vincent McKenna" Lt Col
(VINCENT McKENNA,)
Officer Commanding
1 Cdn Base Rft Bn, 1 CBRD

7 November 1944.

"HAS"

Ex "C"

Substitute for AFB 296
or MFB 355

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No. F 55206 Rank Pte Name Murphy, G. Unit C.B. Highrs

Age 22 Married or Single M No of dependents One

Date of Attestation 1 Jun 40

Number of days in Close Arrest awaiting trial.....

Civil _____ Military 31 Hospital _____ Total 31 days

Dates of appointments, promotions etc (if any) _____

Decorstions CVSM & C

In the Field

Date 27 Nov 44

"D.U. Smith" Capt.
Officer i/c Regtl Books

Cape Breton Highlanders
Unit

"HAS"

Note: Certified true copy of MFM 6 must accompany this form.

Certified True Copy - 20 Nov 44 "L.E. Fox" Capt

Ex "D" No F55206 Name MURPHY, G. Sqn, Battery or Company "D" Corps Inf Date of enlistment 1-6-40 OC Badges Service or Proficiency Pay MFM 6 (AFH 122) 40/P&S/13[illegible]

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1. | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	19/8/41	Pte		AA Sec 40 failing to obey an order given by an NCO		5 days CB 7 days pay	19-8-41	WM McKinnon Major	
	19/9/41	Pte		AA Sec 40 insubordinate		14 days pay			
	6/10/41	Pte		AA Sec 15(1) overstaying a pass Absent 1 day 1 hr 11 mins.		4 days pay	8-10-41	Col Small	
	10/9/42	Pte		Awarded forf 4 days pay FR&I 149 (2) for an offence under AA Sec 40.		4 days pay	17-9-42	Major TR Grey	
Field	17/8/43	Pte		AA Sec 15 (1) WOAS overstaying his leave AWL from 0700 hrs 11-8-43 until 1500 hrs 12-8-43 absent 1 day 8 hrs.	Cpl McKeigan J.S.	10 days pay 10 days CB	20-8-43	J.B. Weir Lt. Col.	

"HAS"

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3/12/43	Pte		AA Sec 40 Conduct to the prej etc, in that he at about 1600 hrs 3 Dec 43 was found in a brothel in BARI which was out of bounds to all troops.	Doc Evid	5 days C.B.	15 Dec 43	Major WW Ogilvie	
Field	24/4/44	Pte		AA Sec 15(1) WOAS AWL from 0800 hrs 24-4-44 until 1020 hrs 27-4-44 Absent 3 days 2 hrs 20 minutes.	Documentary	14 days CB 7 days pay	2-5-44	Major RD Clendenning	
Field	2/6/44	Pte		AA Sec 15 (1) WOAS, AWL from approx 1300 hrs 2-6-44 until approx 1730 hrs 2-6-44 Absent 4 hrs 30 mins.	Documentary	4 days C.B.	6-6-44	AO Gunn Capt.	

H.Q.C. 55-M-1657

CONFIDENTIAL

N.F.B. 1078

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

SUBJECT

GENERAL COURT-MARTIAL

MCKIEBON. JOHN AMBROSE LIEUT.

CROSS REFERENCE

C.6-M-241

HQ 602-13-1518

CONFIDENTIAL
H.Q.C. 55-M-1657

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				J. A. G.	NEW FILE	C.R.	APR 17 1945
					Acknowledge Receipt; file action	E.C.M.	19/4/45
APR 24 1945	23/4/45	PA	E.C.M.	JAG	Returned	N.Z.	19-4-45
				Pers	For Reference to C.R. APR 30 1945		
				Proof	Per Report plus Return	[illegible]	3 May 45
				Pers	- Returned Ltr	[illegible]	3/5/45
				DSC	Passed with HQC 55-M-1657 HQ 602-13-1518	[illegible]	11 May 45
				PA6(a)	———	[illegible]	12 May 45
				DM	With HQ 602-13-1518	[illegible]	12 May 45
				A.H.		[illegible]	15-5-45
MAY 17 1945	17 May 45	PA	[illegible]	PERS(OS)	———	[illegible]	15/5/45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1657(JAG/D)

23rd April 1945.

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

General Court-Martial
Lieut. John Ambrose McKIBBON

A certified copy of the proceedings of the marginally noted General Court-Martial has been received at this office. The covering letter has been referred to another Directorate at this Headquarters, and for that reason we are unable to quote your file number.

E.L.M.
Capt.

for (R.J. Orde), Brigadier,
Judge Advocate-General.

WBB:ELM

This COPY FOR H.Q. C.55-M-1657
M.D.

MEMORANDUM - ~~DISTRICT~~ GENERAL COURT-MARTIAL

No. ----- Name McKIBBON, John Ambrose

Rank Lieut Unit No. 9 Coy C. Pro C. C.A.O.

Charge A.A. 40 - W.O.A. 96 Conduct to the prejudice ...

Date of Crime 18-1-45

Date of Arrest Charge Signed 23-1-45

Orders for ~~D.~~ G.C.M. Maj-Gen Comd C.R.U.

Place and Date of Trial Field 31-1-45

Sentence Accused Released

Date of Confirmation N/A

Date of Promulgation N/A

Entered in Records of J.A.G. as No. 3487

Date 18-4-45

MEMO Not Guilty

M. Thurlow Capt
for Judge Advocate-General

10M-1-45 (M-4629)

J.A.G.

This Proceeding was attached to a Confidential Report which we placed on C-6-M-241 + sent to Peru.

C R Conf

17/4/45

RECORDED AT CMHQ IN AB 160 GCM-B-39 1
G.55-M-1657

A

Army Form A 9.

**Form of Proceedings for General ~~and Provost~~ Courts-Martial.

**Any printed matter not applicable to the particular Court being held should be struck out and initialed by the President.

RECEIVED
-7 FEB 1945
JAG BRANCH
C.M.H.Q.

Proceedings of a General Court-Martial held at HQ 9 Cdn Prov Coy on the 31st day of January 1945 by order of

Commanding Canadian Reinforcement Units

dated the 30th day of January 1945

President.

Col H.R. Tyner MC VD — 1 CSRU

Members.

Major L.W.F. Wakefield — 2 CITR

Major A.W. Searle — 1 CASCRU

Major J.R. Joly — 4 CITR

Capt M.E. McCormick — 1 CASCRU

Capt J. de Billy
Barrister-at-Law, HQ CRU — Judge Advocate.

Trial of*

Lt John Ambrose McKIBBON
9 Prov Coy - Cdn Provost Corps

Certified to be true copy of original proceedings, less Medical Certificate.
J. de Billy Capt.
(J. de Billy) Capt.,
Judge Advocate.
In the Field,
1 Feb 45

Medical Certificate

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt W. Gilling - Asst APM, HQ CRU

defending officer† Lt A.B. O'Keefe - Barrister-at-Law 1 Cdn NETD

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked "X" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

97296 W1 K2260-1111 40,000 sets 11-40 K. & M., Ltd. 666/511 Forms A 9 (1)

B

Do you object to S/Sgt Thomas as shorthand writer? A. No sir.

U1631 S/Sgt Thomas E.J. is sworn.

The President, members and judge-advocate are duly sworn

The following officers under instruction are duly sworn.

Capt A.H. Michaud 4 CITR

Capt E.C. Loveridge 1 CGRU

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

B

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the ~~first~~ B charge against you which you have heard read ? *Question to the accused.*

Not guilty sir *Answer.*

B [redacted] *Question.*

Answer.

B [redacted] *Question.*

Answer.

B [redacted] *Question.*

Answer.

B [redacted] B [redacted]

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

BZ
(Sgt HQ Engrs Col.)

CHARGE SHEET

Lieut. John Ambrose McKIBBON, No. 9 Coy., Cdn Provost Corps, Can Army Overseas, while on active service, is charged with:-

Army Act Sec. 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

In that he at Guildford, Surrey, at about 2210 hrs, on 18 Jan 45, acted in a manner unbecoming an officer by using profane language in a loud voice in the bar of the Stoke Hotel dance hall.

In the Field
23 Jan 1945

J. Jamieson Quick Capt.,
J. Jamieson QUICK,
Officer Commanding,
No. 9 Can Provost Coy.

To be tried by General Court Martial

(Sgd) JH ROBERTS

(J.H.Roberts) Maj-Gen
Comd
Cdn Rft Units

Farnborough, Hants
30 Jan 45

JHB

Defending Offr: Before these proceedings commence may I call to the attn of the court that this man was placed under arrest the morning of the 19th January. He was kept under open arrest for three days thereafter and then was notified that he was released from open arrest subject to re-arrest and did not receive a copy of his charge sheet until 26th January, although the offence was committed at 2210 hrs 18 Jan 45. I am not making any Motion; but I would like to draw this to the court's attn.

Jde Pr.

C

*Instruction. (See R. P. 39 (A))

Proceedings on Plea of Not Guilty.

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No sir.

~~The prosecutor makes an opening address (hands in a written address which is read, marked signed by the President, and attached to the proceedings.)~~

The prosecutor proceeds to call witnesses.

First witness for prosecution. 7L7X2773 Marine James Howarth, 30 Assault Unit, Royal Marine Commando, British Army

being duly sworn, is examined by the prosecutor.

Q.1 Will you repeat your regtl number, rank, name and unit to the court pls?
A.1 I am 7L7X2773 Marine James Howarth of the 30th Assault Unit, British Army.
Q.2 On the evening 15 Jan where were you?
A.2 In the Stoke Hotel at Guildford.
Q.3 For what purpose were you in the Stoke Hotel?
A.3 Entertainment.
Q.4 Which consisted of what?
A.4 Dancing.
Q.5 While in the Stoke Hotel dancing did anything happen?
A.5 Yes sir, I went to the bar room of the Stoke Hotel and I saw a Cdn Offr throw a glass on the floor. I went over to the Cdn Offr and said that that was no way for an offr to act in a public place and I said to the offr that if it was a fellow like myself I would be put under escort and a charge would be made against me. A second Cdn Offr then came to me and said, "What has it got to do with you?" He then said that the Cdns in this room should be back in Canada... I said..... .

DEFENDING OFFR: I object to this line of testimony. It has nothing to do with the profanity alleged in this charge. I don't care whether he discussed national politics or not. It is not the duty of the court to enquire into a political argument at a bar. The question is, was there any profane language used in the hotel in such a loud voice as to create a disturbance.

PRESIDENT: I think his evidence is all part of the circumstances of the case.

Witness continues:- A second Cdn Offr then told me to "Piss off", and I was taking him up at his word and was going away when a Cdn Sgt came up and began talking to the second Cdn Offr.
Q.6 Have you seen this second Cdn Offr since?

A.6 Yes sir, sitting in the court room now.
Q.7 Which one is it?
A.7 That one (witness indicates accused)
Q.8 At the time of this incident were there any people in the bar?
A.8 Yes sir.
Q.9 It was quite crowded?
A.9 Yes sir.
Q.10 What would you say as to the condition of the offr?
A.10 Well sir the offr that I spoke to first was under the influence of drink and so also was the second offr.

DEFENDING OFFR: I object to that. He is not competent to judge whether the offr was under the influence of drink or not?

PRESIDENT TO WITNESS: You musn't express opinions.

Q.11 Would you say then that the offr was aware of what he was saying when he made the remark to you?
A.11 Yes sir.
Q.12 Did you have any further conversation with this offr at any other time?
A.12 No sir.
Q.13 Was anything said with ref to the breaking of the glass?
A.13 As I walked away from the offr I heard him say to the Cdn Sgt that he would have the "God damn" glass replaced.
Q.14 Did you then remain in the hall?
A.14 I went up to the bar after that and about 5 mins after the Cdn Sgt came up to me and asked would I give a statement to his Commanding Officer.
Q.15 Did you have further conversation with the offr?
A.15 No sir.

CROSS EXAMINED BY THE DEFENCE

Q.16 How long have you been in the Army?
A.16 6½ years sir.
Q.17 Is it the custom in the British Army for other ranks to catechise offrs publicly for their conduct?
A.17 No sir.
Q.18 By what right did you go up and speak to him - were you on duty?
A.18 No sir.
Q.19 Was it your duty to go up and discuss his conduct?
A.19 We were discussing the glass sir.
Q.20 Are you a regular soldier?
A.20 Yes sir.
Q.21 Surely if this was one of your own offrs you wouldn't dare to presume to go up to a bar, under any circumstances, and question his conduct, or any other offr's conduct in your unit would you?
A.21 If he was creating a disturbance, yes sir.
Q.22 Are you definitely sure that you saw this offr deliberately break the glass?
A.22 Yes sir.
Q.23 Saw him just pick it up and throw it on the floor?
A.23 He dropped it on the floor.
Q.24 This was not the offr sitting beside me?
A.24 No sir.
Q.25 Are you testifying that this offr said to you, "Piss off"?
A.25 Yes sir.
Q.26 You are sure he didn't say, "Push off"?
A.26 Yes sir.

DEFENDING OFFR TO COURT: I would like the court to take note that this phrase is peculiar to the British Army - it is NOT a Cdn expression. If the same thought needed to be conveyed by a Cdn he would use an equally vulgar but an entirely different expression. I have never heard a Cdn use that expression.

JGB

Q.27 Was there anyone else who heard this conversation?
A.27 Quite possible - but not that I am aware of.
Q.28 You do not know whether anyone overheard this conversation except yourself?
A.28 No sir.
Q.29 In other words it is a conversation between you and the accused and this other unknown offr?
A.29 Yes sir.
Q.30 You know of the names of anyone who could have possibly overheard this conversation?
A.30 Yes sir.
Q.31 Who?
A.31 My two mates who were with me.
Q.32 Are they here today?
A.32 In Guildford sir.
Q.33 Did they come up to the offr?
A.33 No sir; but they were about 15 yards away.
Q.34 They could hear it all?
A.34 I wouldn't aware that they did. I said it was possible that they could have.
Q.35 Well as far as you know there was no one else who heard this conversation other than the three of you?
A.35 Yes sir.

BY THE COURT:

Q.36 I would like to know what is the word he was saying. What did they say at the bar? The only word that I can understand was "Piss off" and the other one was "I will replace the "God-damn" glass" - are those the only two words?
A.36 Yes sir, the only word that was said to me was "Piss off".

BY THE JA:

Q.37 Who said "Piss Off" and "I will replace the "God damn" glass"?
A.37 Lieut McKibbon.
Q.38 And in what tone of voice was it said?
A.38 The one that he said to me, "Piss off", was in an agressive tone.

DEFENDING OFFR: I object. He isn't well enough acquainted with the accused to state that it was in an agressive tone of voice. He isn't qualified or competent enough to testify to that.

(In the opinion of the court and of the JA it is not necessary to comply with RP 53(B))

2nd Witness Prosecution } 2997637 Sgt Malcolm Clement DEGROW, C Prov C, 9 Prov Coy, duly sworn, is examined by the Prosecutor:-

Q.39 Will you repeat your regtl number, rank & name to the court?
A.39 I am 2997637 Sgt Malcolm Clement Degrow of 9 Prov Coy.
Q.40 On the evening of 15th Jan where were you?
A.40 In the Stoke Dance Hall and Bar in Guildford.
Q.41 And for what purpose?
A.41 I was NCO in charge of entertainment committee supertising the dance.
Q.42 Were there many people at the dance?
A.42 Yes sir, quite a number of people.
Q.43 The hall was fairly well packed?
A.43 Yes sir.
Q.44 During the course of the evening did anything happen?
A.44 Yes sir, an incident happened at about 2210 hrs. There was an offr drinking and as he finished his drink he had the glass in his right hand and deliberately threw it in the air and it fell to the floor. Right after it was broken, Mr Kerry of the dance hall approached me and told me that a glass had been deliberately broken by this offr and to see that this didn't happen again.

Q.45 As a result of this what did you do?
A.45 I approached the nearest offr to me, which was Mr McKibbon, of 9 Prov Coy, and explained the situation to him that Mr Kerry had complained to me about it and to see that it didn't occur again. Mr McKibbon replied to me "Is it the "God-damn" glass they're worrying about or the price?" I explained to Mr McKibbon it was not the price it was the trouble to obtain the glass, and he replied "It is the "God-damn" glass they're worrying about - I will replace the glass". I informed Mr McKibbon that this was not the time or the place for such language and he told me he would use this language when and where he pleased. I informed Mr McKibbon I would have to ask him to leave the hall, to which he replied he would not have to leave the dance hall now or any other time. I immediately contacted Capt Quirk.of 9 Prov Coy and explained the situation and asked for his assistance.
Q.46 Did you know who broke this glass?
A.46 Yes sir.
Q.47 Who was it?
A.47 Lieut Worsell of 9 Prov Coy.
Q.48 When Mr McKibbon spoke to you about replacement for the glass what tone of voice did he use?
A.48 Very loud.
Q.49 Were there other people present at the time?
A.49 Yes sir.
Q.50 Did you notice anyone else talking to Mr McKibbon at that time?
A.50 Not at that time.
Q.51 Did you have further conversation with Lt McKibbon?
A.51 No sir.
Q.52 You reported the matter to Capt Quirk your C.O.?
A.52 Yes sir.
Q.53 So far as you were concerned you had no further part in the proceedings?
A.53 Yes sir.

CROSS EXAMINED BY THE DEFENCE

Q.54 Where were you when this glass breaking incident took place?
A.54 I was standing approx 10 ft behind Mr Worsell.
Q.55 What is the lay-out of this place any way?
A.55 There are two rooms, one is used as a dance hall and there is an entrance to the dance hall from the bar through a doorway. Both are two different rooms about the same size.
Q.56 You were inside the bar about 8-10 ft away?
A.56 Yes sir.
Q.57 In the bar?
A.57 Not exactly sir.
Q.58 Where were both of you approx in relation to the centre of the room, that is, the dancehall?
A.58 Mr Worsell was just inside the entrance to the bar and I was standing near the doorway at the entrance to the dance hall.
Q.59 Your capacity at that dance was what?
A.59 NCO in charge.
Q.60 And you saw this offr deliberately pick up a glass and smash it on the floor?
A.60 No sir, I saw the offr deliberately throw the glass in the air and it dropped to the floor.
Q.61 What did you do then?
A.61 Mr Kerry contacted me and made a complaint and then I spoke to Mr McKibbon.
Q.62 As NCO in charge of the dance did you wait for the manager to make a complaint?
A.62 No sir I didn't have time. Mr Kerry just jumped on me straight away before I could do anything.
Q.63 And he was right along side you?
A.63 He was very close to me.
Q.64 If Mr Kerry hadn't spoken to you would you have done anything about it?
A.64 Yes sir.

J.A.B.

Q.65 Now, inasmuch as Mr Worsel is the one who did this act how do you account for the fact that you came up and charged Mr McKibbon with some responsibility ref this thing?
A.65 I did not charge Mr McKibbon with anything.
Q.66 But you went up and spoke to him?
A.66 Yes.
Q.67 Why?
A.67 Because he was the soberist man of the two offrs.
Q.68 Well, is that any reason why he should be responsible for the act?
A.68 No sir.
Q.69 Why then did you address him?
A.69 He was the first offr I came to.
Q.70 Did you have any conversation with Mr McKibbon ref that glass that night after the incident?
A.70 No sir.
Q.71 During the incident?
A.71 Yes.
Q.72 Didn't you tell Mr McKibbon you didn't see the glass broken?
A.72 No sir.
Q.73 You said that Mr McKibbon spoke, ref this conversation, in a loud voice?
A.73 Yes.
Q.74 You would say other people heard the conversation - who were they?
A.74 Well quite a number of people were around there.
Q.75 Can you name one?
A.75 No, not right off-hand. Mr Worsel was close enough to hear it; but whether he did or not I don't know.
Q.76 He was standing close to Mr McKibbon?
A.76 Yes sir.
Q.77 Did Mr Kerry hear this conversation?
A.77 No sir.
Q.78 Where was Mr Kerry?
A.78 Where I left him about 10 ft away.
Q.79 Well if it was in such a loud voice at 10 ft away couldn't he hear the conversation?
A.79 Not necessarily.
Q.80 How long have you been in the Army?
A.80 4 years 22 Oct last.
Q.81 Have you been in the habit ordinarily of giving offrs orders?
A.81 No sir.
Q.82 Didn't you testify that you order Mr McKibbon to leave the dance hall?
A.82 I said, "I shall have to ask you to leave the dance hall".
Q.83 Why didn't you go to your senior offr, Capt Quirk?
A.83 Capt Quirk knew that I was in charge and handling the discipline of this dance and therefore I didn't think it necessary to contact Mr Quirk as I was in charge.
Q.84 Now I want to establish this point clearly: The reason you spoke to Mr McKibbon is because you didn't think Lt Worsell was sober enough to be amenable to suggestions?
A.84 I didn't speak to Mr Worsell for the reason that I figured Mr McKibbon was the soberist offr of the two.
Q.85 Had you been drinking that evening?
A.85 Yes sir.
Q.86 How much did you have to drink?
A.86 I believe I had about 4½ pints.
Q.87 When did the dance start?
A.87 7.30

PROSECUTOR: I object sir. The fact that this man was drinking has nothing whatsoever to do with the case...

PRESIDENT: In your examination you were given a certain amount of latitude. I propose to allow a certain amount of latitude both ways.

for B.

Q.88 So until the time of the incident all you had was 4½ pints of beer?
A.88 Yes.
Q.89 You were cold sober?
A.89 Well not exactly cold sober sir.

BY THE COURT:

Q.90 This dance I presume was a special Provost Party was it not?
A.90 Yes sir, it was run for our own Coy and we were allowing a few outsiders to come in.
Q.91 And you in charge of the entertainment and discipline and Capt Quirk appointed you to that position?
A.91 Yes sir.
Q.92 In that capacity you should be able to tell us the number of people who were in the Hall?
A.92 Yes sir, approx 155.
Q.93 Now, in between dances, am I right in assuming that this bar, which was off the dance hall, is rather a small room in comparison with the main dance hall - what would be the size of it?
A.93 Well approx half as big again as this room sir. Part of it is used for checking clothes. There is a large billard table in the room.
Q.94 And during the drinking in the bar people would be pretty well shoulder to shoulder?
A.94 Well yes, fairly well.

BY THE PRESIDENT:

Q.95 Was it an all ranks dance?
A.95 Yes sir.

BY THE J.A.:

Q.96 You said that you reported the matter to Capt Quirk, were you there when Capt Quirk talked to the accused?
A.96 Yes sir.
Q.97 What was said then?
A.97 I didn't hear what was said. I stood far enough away so that I wouldn't interfere.
Q.98 How many people were in the bar approx at that time?
A.98 Approx 25.

(In the opinion of the court and of the JA it is NOT Necessary to comply with RP 53(B))

3rd Witness) Capt T.J. Quirk, C Prov C, 9 Prov Coy, duly sworn, is examined by
Prosecution) the Prosecutor:-

Q.99 Will you repeat your rank, name, unit etc to the court pls?
A.99 I am Capt T.Jamieson Quirk, OC 9 Prov Coy.
Q.100 Now, on 18 Jan where were you?
A.100 I was attending a dance of the 9th Prov Coy at the Stoke Hotel, Guildford.
Q.101 While at the dance did anything happen?
A.101 Yes sir.
Q.102 Would you explain it to the court?
A.102 Approx 2215 hrs on the night of 18 Jan I was in the dance hall of the Stoke Hotel. As a result of infn received I went to the bar adjourning the Stoke Hotel and spoke to one of the offrs of this Coy, Lieut McKibbon. It had been reported to me that Lt McKibbon had been using loud and profane language in the crowded bar. I asked Lieut McKibbon about this. This offr replied that they were worrying about their glass. I suggested that the chief reason for the complaint which had been made to me was because of the use of the bad language. Lieut McKibbon replied, "Jesus Christ, if they are worrying about their "God-damn" glass I will buy them another one". I then suggested to Lieut McKibbon

and Lieut Worsell that it would be best if they left the hall. Mr Worsell agreed to leave the hall. Lieut McKibbon didn't wish to do so. I then ordered Lieut McKibbon to leave the hall. Lieut McKibbon replied, "No, no, no". I then said, "Do you refuse to leave?". Mr McKibbon hesitated a moment and then left. Lieut Worsell also left.

Q.103 Was there any other conv rsation re the breaking of a glass?

A.103 It had also been reported to me that Lt Worsell had deliberately broken a glass.

Q.104 But the reason that you approached Lt McKibbon was because of a complaint concerning his language?

A.104 Yes, and I was told by the NCO in charge of the dance that he had requested Lt McKibbon to leave.

Q.105 This Sgt DeGrew, was he in charge of the dance committed that evening?

A.105 Yes.

Q.106 And he had your authority as OC of the Coy to look after the discipline and general management of the dance?

A.106 He was responsible for good conduct and running of the dance.

Q.107 Now, at the time of this incident, were there many people in the bar?

A.107 Yes, the bar was crowded throughout the evening.

Q.108 Approx how many people would you say?

A.108 Well I think that a conservative estimate there would be 25 people in the bar - probably more.

Q.109 Would you say that the people could hear the conversation that was carried on?

A.109 It is possible that some of them heard it.

Q.110 In what manner did he answer you?

A.110 Very abruptly and impatiently.

CROSS EXAMINED BY THE DEFENCE

Q.111 You wouldn't term the tone of Lt McKibbon's voice as insolent or insubordinate would you?

A.111 No.

Q.112 He didn't actually refuse to obey this order of yours to leave the dance hall?

A.112 He said in so many words that he would not.

Q.113 But actually he did leave within a minute or so?

A.113 I suggested he should leave and then he eventually he left.

Q.114 Then he obeyed when you put it in the form of an order?

A.114 Yes, he obeyed.

Q.115 You think there was a possibility he may have thought you were jesting or joking about it?

A.115 No.

Q.116 How big was the bar?

A.116 It would be a room about — part of the room was divided by tables and chairs — the actual bar part would be about 15 by 15 feet.

Q.117 Was the whole room the size of this room would you say?

A.117 Possibly, yes, but the after room was divided off by tables and chairs.

Q.118 Now in the conversation you had with Lieut McKibbon, was he loud?

A.118 He spoke quite clearly and distinctly but I wouldn't say he was shouting.

Q.119 He wasn't speaking in a tone of voice that it would make people stop and listen?

A.119 Well anyone in the near vicinity would notice it. But he wasn't shouting.

Q.120 It could be a normal tone of voice for some people?

A.120 It could be.

Q.121 Any louder than I am speaking to you just now?

A.121 No.

Q.122 Had you been drinking this night Capt Quirk?

A.122 Yes I had a few beers. I arrived at the dance about 8 O'clock and I had a Scotch which one of my Sgts bought for me. During the rest of the evening I had a few small beers -no more spirits.

Q.123 You didn't have any in the Mess before starting out?
A.123 None whatever.
Q.124 Did you make an investigation before you ordered Lt McKibbon to leave the hall. Had you gone into the subject fully and satisfied yourself that these facts were substantially true?
A.124 I was quite satisfied that they were.
Q.125 Did you question Lt McKibbon and Mr Worsell whether they were true or not, or did you tell them just to go out?
A.125 I questioned Mr McKibbon, but not Mr Worsell.
Q.126 It was after you questioned them that you made up your mind to get them out of the place, or did you make up your mind before?
A.126 I had reasons for believing that these offrs were not in good order - that they had been drinking considerably. I questioned Mr McKibbon. I did not question Mr Worsell because no specific complaint had been made against Mr Worsell except the breaking of the glass.
Q.127 You certainly wouldn't say Mr McKibbon was under the influence of liquor would you?
A.127 I certainly wouldn't say he was cold sober.
Q.128 Would you say he was as sober as you were?
A.128 No, definitely not.
Q.129 But he still was not in such a condition that you would lay a charge against him for drinking?
A.129 No. He had obviously been doing plenty of drinking because he was loud and quite noisy, both he and Mr Worsell, but they were not in a position to be charged.
Q.130 Well, actually, everyone had been drinking that night hadn't they?
A.130 Well I suppose so.
Q.131 How many beers did you say you had?
A.131 I didn't count them.
Q.132 You were in the dance hall most of the evening?
A.132 In and out of the dance hall.
Q.133 Didn't they have a waiter in the bar?
A.133 There was a waiter behind the bar, yes.
Q.134 Did you ask Mr McKibbon whether or not he had been swearing and using profane language in a loud voice to Sgt Degrow?
A.134 I told Mr McKibbon that it had been reported to me by Sgt Degrow that he had been using bad language in the bar.
Q.135 What did he say?
A.135 He didn't reply to that. He said they were worrying about their glass.

BY THE COURT:

Q.136 You had appointed Sgt Degrow as OC entertainment and to be responsible for the discipline of the dance that night?
A.136 I had.
Q.137 Did other people realize that?
A.137 I think they must have because he was appointed at a full meeting of the Coy, but I don't know whether Mr McKibbon was present or not.
Q.138 It was an all ranks dance?
A.138 Yes.
Q.139 You didn't have any offrs in charge?
A.139 No sir.

BY THE JA:

Q.140 What were the exact words the accused offr used?
A.140 He said, "They are worrying about their glass". Then I suggested that it was the use of bad language which was the chief cause of complaint, not the glass. Lt McKibbon raised his voice and said, "Jesus Christ - if they are worrying about their "God-damn" glass we will buy them another one".
Q.141 When he used this language was it in a normal tone of voice?
A.141 No, he raised his voice.

(In the opinion of the court and of the JA it is NOT necessary to comply with RP 83(B))

CLOSE OF PROSECUTION

At this point the Prosecution informed the court and the Defending Offr that Lieut Worsell, whose evidence was taken in the Summary of Evidence, would not be called by the prosecution but that he was available for the Defence if required.

MOTION BY DEFENDING OFFR:

I move that this charge be dismissed at this time because of the failure of the prosecution to establish a prima facie case. I have heard today, and the court has heard, evidence indicating that this man, the accused Lt McKibbon, has said "God-damn" on two occasions. There is some question as to whether or not his voice was normal. He is also alleged to have said "Piss off" to an other rank in the British Army who came up to catechize him. Now, if these are two phrases or words for which offrs, in conversation one with another, may be charged, why I think that the entire Army that are wearing the British uniform today, would probably have to stand charge at one time or another during its career. I think this is a "tempest in the tea-pot". I don't see how any disturbance has arisen from these incidents. There has been some conversation between 2 or 3 people at the bar - there was no disturbance as a result of the actions of the accused. I am prepared to go further and offer a defence if necessary; but I don't think that the Crown has established a case and I don't see that there is any useful purpose in taking up the time of the court by bringing before them more evidence.

BY THE JA:

At this stage it is the duty of the JA to advise the court on a motion brought forward by the Def Offr. The accused offr has been charged with conduct to the prejudice of good order and Mil discipline in that he used in a public place profane language in a loud voice. At this stage of this motion it belongs to the court to decide whether the prosecution has proven a prima facie case, whether the particulars of the case have been covered by witnesses for the prosecution, and whether, if those witnesses are believed, the accused could be found guilty. I have further to add that at this stage on this Motion all [redacted] is against the accused - that is, if there is any doubt in the mind of the court the motion should be disallowed and the accused should be asked to be put on his defence.

J.A.B.

COURT CLOSED TO CONSIDER THE MOTION

COURT RE-OPENS

JA:

The Motion made by the Defence is disallowed. The accused now has three alternatives. He may wish to give evidence under Oath or he may wish to remain silent. Of course a statement under Oath will carry more weight with the court; but if a statement is made not under Oath the prosecuting offr cannot cross-examine the accused.

COURT ADJOURNED FROM 1200 hrs to 1300 hrs.

J.A.B.

D

~~The prosecution is closed.~~

Defence.

Q.142 *Question to the accused.* Do you apply to give evidence yourself as a witness ?

A.142 *Answer.* **Yes sir.**

Q.143 *Question.* Do you intend to call any other witness in your defence ?

A.143 *Answer.* **Yes sir.**

Q.144 *Question.* Is he a witness as to character only ? *Answer.* A.144 **No sir.**

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence ?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

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D 2

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

1st Witness) The accused, Lieut J.A. McKibbon, C Prov C,
Defence) 9 Prov Coy, duly sworn, examined by the Defence:-

Q.145 Will you tell the court your version of the events of evening 18 Jan 45?

A.145 Mr Worsell and I had a couple of gins in our Mess prior to going to the Coy Dance which was being held in the Stoke Hotel, Guildford. We arrived there about 9.30 and went over towards the bar where we met Lieut McDonald of the same Coy, and he bought us a small beer each. We might have said a few words to him - nothing in particular at the time though. I went over and spoke to Cpl Hertzog and Lt Worsell, who was with me at the time. We engaged in ordinary conversation for 20 to 25 mins while we drank this small glass of beer. Then a Sgt whom I knew very well from the Coy entered the Hall and we went over to the door to talk to him. As I was crossing the dance hall floor with Lt Worsell he dropped his empty glass on the floor.

Q.146 He dropped it or threw it?

A.146 My impression was that he reached out to shake hands with this man who had entered the dance hall and probably in the confusion - and I was close to him - probably he either knocked his hand against me or forgot about the glass altogether - and it dropped out of his hand accidentally. I engaged in conversation and a few mins after I was approached by Sgt Degrow of our own Coy and he stated to me that the Manager had complained that one of our offrs had deliberately broken a beer glass.

Q.147 Before Sgt Degrow spoke to you did you have conversation with someone else?

A.147 Yes, there was a conversation with a Marine Commando of the British Army. He was first talking to Lt Wrosell and pointing out the ungentlemanly manner in which he had acted by dropping the glass and then not picking it up. I was rather annoyed myself at the Marine Commando and I asked him what business it was of his. I do not know what his answer was, exactly, but he stated that at least he could have picked the glass up and I told him that the glass was in a thousand pieces or at least a great number of small pieces.

Q.148 Did you use any profanity to him?

A.148 None whatever.

Q.149 Did you use an expression called "Piss off"?

A.149 I told him to "push off" for I was fed up with this frielous harangue.

Q.150 Do you ever use that expression, is that in your vocabulary?

A.150 It isn't.

Q.151 What happened then?

A.151 I moved over a few feet across the floor and Sgt Degrow came along and, as I stated, told me that this complaint had been made to him by the manager that one of our offrs had deliberately broken a glass.

Q.152 How long after the glass was broken did this incident occur?

A.152 May be 5 to 10 mins. ... I told him that I was sure that Lt Worsell hadn't broken the glass deliberately and if it would help any I would pay for the glass. I referred to the glass as the "God-damn glass". I didn't count the number of times I used that term.

Q.153 By the way, your entire conversation during the evening, did you use any other expression of profanity to anyone in that place?

A.153 None whatever. I did refer to the glass as a "damn" glass - I may have said a "God-damn" glass as well. At that time I didn't know the Sgt was in charge of the dance.

Q.154 What did Sgt Degrow have to say?

A.154 Well before I finished with Sgt Degrow I said I would replace the glass and then he said he would have to ask me to leave the Hall. I said "You are asking me to leave the dance hall?" and he said, "Yes sir". I made no move at all. He left and in a very short

J.A.B.

time came back with Capt Quirk. Capt Quirk came up to Lieut Worsell and I and said that there had been a complaint against us and we would have to leave the dance hall. I asked him what was the nature of the complaint and he was unable to give me a satisfactory explanation. He again said that I would have to leave the dance hall. I did hesitate for a moment or two and when he said, "Do I have to make it an order" I understood that he was in earnest; but up to that time I did not think that he was in earnest. I took my empty glass, put it on the bar and left the dance hall.

Q.155 By the way, did you say anything with ref to the glass to Capt Quirk?

A.155 I did in my conversation say that they were worrying about their "God-damn" glass.

Q.156 Did you say it in a loud and insolent tone?

A.156 Not at all.

Q.157 But in the tone you ordinarily use?

A.157 I used the tone I always do in a dance hall. Everybody was happy - we were at a dance - it wasn't a funeral.

Q.158 Quite noisy was it?

A.158 Yes, there was dancing going on a few feet away.

CROSS EXAMINED BY THE PROSECUTION

Q.159 You say that when this Commando approached Lt Worsell concerning the breaking of the glass you were "annoyed" at him? For what reason were you annoyed? He didn't approach you did he?

A.159 Lieut Worsell and I were standing together at the time.

Q.160 The Marine spoke to Lt Worsell concerning the breaking of the glass, you in turn said you were "annoyed", for what reason?

A.160 I became annoyed after I had conversation with the Marine Commando.

Q.161 Why?

A.161 Because I considered he did not have a justifiable complaint.

Q.162 But that surely gave you no reason to be annoyed?

A.162 Didn't it?

Q.163 Then later you said that Sgt Degrow came forward and said he had a complaint from the Manager and you became annoyed at the Sgt. Do you think that as an offr attending the Coy Dance that if any complaints were received it would be your duty to rectify the situation and to see that things were conducted in a proper manner?

A.163 As previously stated, I said to Sgt Degrow that I would pay for the glass, and he said they didn't want payment because glasses were difficult to obtain, and then I said I would replace the glass. I could do nothing further.

Q.164 Why did you become annoyed when he came to you as an offr with a complaint and you immediately became annoyed at him?

A.164 I wasn't annoyed at the complaint, what annoyed me that I said I would straighten out the situation and he asked me to leave the dance hall without reverting the incident to my O.C., which I thought was the proper procedure when I hadn't committed any serious breach of discipline or caused any unnecessary disorder.

Q.165 Were you at the Coy Meeting which was held prior to the Dance where Sgt Degrow was appointed to be in charge of the dance?

A.165 I was not. As far as I was concerned he was just one of our Sgts.

Q.166 Even so, if one of your Sgts came forward with a complaint you felt that he should have gone to the OC and not to you and you became annoyed with him for that?

A.166 I became annoyed because the Sgt asked me to leave the dance hall without a justifiable reason, not because he came to me with a complaint - and I tried to settle the complaint.

(In the opinion of the Court and the JA it is not necessary to comply with R 83(B))

JAB

2nd Witness) Lieut J.F. Worsell, 14 Coy C Prov C, duly sworn, is examined
Defence) by the Defence:-

Q.167 What is your name, rank and unit pls?
A.167 I am Lieut Jack Faylie Worsell of No 14 Coy, Provost Corps.
Q.168 On the evening of 18 Jan 45 where were you?
A.168 After 2130 hrs at the Stoke Hotel, Guildford.
Q.169 In whose Coy?
A.169 Lieut McKibbon's.
Q.170 For what purpose were you there?
A.170 Attending a Coy Dance.
Q.171 You arrived 2130 hrs?
A.171 Approximately.
Q.172 Did any particular incident happen?
A.172 Yes, after we had been there about 15 mins, we had been in conversation with a Cpl, we terminated the conversation and left him and moved towards the door. I had an empty pint beer glass in my hand. I inadvertently dropped it and it broke on the floor. At this point a Royal Marine Commando appeared and told me that that was no way to act in a public place. I asked him what he meant, and he said that I had deliberately smashed the glass on the floor. I explained to him that it had been an accident, that I was willing to pay for it or replace the glass. He continued to offer his criticism, and as he had no official connection with either the Dance or the Stoke Hotel Management I attempted to ignore him. Mr McKibbon entered the conversation at that point and asked him what business it was of his. Some further conversation took place between him and Mr McKibbon of which I had no part; but as I remember there was no loud language or profanity on the part of Mr McKibbon. There was also a civilian employee of the Stoke Hotel who took part in the conversation. I don't know his official capacity; but I also made a statement to him that I would pay for the glass. While this was going on Sgt Degrow, 9 Prov Coy, appeared and requested Mr McKibbon to leave the Hall.
Q.173 How long after the incident happened did Sgt Degrow appear on the scene?
A.173 I should say it was between 5 and 10 mins... He asked Mr McKibbon to leave the Hall and Mr McKibbon refused. Sgt Degrow disappeared. With that we made our way towards the door engaged in conversation with another Sgt and a Pte of 9 Prov Coy. After a short time Capt Quirk, OC, 9 Prov Coy appeared and requested Mr McKibbon and myself to leave the hall. At that point, Sgt Degrow (who was just behind Capt Quirk) stated that he had no complaint against Lieut Worsell. Some further discussion took place at that point. I was at no time questioned by Capt Quirk as to my part in the complaint of a disturbance, nor, as far as I know, were any disinterested parties questioned. Discussion terminated by Capt Quirk ordering Lieut McKibbon to leave the hall. We had some conversation outside the door, Mr McKibbon and myself. Shortly after Mr McKibbon left and I re-entered the dance hall. I remained there until the end of the dance.
Q.174 Had Capt Quirk been drinking?
A.174 Obviously.
Q.175 There has been some evidence given in this court-martial up to now as to relative sobriety of Capt Quirk and Mr McKibbon, were you capable of summing up or forming an opinion?
A.175 I think so. In my opinion there was very little to chose between both of them. Both had been drinking, as I think everyone at the dance had been to some extent.
Q.176 How about this Royal Marine Commando ref sobriety?
A.176 I presumed thathe had been drinking inasmuch as I didn't think he would have accousted me and offered criticism had he been entirely sober.

JRB

Q.177 Did you ever hear Lt McKibbon tell this Royal Marine Commando to "piss off"?
A.177 I did not.
Q.178 What was the tone of Lt McKibbon's voice in his conversation with this RM Commando and Capt Quirk and Sgt Degrow?
A.178 Lt McKinnon was quite naturally annoyed; but his conversation at no time was unduly loud and not liable to carry to the ears of those present other than the one he was directly addressing.
Q.179 If he had used profane language would it have reached the ears of anyone except those he was addressing?
A.179 No sir.

CROSS EXAMINED BY THE PROSECUTION:

Q.180 When you arrived at this dance you had had some drinks?
A.180 Yes.
Q.181 What amount?
A.181 A couple of glasses of gin.
Q.182 You were drinking before you went to the dance?
A.182 Yes.
Q.183 When you arrived at the dance you had something further?
A.183 Yes, half-a-pint of beer.
Q.184 But you had the drinks of gin before going to the dance?
A.184 Yes.
Q.185 While the conversation was going on with the RM Commando you said you did not enter into the conversation?
A.185 I had some conversation. He accousted me first, but after some conversation with him I decided to ignore him and have nothing further to do with him; but Mr McKinnon took a hand at that time.
Q.186 Well, in view of the fact that you were the person who dropped the glass don't you think that it was your responsibility to straighten this out?
A.186 I had attempted to, both with the Marine and with the employee of the Hall. To both of them I made the statement that I would replace or pay for the glass.
Q.187 You say you did not hear Mr McKinnon use any profane language during the course of the conversation with the Marine?
A.187 I could not quote his exact words, there may have been some mild profanity.
Q.188 There could have been?
A.188 Yes.
Q.189 I submit that possibly you were not in a condition to realize what he was saying?
A.189 No, I would not say that. I was not paying a great deal of attention to the matter at all because I was not interested, and I thought it a very trivial matter and ignored it.
Q.190 When Capt Quirk arrived did you take part in the conversation?
A.190 No.
Q.191 Did you hear what was said?
A.191 Yes.
Q.192 What was said?
A.192 Briefly summed up in this wise: Capt Quirk requested Mr McKinnon to leave the hall. Mr McKinnon wanted to know what for and requested that some investigation be made of the matter before he cared to leave the hall. Capt Quirk made the investigation and ended up by ordering Mr McKinnon to leave the Hall.

J.O.B.

Q.193 What ref was made to the breaking of the glass at this time?
A.193 None at all.
Q.194 Did Mr McKinnon say that he would replace the glass?
A.194 He may have made that statement. I know I made that statement to the Marine as well as to this civilian employee; and it is quite possible he repeated it to Capt Quirk.
Q.195 Do you know?
A.195 I couldn't say.
Q.196 I submit that if you were there, engaged in conversation, and part of it, that you must have heard what was said?
A.196 There was a general conversation going on, which included Mr McKinnon, Capt Quirk, Sgt Degrow, the Marine and me, and many things may have been said but I couldn't quote just what was said.

RE-EXAMINED BY THE DEFENDING OFFR THRO THE COURT:

Q.197 When Capt Quirk came up did you think he was joking when he asked you to leave the hall?
A.197 Yes, I did.

BY THE COURT:

Q.198 You said you belonged to No 14 Coy; but you belonged to No 9 then?
A.198 Yes sir.

BY THE JA:

Q.199 How many people were in the bar at that time?
A.199 The bar was quite crowded. It is a small place: possibly 25 - 30 people.
Q.200 Were there many civilians?
A.200 There were a number of civilians - ladies, and I think a very few civilian gentlemen.
Q.201 You mentioned that the accused offr may have used "mild profanity". What words were they?
A.201 I would say nothing of a filthy nature or a particularly bad nature. Such words as "Damn".
Q.202 What was the tone of voice used by the accused when speaking to his CO and to Sgt Degrow.

DEFENDING OFFR: I object to the JA examining the witnesses. He is not a proper member of the court. He is here for the purpose of advising the court only.

PRESIDENT: He has the right to question witnesses by R.P. 83.

A.202 The natural tone of annoyance sir.

(In the opinion of the court and of the JA it is not necessary to comply with RP 83(B))

3rd Witness Defence) Lieut G.H. McDonald, Transport Offr, No 14 Coy C Prov C, duly sworn, is examined by the Defence:-

Q.203 On the evening of 18 Jan this year were you at the Stoke Hotel in Guildford?
A.203 Yes sir.

J.A.B.

Q.204 You were there for what purposes?
A.204 Dancing.
Q.205 Were you a member of No 9 Coy at that time?
A.205 I was sir.
Q.206 Did you see the accused that night?
A.206 Yes sir.
Q.207 At what time?
A.207 Approx 2200 hrs.
Q.208 Where were you?
A.208 At that time I was standing just inside the outer anti-room with a lady friend.
Q.209 How far away from the accused were you?
A.209 About 5-10 feet.
Q.210 Did you observe the accused being involved in any argument or talking in a loud voice or conducting himself in an irregular manner?
A.210 Well when they first came in, Lt McKinnon and Lt Worsell, I went over to them and bought them a half-pint of beer. I introduced them to my lady friend. We talked for 5 - 10 mins and then we watched the dancing.
Q.211 Did you observe anything irregular in their conduct or activities?
A.211 No sir.
Q.212 Were you near enough to hear and observe?
A.212 Well, sir, when this disturbance took place....
Q.213 What disturbance?
A.213 This alleged disturbance... I was standing over watching them dance with my lady friend. We watched a couple of dances and when I turned round Lt McKinnon had gone.
Q.214 You didn't know anything about it.
A.214 I was in the doorway between the two rooms.

NO CROSS EXAMINATION BY PROSECUTION

(In the opinion of the court and of the JA it is not necessary to comply with RP 53(B))

4th Witness Defence } M45316 Cpl Hertzog, T.F., C Prov C, HQ CRU, duly sworn, is examined by Def Offr:-

Q.215 What is your number, rank, name and unit?
A.215 I am M45316 Cpl TF Hertzog. I am att to the APM's Office, CRU.
Q.216 On the evening 18 Jan where were you?
A.216 Stoke Hotel, Guildford.
Q.217 For what purpose?
A.217 To attend a dance.
Q.218 Did you have occasion to meet the accused, Lt. McKibbon that night?
A.218 Yes I did, at approx 9.30.
Q.219 How long were you with him?
A.219 About ½ hour.
Q.220 Did you see him after 10 O'Clock?
A.220 No I did not.
Q.221 During that evening did you have an opportunity of observing him?
A.221 Yes.
Q.222 Did you observe anything unusual about him?
A.222 No I did not.
Q.223 Were there any unusual incidents that happened that night?
A.223 Not to my knowledge.

JAB

Q.224 Was there any breaking of a glass?
A.224 Not while I was there.
Q.225 Did you have an opportunity to observe Lt McKinnon ref sobriety?
A.225 Yes.
Q.226 What did you observe?
A.226 I would say that he had been drinking, the same as everyone else; but he was certainly not drunk, in my opinion.

BY THE COURT:

Q.227 Were you invited as a guest to this dance?
A.227 Yes sir, I was invited by the S.M. about 3 or 4 days previous.

(In the opinion of the court and of the JA it is NOT necessary to comply with RP 83(B))

CLOSE OF THE DEFENCE

DEFENDING OFFR: May it please the court: I would like to call the court's attn to the different position I now stand in making a request for the dismissal of this charge. Since I last addressed the court we have put in our defence. I made an application for dismissal of the charge on the ground that a prima facie case had not been established. Now, if you gentlemen of the court find, by a preponderance of all the evidence that there is reasonable doubt that the accused is guilty of the charge, you are then required to find him Not Guilty. It is my contention now that the Crown has failed, first, to establish beyond a reasonable doubt on their evidence that the accused was guilty and, further, that whatever evidence has been adduced by the Crown has been adequately neutralized and disaffected by the evidence which we have offered to counteract it. Let us review the remarks of the first three witnesses. First witness was the Marine Commando, a fellow who, from his own testimony you must admit, obviously had bad manners and acted in a way that certainly is not becoming a private soldier who, under any circumstances, has not a right to catechise an offr unless that offr is behaving in such a manner as to cause a breach of the peace so as to cause him to be placed under custody. The evidence of this private has been contradicted by three of our Defence witnesses. The only evidence at any rate which he states could possibly have anything to do with this charge, is that he said "God damn glass" and "piss off". My client definitely did not use that expression and his contention is reiterated by Mr Worsell. Mr McDonald was within hearing distance and did not hear him. The next witness is Sgt Degrow. He testified that he saw the glass break. He jumped immediately, but before he had time to say anything to Mr Worsell, why the proprietor talked to him and made a complaint. If that is so, my three witnesses are lying, because they each said it was 5 to 10 mins afterwards that he came over to Mr McKinnon and started into this argument which lead to the charge which you are hearing today. Now, although Sgt Degrow undoubtedly testified to the best of his knowledge, I maintain he was mistaken in his facts. His testimony has been entirely discredited by what he said happened and how he acted. What are the

J. de B.

actions of a normal man if he sees a position of discipline being needed by some person? Is he going to go to that person or to someone else. Here Mr Worsell broke the glass, why should he go to Mr McKinnon? Mr Worsell has testified today, and other people have reiterated that story - he told the same story as everybody else. There is something more behind it than the fact that he didn't consider Mr Worsell in a condition to speak. He apparently was in a cantankerous mood. He apparently didn't see the thing happen and went over to Mr McKinnon to learn the facts. I claim that his testimony is uncorroborated - the same as the testimony of Pte Howarth, is uncorroborated. Then we have Capt Quirk who did not see the incident at all except that he learned about it in due course. Capt Quirk may have acted in good faith; but he had been at the party and had been drinking. As all of you know, at a party after they havehad three or four drinks, it is probably not the same standard of conduct than if they were completely sober. Certainly all of us, if we take a drink at all - and most of us do - we have done things which perhaps we would not have done had we hadn't had any. Therefore, I think Capt Quirk, in ordering the accused out of the hall, took a more serious view of a really trivial and insignificant incident; and if he had given the incident more investigation and more thought in a completely sober frame of mind he might have settled the matter in a more satisfactorgk way to everyone concerned. At any rate we have got two witnesses who were alleged to have seen this thing happen and a third witness who did not see anything at all. In the Defence I offered Mr Worsell who told us the clearest and most lucid picture of the incident. I myself was more enlightened than I had ever been up to the time I heard Mr Worsell's testimony. He has been an offr for a considerable period of time and all his words were clear and carefully chosen. He told us exactly what happened and his story stood up under cross-examination. He has nothing to gain or profit by telling what he did; on the other hand he possibly might have something to lose. Having that in mind I think his testimony is terribly important because he is telling the truth. His story is completely corroborated by Mr McDonald in that Mr McDonald was in a position to hear any profane language and did not do so. The conduct of the accused was, immediately prior to this happening, was not of a nature to conform to the charge, as testified to by the Cpl. In addition to all this testimony, the accused bears out the story (a) that he did have private conversation with three people, first the Marine, second Sgt Degrow and thirdly Capt Quirk. They all maintained individually that "God-damn" may or may not have been used. We admit all that. But now we come down to the real crux of the charge. Fortunately this is a Mil Court. It is one case where I think it is a benefit of being in a Mil rather than a civilian court because all of us know what the position in the Army is with regard to profanity. I think that the Army, both Cdn and British, are about as profane a cross-section of humanity as any that I have ever been in. I know that the nearer you get to the front the more profane it gets. I think that the Cdn Army in England is more profane than the Cdn Army in Canada; but after all we are fighting a war. After all, if an offr usesss the words "God-damn blas" to another offr is he creating a breach of the peace; is

JDB

he acting in a manner unbecoming the character of a gentleman? If he is, how many offrs are there in any Army that wouldn't have a black mark on their MFM-6. Place yourself in the same position as the accused. How many of us have been in a bar or mess or offrs' club and had a slight "tiff", after a couple of drinks and used this kind of language. And when you are judging this case place yourself in the position of this offr and think how you might act in such a position. I say this, that if this offr is guilty of a crime, that every other offr and NCO are equally guilty of the same crime. Here is a case in which this offr's whole career and his reputation is in jeopardy and at stake - isn't it a "tempest in a tea pot"? If he is in some way blameworth he should be censored by his CO, but the case does not seem to me to reach the dimensions of a Gen Court Martial. Capt Quirk himself admits that he was not shouting. You have to decide whether or not he was speaking loudly enough to make the people around him stop and listen. If a person four feet away, as Sgt Degrow, didn't hear, and another 10 feet away couldn't hear him, then he was not acting in such a way as to cause a disturbance. And the second question you have to ask yourself is this, whether, if I say "God damn" or a similar phrase, whether that is profanity to warrant punishment by a GCM and blacken an otherwise honourable career in the Army. There are too many serious crimes committed during the five yrs we have been at war, without breaking a man for what is a perfectly natural reaction to an ordinary conversation, in which in 9 cases out of 10 we would have acted in the same way. I think this man should be dismissed. I think this is a "much ado about nothing". At no point has this case been proven beyond the shadow of a doubt and when you come to make your decision he must be convicted by the evidence produced beyond all reasonable doubt.

PROSECUTOR: May it please the court. I wish to point out that it is the duty of the personnel within the Provost Corps first and foremost to maintain discipline within the Cdn Army and to see that all ranks conduct themselves in a manner becoming a soldier or an offr and a gentleman. In this case evidence has been brought forth where the accused states he did use profanity in a dance hall in a public place, at a dance held by the Coy and in the presence of all other ranks in the Coy. I wish to point out also that the Marine Commando (the 1st witness) saw the incident and felt that it was his duty to come forward and make some remark concerning the behaviour of this offr, the accused. The accused himself admits that he became annoyed at being spoken to concerning the matter. Furthermore when the Sgt, who had been placed in charge of the dance and the discipline of the dance, approached him on the matter he again became annoyed. I feel that it was his duty, as an offr and an offr of that Coy, to set a high example to the people present there and that he should have taken some action to quietly straighten out this small argument. We are not deciding at this court whether the glass was thrown or dropped down or that it should be paid for. We are merely concerned with the language used and the behaviour of the accused. Insofar as the witnesses for the defence are concerned, Cpl Hertzog

and Lt McDonald both admit in their evidence that they were not present at the time of the incident; but that they had been talking to the accused prior to that. Therefore, I do not see where their evidence has any bearing on the charge that this man used offensive language. We have his own admission and, furthermore, I think the evidence has been produced that the bar room was crowded - there were people all around when these remarks were made; and I do feel it is not the conduct of an offr and a gentleman at any time in a crowded bar room to make such remarks.

SUMMING-UP BY THE JA:

Mr President & Gentlemen:

The Def Offr and the prosecution have been heard. At this stage it is my duty to sum up the evidence as to the facts of the case and to advise the court on questions of law. The accused offr before this court is charged with "Conduct to the prej of good order and Mil discipline in that he at Guildford Surrey at 2210 hrs on 18 Jan 45 acted in a manner unbecoming an offr by using profane language in a loud voice in the bar of the Stoke Hotel Dance Hall."

The court must ask themselves if the particulars of the charge have been proved. The essential elements of the charge are that the accused offr would have acted in a manner unbecoming an offr by using profane language in a loud voice. The essential elements must be proved if the accused is to be found guilty. The other particulars of the charge respecting the time, place and date of the offence are not essential elements and the court could make a special finding if such non-essential elements as proved differed from the particulars of the charge.

The three witnesses for the prosecution, Marine Howarth, Sgt Degrow and Capt Quirk testified about three different instances where the accused would have used profane language in a loud voice. Marine Howarth testifies that the accused told him to "Piss off" and that he heard him say "God damned glass." Sgt Degrow stated that the accused in a loud voice twice used the words "God damned glass" and Capt Quirk testifies that the accused replied to him "Jesus Christ if they are worrying about their God Damned glasses I shall get them another".

The accused then testified and admitted to have used twice the words "God Damned" but denied that it was in a loud voice. Another witness for the defence, Lt Worsell states that the accused might have used mildly profane language but not in a loud voice. The other two witnesses for the defence Mr McDonald and Cpl Hertzog did not see the incident but it is not clear whether or not they were in the bar at the time.

From the evidence heard this court has now to decide if the accused used profane language in a loud voice in a manner unbecoming an offr. That is what has to be proved by the prosecution before the accused can be found guilty. The onus of proving the guilt of the accused is on the prosecution. If there is any doubt in your mind as to the guilt of the accused the accused is entitled to the benefit of such reasonable doubt and should then be acquitted.

COURT CLOSED TO CONSIDER FINDING.
COURT REOPENS

President to Accused:- The court finds you not guilty of the charge and you are released accordingly.

JAB

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Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused, Lieut John Ambrose McKIBBON, No 9 Provost Coy, C Prov C, NOT GUILTY of the charge laid against him.

J de Billy Capt. H.R. Tyner

(J. de Billy) Capt, Judge Advocate. In the Field 31 Jan 45 (H.R. Tyner) Col, President.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the service of the accused in a separatistic [illegible] or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Extracts entered as No. 3487 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 18 day of Apr 1945

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

X (Sd) H R Tyner 45

COURTS - MARTIAL ARMY FORM A 47

FORM OR ORDER FOR THE ASSEMBLY OF A GENERAL OR DISTRICT COURT MARTIAL

.....ORDERS BY Maj-Gen J.H. Roberts DSO MC.....

Commanding the Canadian Reinforcement Units.....

Lt John Ambrose McKIBBON
9 Prov Coy - Cdn Provost Corps

(Place & Date) Farnborough, Hants - 30 Jan 1945

The detail of officers as mentioned below will assemble at HQ 9 Cdn Provost Coy ..... on the 31st Jan 1945 ~~[illegible]~~ ..... for the purpose of trying by a General Court-Martial the accused person (~~[illegible]~~) named in the margin (and such other person or persons as may be brought before them)

PRESIDENT

Col H.R. Tyner MC VD 1 CSRU is appointed president

MEMBERS

Major L.W.F. Wakefield	2 CITR
Major A.W. Searle	1 CASCRU
Major J.R. Joly	4 CITR
Capt M.E. McCormick	1 CASCRU

WAITING MEMBERS

Capt A.H. Michaud	4 CITR
Capt E.C. Loveridge	1 CGRU

JUDGE- ADVOCATE

Capt J. de Billy
Barrister-at-Law HQ CRU ~~[illegible]~~ is hereby) appointed judge-advocate.

The accused will be warned and all witnesses duly required to attend.

The proceedings will be forwarded to Col i/c Adm, HQ CRU

Signed this 30th day of January 1945

(Sd) J H Roberts
(J.H. Roberts) Maj-Gen
Comd
Cdn Rft Units

J.C.B.

SUMMARY OF EVIDENCE in the case of Lieut. JOHN AMBROSE McKIBBON, on strength of No. 9 Company, Canadian Provost Corps.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS
For the prosecution

No. 7LYX2773, Marine, JAMES HOWARTH, of the 30 Assault Unit, Royal Marine Commando, British Army, having been duly sworn states as follows:-

"On the evening of 18 Jan 45 I was in the dance hall of the 'Stoke Hotel' at Guildford. I was in the bar-room having a drink when I saw a Canadian Officer throw a glass to the floor. He made no effort to pick it up and I went over to him and said, 'That is not the correct way for an officer to act'. A second Canadian officer asked what it had to do with me, and I replied that if it was a fellow like myself, I would have been put between escort. He, the second Canadian officer, then said, that he, and all the other Canadians sould be back in Canada. I then replied, he was over here on his own accord. A Canadian sergeant then came on the scene and began talking to the Canadian officer. I walked away and left it to the sergeant and as I walked away I heard the officer say to the sergeant that he would replace the 'God damn' glass. I then left the scene".

The accused declined to cross examine the witness.

"I wish to add. After the Canadian officer told me about the Canadians, should be in Canada, he told me to, 'Piss off'.

QUESTION "Have you seen this officer since?"

ANSWER "Yes, it is the officer sitting here?"

Witness identifies the accused.

The accused further declines to cross examine witness.

J.R.B.

Summary of evidence in the case of Lieut. J.A. McKIBBON, Continued.

SECOND WITNESS For the prosecution

B 97637 Sgt. MALCOLM CLEMENT DEGROW of No. 9 Company, Canadian Provost Corps, Canadian Army Overseas, having been duly sworn states as follows:-

"At about 2210 hrs 18 Jan 45, I was in the Stoke Hotel Dance Hall and Bar at Guildford, Surrey. I was NCO i/c of the Entertainments Committee No. 9 Provost Company, which was holding a dance in this hall. As I was supervising the dance, a Mr. Kerry, proprietor of this Hall, informed me that a beer glass had been deliberately broken. Mr. Kerry also said, 'This kind of thing is not tolerated in this Hall', he also said to see that it doesn't happen again.

I approached Lieut. McKibbon, No. 9 Provost Company, as he was the nearest officer and informed him that this beer glass which was broken had been brought to my attention by Mr. Kerry. I had observed this beer glass deliberately broken.

I was speaking to Mr. McKibbon about it and he asked me if it was the 'God damn' glass they were worrying about or the price. I replied, it wasn't the price of the glass, it was that glasses were hard to obtain. Mr. McKibbon said, 'If it's the 'God damn' glass they are worrying about, I shall get them a 'God Damn' glass. This remark was passed in a very loud voice. I said to Mr. McKibbon, 'This is not the time, or the place for such language', to which he replied, 'I shall use this language when and where I please'. I informed Mr. McKibbon that I should have to ask him to leave the dance hall. Mr. McKibbon replied, 'I do not have to leave the hall now or any other time'. I immediately contacted Capt. Quirk, No. 9 Provost Company, who was dancing in the other room. I reported to him the incident and asked for his assistance. Captain Quirk accompanied me back to the bar.

Captain Quirk spoke to Mr. McKibbon and asked him to leave the hall, to which Mr. McKibbon replied, 'No, No, No'. Captain Quirk said, 'Do I have to make it an order?' Mr. McKibbon hesitated a moment and left the hall".

Cross examined by the accused.

QUESTION "Did you know who had broken the glass?".

ANSWER "Yes".

QUESTION "Who had broken it".

ANSWER "Mr. Worsell".

QUESTION "Where was Lieutenant Worsell when you approached me, sergeant?"

JCB

Summary of evidence in the case of Lieut. J.A. McKibbon, continued.

SECOND WITNESS
For the
Presecution (Continued)

ANSWER "Mr. Worsell was standing close to you, but three of four feet further from me".

QUESTION "Was I talking to anyone when you first spoke to me?"

ANSWER "No".

QUESTION "Why did you speak to me and not to Mr. Worsell since he was the one who had let the glass fall on the floor?"

ANSWER "I spoke to you first as you were the nearest officer to me".

QUESTION "Did I not tell you that I was sure that the glass had been dropped accidentally?"

ANSWER "No".

QUESTION "When you approached me, was I talking to a Marine Commando?"

ANSWER "No".

QUESTION "When I was ordered to leave the dance hall, by Capt. Quirk, didn't I take my empty beer glass to the bar, then leave the dance?"

ANSWER "No".

QUESTION "Did I again enter the dance hall?"

ANSWER "Not that I know of".

QUESTION "Why did you not have Capt. Quirk approach either Lieut. Worsell or myself concerning this incident rather than speak to me first?"

ANSWER "As I was in charge of this dance it was my place to speak to you".

QUESTION "Do you not think the matter could have been cleared up more satisfactorily if it had been taken up with Captain Quirk first, and then he had spoken to Lieut. Worsel or myself?"

ANSWER "No".

QUESTION "Did you at any time ask me to leave the dance hall?"

ANSWER "Yes".

Summary of evidence in the case of Lieut. J.A. McKibbon, continued.

THIRD WITNESS
For the prosecution

Lieutenant JACK FOWLIE WORSELL of No. 14 Coy., Canadian Provost Corps, Canadian Army Overseas, having been duly sworn, states as follows:-

"On the night of 18 Jan 45 at about 2000 hrs. Lieut. McKibbon and myself left the Officers' Quarters at No. 9 Company to proceed to the company dance at the Stoke Hotel, Guildford. We arrived at about 2130 hrs and upon entering the hall met Lieut. MacDonald, No. 9 Company, who bought us two half pints of beer, one each.

We then stepped back from the bar engaged in conversation with Cpl. Hertzog whilst consuming the beer. This conversation lasted about ten or fifteen minutes. My glass now was empty and I proceeded to cross the room with it toward the door. Whilst crossing the floor I accidentally dripped the glass which broke on the floor. At this point a Royal Marine accosted me with words to the effect that that was no way to act in a public place. I told him it was an accident whereupon he intimated that I had deliberately thrown the glass to the floor. As the man had obviously been drinking, the Royal Marine, and had no official connection with either the dance or the management of the Stoke Hotel, I ignored him. He continued however to offer his critisism and Lieut. McKibbon asked him what business it was of his.

Some further conversation ensued between the marine and Mr. McKibbon to which I payed little attention.

I do not recall that Lieut. McKibbon used offensive language, nor was his manner in any way offensive.

A civilian, apparently an employee of the Hotel appeared and I offered to pay for or replace the broken glass.

Some discussion took place between the civilian employee, the Royal Marine and Mr. McKibbon in the course of which Mr. McKibbon made the same offer.

The civilian and the Marine then left the scene. Shortly after Sgt. Degrow came up to us and requested Lieut. McKibbon to leave the hall. Some argument followed and Sgt. Degrow left us and disappeared into the crowd on the dance floor. Mr. McKibbon and I now made our way toward the door where we engaged in conversation with Sgt. Cranmer and Pte. Colbran of Crookham Detachment. After a few minutes Captain Quirk came up to us and requested that we leave the dance. With him was Sgt. Degrow who broke in at that point saying, 'I have no complaint against Lieut. Worsell'. Some argument followed in which I took no part. I did not take the matter seriously at that time, I was under the impression that Captain Quirk had been drinking and I thought that his request had been made in a jocular vein.

P. T. O.

LOB.

Summary of evidence in the case of Lieut. J.A. McKibbon, continued.

THIRD WITNESS For the prosecution

Lieutenant J.F. Worsell continues to give evidence.'

"No effort was made by Captain Quirk as to the cause of the disturbance nor did he then, or at any later time question me as to my part in it.

The argument went on and Captain Quirk ordered Lieut. McKibbon to leave the hall and ordered me to see that he did so. I now realized that he was in earnest so I accompanied Lieut. McKibbon outside. After some conversation outside, Lieut. McKibbon left me and I re-entered the dance hall. I remained at the dance until it broke up and did not again see Lieut. McKibbon that night.

Cross examined by accused.

QUESTION "At the end of my conversation with the Royal Marine, did I tell him to "Piss off"?

ANSWER "I do not recall in what manner the conversation with the marine terminated".

QUESTION "Do you not think that the whole incident could have been cleared up very satisfactorily and without any unnecessary disturbance if Captain Quirk had come to us in the first place and enquired into the details of the breaking of the glass"?

ANSWER "Yes I think it could have amicably been settled had the original cause of the trouble been investigated by Captain Quirk. No effort was made to hear the side of the interested parties, nor was the evidence of disinterested witnesses sought. No one apparently was given a hearing by Captain Quirk except Sgt. Degrow, the Royal Marine and the civilian employee".

QUESTION "Under the circumstances do you not consider Captain Quirk's decision to have me leave the hall, irrational and too hasty?"

ANSWER "Yes, I considered that Captain Quirk's action was unwarrented and ill advised in view of the inadequate investigation made".

P. T. O.

JAB.

Summary of evidence in the case of Lieut. J.A. McKibbon, continued.

FOURTH WITNESS For the Prosecution

Captain THOMAS JAMIESON QUIRK, Officer Commanding No. 9 Company, Canadian Provost Corps, Canadian Army Overseas, having been duly sworn, states as follows:-

"On the night of Thursday 18 Jan 45 I was attending a dance held by No. 9 Provost Company at the Stoke Hotel, Guildford, Surrey. At approximately 2215 hrs, Sgt. Degrow approached me on the dance floor and told me that he had been having some trouble in the bar with two officers of this company and had asked one of these officers, Lieut. McKibbon, to leave the hall as this officer had been using loud and profane language in the crowded bar.

I accompanied Sgt. Degrow to the bar where I spoke to Lieut. McKibbon. I informed him that it had been reported to me that he had been using profane language. Sgt. Degrow had also reported to me that a glass had been thrown on the floor and had been broken by one of these officers, and that the manager, Mr. Kerry, had complained about it.

Mr. McKibbon replied to me, to the effect that they were worrying about their glasses one of which had been broken. I suggested that the chief reason for Sgt. Degrow's complaint was the use of bad language. Mr. McKibbon replied, 'Jesus Christ if they are worrying about their 'God damn' glasses, we'll buy them another one".

I then suggested to Lieut. McKibbon and Lieut. Worsell that they leave the hall as I did not wish to see any more trouble in the bar. Mr. Worsell agreed to leave but Mr. McKibbon declined to leave. I then ordered Lieut. McKibbon to leave the hall, he replied,'No, No, No'.

I then said, 'Do you refuse to leave?' Mr. McKibbon hesitated a moment and then left, followed by Lieut. Worsell.

A few minutes later I spoke to Sgt. Degrow and asked him if he had any witnesses as to the use of profane language by Lieut. McKibbon, other than himself. Shortly after, Sgt. Degrow returned with a member of the Royal Marines who stated that he had witnessed the incident of the glass breaking and had spoken to the officers. I ascertained that his name was 7LYX2773 Marine Howarth, J. I then took a statement from him in my note book concerning the incident of the two officers.

Before taking down the statement from Howarth, I spoke to the Hotel proprietor, Mr. Kerry Snr., who informed me that he had seen the glass breaking but had been too far away to hear anything that was said.

As I had retired for the night before Lieut. McKibbon returned to his quarters I did not see him until the following morning.

Accused declines to cross examine witness.

(Signed) T.J. Quirk, Capt

J.A.B.

P.T.O.

Summary of evidence in the case of Lieut. J.A. McKibbon, continued.

The accused was cautioned as follows:-

Do you wish to made any statement or give evidence on oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Accused elects to give evidence on oath.

The accused, Lieut. JOHN AMBROSE McKIBBON of No. 9 Company, Canadian Provost Corps, Canadian Army Overseas, having been duly sworn states as follows:-

"On the night of 18 Jan 45 accompanied by Lieut. J.F. Worsell I attended our company dance at the Stoke Hotel, Guildford, Surrey. We entered the hall about 2130 hrs and met Lieut. MacDonald who bought us two half pints of beer.

While we were consuming the beer we engaged in conversation with Cpl. Hertzog. After about ten minutes we went over to the door to talk to L/Cpl. Calbran, Sgt. Cranmer and S.M. Whitworth. As we were crossing the floor Lieut. Worsell's beer glass dropped out of his hand and broke on the floor. As I was talking to L/Cpl. Colbran, Sgt. Degrow came jp to me and told me that the manager of the hotel had complained to him that one of our officers had deliberately broken a beer glass on the floor. I told him that I thought that the glass had been accidentally dropped and that we would pay for it.

He said that glasses were very difficult to obtain and that they didn't want payment for the glass. I told him if they didn't want payment for the glass we would replace it. He continued to discuss the matter and he became quite excited. He told me to leave the dance hall which astonished me very much and I remained where I was standing, thereupon he left me and I moved over to speak to Lieut. Worsell who was engaged in conversation with a Marine Commando. I tried to explain to the Marine Commando that the glass had been accidently dropped. He said at least the glass should have been picked up. I told him that it was impossible to pick up the glass since there were so many pieces. I got tired of his frivolous harangue and told him to 'Push off'. I a few minutes Captain Quirk accompanied by Sgt. Degrow approached Lieut. Worsell and I and told us we would have to leave the hall.

I was rather amazed at this statement and did not think that he was in earnest. I tried to find out from him "Why we had to leave", but since he did not seem to be aware of the facts of the previous incidents he could not give me a logical reason for leaving the hall. He finally gave me a direct order to leave, whereupon I returned my empty glass to the bar and left the hall.

At no time while I was in conversation in the hall did I use offensive language.

P. T. O. (signed) J.A. McKibbon

Summary of evidence in the case of Lieut. J.A. McKibbon, continued.

I certify that the foregoing Summary of Evidence consisting of eight pages was taken down by me in the presence and hearing of the accused and that the Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

Milford, Surrey,
19 Jan 45.

(W.G. Gilling) Lieut.
Officer detailed to take Summary of Evidence.

I hereby consent to Summary disposition of the charge layed against me under A.A. 47, and do not request the presence of any witnesses if the case is summarily disposed of.

19th January 1945.

(J.A. McKibbon) Lieut.

JAB.

H.Q.C. 55-M-1658

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT MARTIAL.

MARSH. FRANCIS ROBERT. L-102050 PTE

CONFIDENTIAL
H.Q.C. 55-M-1658

CENTRAL REGISTRY	DATE	P.A. OR R.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
	3 Sept 46		JD	RECORD	NEW COVER		CR 29-7-46
				SL	Passed with Sons	JD	6 Aug 46
SEP 1 2 1946	11 Sept 46	PA		OR3	Passed " "		14 Aug 46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to R.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-M-1653

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT MARTIAL.

MARSH. FRANCIS ROBERT. L-102050 PTE

CONFIDENTIAL
H.Q.C. 55-M-1653

CENTRAL REGISTRY	DATE	O.R. OR N.P.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
	3 Sept 46		JO		RECORD NEW COVER		CR 28-7-46
				5h	Opened with [illegible]	JO	[illegible]
SEP 1 2 1946	[illegible]	P.J.		OK2	Sealed " "	[illegible]	[illegible]

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to R.F. it for one or three days than keep it out of General Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to see same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQ 405-M-37211 (D.R. 5(d))
HQC 55-M-1858

14 Aug 46

REGISTERED MAIL

Mr. Francis R. Marsh,
Vanguard, Sask.

L-102252 MARSH, F.R.

Dear Sir:

This is to inform you that the Sentence of the Field General Court Martial by which you were tried Overseas, on 7 Dec 1944, has been reviewed and it has been directed that the sentence of Discharge "with ignominy from His Majesty's Service" which was awarded by the Court be commuted to read "to be remitted". The reason for your discharge from the service is, therefore, being amended to read "Services being no longer required".

May the Discharge Certificate issued to you at time of discharge be forwarded to the undersigned. On receipt of this a new Certificate will be issued showing the amended reason and despatched to you. In addition, if as a result of your service, you have earned a War Service Badge, this will also be forwarded to you.

As the matter of War Service Gratuity may or may not be involved, this matter will be referred to the Paymaster-General, National Defence Headquarters, for whatever action is indicated.

Yours truly,

(C.L. Laurin) Colonel
Director of Records
for Adjutant-General.

/GMD

HQC 55-M-1658
(D.R. 6)

Ottawa 3 Aug 6

District Records Officer,
HQ Military District #13,
Traders Bldg.,
1st Street West,
Calgary, Alta.

L 102252 Pte MARSH F.R.

Herewith copies of "After Order" No.3 d/ 31 Jul 46 published by this Directorate for The Calgary Highrs showing an amendment to the punishment to the m/n soldier.

C.L.Laurin, Colonel,
Director of Records,
for Adjutant-General.

Encls.
FCP/GM

HQ 405-M-37211

HQ 405-M-37211
(D.R. 6)

Ottawa 3 Aug 6

District Records Officer,
HQ Military District #2,
122 Front St. West,
Toronto, Ont.

L 102252 Pte MARSH F.R.

Further to this office communication under the above quoted file d/31 Jul 46.

2. Herewith a copy of "After Order" No.3 d/31 Jul 46 published by this Directorate for the Calgary Highrs showing an amendment to the punishment to the m/n soldier.

C.L.Laurin, Colonel,
Director of Records,
for Adjutant-General.

Encl.
FGP/GM

HQC 55-M-1858

AFTER ORDER

ISSUED BY THE DIRECTOR OF RECORDS

SUPPLEMENT TO DAILY ORDER 79 DATED 24 NOV 45

THE CALGARY HIGHLANDERS (CALGARY, ALTA.)

No. 3
31 Jul 46
Ottawa, Ont.

Last Part II Order, "After Order" No. 2 d/7 Jun 46

"B" OTHER RANKS

1. PUNISHMENTS

AMENDMENTS

(a) Para 13 (e) of DC 72 d/31 Dec 44 insofar as it ref. to the u/m, that part of the sentence "to be discharged with ignominy from His Majesty's Service" is remitted. (Auth: HQC 55-M-1858)

L 102252 A/Cpl MARSH, F.R.

C.L. LAURIN, COLONEL,
DIRECTOR OF RECORDS,
NDHQ.

COPY for HQC 55-M-1858

HQ 405-M-37211

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Ottawa, Canada,

31 Jul 46

District Records Officer,
HQ Military District #2,
122 Front St. W.,
Toronto, Ont.

L-102252 ex-Pte MARSH, F.R.
#2 District Depot

The m/n was SOS on discharge with Ignominy ~~for "Misconduct"~~ effective 18 Sep 45 in DO 241 d/19 Sep 45.

2. The Discharge Review Board has authorized the reason for discharge to be amended to read "Services being no longer required-CARO 1029 (12)".

3. May the O.C. the m/n Unit be instructed to publish the necessary amendment in an early Part 11 Order and forward extract to this Headquarters for adjustment of documents.

4. This Headquarters will recall the Discharge Certificate, issue a new one, and supply War Service Badge.

C.L. Laurin, Colonel,
Director of Records,
for Adjutant-General.

FGP/ICM

MEMORANDUM

DEPARTMENT OF NATIONAL DEFENCE

TO: D Records
(Attention: DR 6)

HRC 55-M-1658 [redacted]
HQ 405-M-37211, Adm 3(b)1.
OTTAWA, Ontario, 29 Jul 46.

REMISSION OF SENTENCE
L-102252 - MARSH F R

Attention is invited to direction of the AG at Flag "A" hereunder and recommendation of DRB on this soldier's open file, which is passed herewith.

2. It is requested that necessary action be taken to promulgate the above direction to the soldier and to issue a new Discharge Certificate pursuant to the recommendation of the Board, please.

for (H M Cathcart)
Colonel
D Adm

JLT:2891:mw
[redacted]

Director of Records
A. G. Branch.
JUL 30 1946
Nat. Defence Hqrs.
Ottawa, - Canada.

M E M O R A N D U M

TO: AG
(through VAG
and DAG(B)).

Department of National Defence,
HQS 405-M-37211 Adm 3(b)1
OTTAWA, Ontario, 25 Jul 46

REMISSION OF SENTENCE
L 102242 MARSH F R
5

1. The DRB has recommended that part of the sentence directing discharge with ignominy be changed to discharge under CARO 1029 (12) ref at folios 36 and 38.

2. The above recommendation was approved by the VAG on 18 May 46 ref at folio 36.

3. The att submission on reverse side of folio 1 of the confidential file is recommended for your signature, pls.

for (H M Cathcart)
Colonel,
D Adm.

JLT:2891:mw

Copy

MEMORANDUM

TO:

D Adm

Department of National Defence,
- Army -

HQ 405- M- 37211 (DHB),

OTTAWA, Ontario,

24 Jul 46

L-102252 March J.R.

Review of Discharge

1. Ref CM sentence on HQC 55- M-1658

2. This is to recommend that a submission be made to superior mil authority to remit that part of the sentence directing discharge with ignominy.

3. The recommendation of the Board that the stated reason "that services be terminated in the interests of the service" has been approved by VAG on folio 36

4. The Board further recommends that, if the submission is allowed, the stated reason for discharge be changed to discharge under CARO 1029 (12), and that the file be passed to D Records for necessary action.

W. A. Stilwell
(W A Stilwell) Major,
Secretary,
Discharge Review Board

WAS:5935:MM

35

HQC 55-M-1658
Adm 3(b)SC

CONFIDENTIAL

Ottawa, Ontario, 10 Apr 6

District Officer Commanding,
Military District No 12,
Regina, Saskatchewan.

L-102252 Ex-Cpl MARSH, F.R.

Ref T.20-M-21992.(AJAG) dated 19 Mar 46 from DOC, MD 2, copy of which was fwd to you for infm.

2. The correspondence from this soldier which you fwd to the DOC, MD 2 was found to be a Petition under KR(Can) 574, and has been considered by the appropriate superior mil authority at this HQ who has directed that the Petition be disallowed.

3. It is requested please that this ex-soldier be so infm.

(E. G. Weeks)
Major-General
Adjutant-General

FEB:HB

34

M E M O R A N D U M

TO: AG (through DAG(B) and VAG).

Department of National Defence,
HQC 55-M-1658, Adm 3(b)SC,
OTTAWA, Ont, 2 Apr 46.

FIELD GENERAL COURT-MARTIAL

L-102252 - Ex-Cpl MARSH F.R.

RECEIVED A.G. CONTROL

1. This submission forwards a petition submitted by this soldier, pursuant to the provisions of KR (Can) 574, against the sentence of a FGCM by which he was tried, and recommends that the said petition be disallowed.

2. The soldier was tried by FGCM in the Field in Holland on 7 Dec 44 on one charge under AA Sec 15 - absence without leave, in that he in the Field at Lierre, Belgium on 9 Nov 44 absented himself without leave from his Unit from 2230 hrs, 9 Nov 44 until he was apprehended at 0255 hrs, 24 Nov 44 at Ghent, Belgium. He pleaded Guilty and was found Guilty of the charge and was sentenced to be reduced to the ranks and to be imprisoned with hard labour for 18 months and to be discharged with ignominy from His Majesty's Service. The Finding and Sentence were confirmed by Comd, 5 Cdn Inf Bde.

H.G.
Concur
W. H. S. MACKLIN
BRIGADIER
V.A.G.
APR 3 1946

3. On 12 Sep 45, the DOC, MD 2 directed that the balance of imprisonment with hard labour be remitted, effective the date of discharge, namely, 18 Sep 45 at which time the soldier was discharged under CARO 1029(9).

4. The following is an excerpt from the report forwarded by MGA, CMHQ on 21 Mar 45:

> "This soldier was holding the rank of L/Sgt in an infantry battalion and at a conference with his Company Commander he was warned for an early move in contact with the enemy. Immediately following this conference he absented himself without leave. At his trial he pleaded guilty to the charge and made no statement in explanation of his conduct. It is considered that despite his good record and the fact he was twice wounded in action, his very serious offence when he had the responsibilities of a senior non-commissioned officer and the obligation to be an example to his men justifies exemplary punishment. It is accordingly recommended that the sentence of imprisonment be served in full and thereafter this soldier be discharged with ignominy from His Majesty's Service in accordance with paragraph 9 of Appendix to CARO 1029. This soldier probably realized that his offence would lead to imprisonment and possible discharge."

5. At the trial the plea in mitigation of sentence was that the accused had twice been wounded and hospitalized on each occasion. While in the hospital he had an opportunity of observing less fortunate comrades and came to realize how fortunate he had been and to fully appreciate the possibility of a more serious wound.

6. In his petition, at folios 27 and 28 hereunder, the petitioner recites his record of service and states that his reason for leaving his Unit was that his nerves were very bad due to the fact that he had been wounded twice in actual combat. He requests that the sentence of discharge with ignominy be commuted to an honourable discharge.

7. The JAG has certified that the proceedings are legally regular, the finding properly made and the sentence according to law and that the petition does not disclose any new grounds either in fact or in law nor any legal ground which would justify interference with the finding or sentence.

8. As the petition is not addressed as provided for in KR (Can) 574(s) it may be dealt with by you as a competent military authority. Although the petition has not been submitted within the six month period after date of promulgation as required by KR (Can) 574(c) it is nevertheless suggested that it be given consideration as it is the first petition submitted by this soldier.

9. In view of the recommendation of MGA, CMHQ and of the opinion of the JAG it is considered that the sentence is just and proper and it is recommended that the sentence be not disturbed and that the petition be disallowed.

10. This case was referred to the War Service Gratuity Board of Review who on 14 Nov 45 decided that the soldier was not entitled to WSG by virtue of Sec 12(a) of the War Service Grants Act in its present form. The Board was of the opinion, however, that the circumstances warrant further consideration in the event of enabling authority being granted by Parliament. If it is directed that this petition be disallowed the file will be referred to the WSG Board of Review for further consideration.

11. The petitioner will be informed as to your direction.

(H M Cathcart)
Colonel,
D Adm.

FEB:2891:mw

II

Petition dated 23 Jan 1946
Considered.
Petition disallowed

E. C. WEEKS
Brig-General
Adj-Lieut-General

APR 8 1946

32

In reply quote No. H.Q.C.55-M-1658 (JAG/D-7)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

INTER-OFFICE CORRESPONDENCE

CANADA

OTTAWA, 29 Mar 46

TO: D. OF ADMIN.

L. 102252 Ex-Cpl. Marsh, F.R.

Reference Minute II, folio 30.

2. The document signed by L. 102252 Pte. F.R.Marsh is a Petition which may be dealt with by you under K.R.(Can) 574(b).

3. The proceedings in the case of the m/n were duly reviewed at C.M.H.Q. and N.D.H.Q; they were found regular, the finding legal and the sentence in accordance with the law.

4. This is the first Petition made by the m/n. It does not disclose any new grounds either in fact or in law, nor any legal ground which would justify interference with the Finding or Sentence.

5. Although the Petition is not made within the delay fixed in K.R.(Can) 574(c), you may still desire to give it your consideration.

(R.J.Orde) Brigadier,
Judge Advocate-General.

JTL/7898/MM

31

M.F.A. 1325
1,000M—2-45 (9996)
H.Q. 1772-20-2008

405-M-37, 211 CMAR 40/46

REPLY PLEASE QUOTE No. T-20-M-21992(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Director of Records
A.G. Branch
MAR 20 1946
Nat. Defence Hqr
Ottawa, - Canada

H.Q. M.D. 2,
19 Mar 46.

Secretary,
D.N.D. (Army)

(1)

L-102252, Ex-Cpl. MARSH, F.R.

Enclosed herewith Petition from the marginally-named ex-soldier addressed to the A.J.A.G. M.D. 12 together with a letter from the Arm River Motors, Craik, Sask. also addressed to the A.J.A.G. M.D. 12.

2. This correspondence was forwarded to this Headquarters from the District Officer Commanding, M.D. 12.

3. The m/n ex-soldier was discharged at No. 2 District Depot, C.A. on the 18 Sept 45 having been transferred from No. 62 Military Detention Barracks, Camp Borden, for discharge.

4. As the enclosed correspondence might be considered in the nature of a Petition and as this Headquarters has no information on file regarding the Court-Martial of the m/n ex-soldier, it is being forwarded for whatever action may be considered necessary.

for (C. C. Mann) Brig
DOC MD 2

COPY TO : D.O.C. (For Information)
M.D. 12.

(2)

JAG
Passed for comments, pls
26 Mar 46
for D Adam

Adm

NAT. DEF. 9 440
25M-M-6-44 (4520)
H.Q. 1772-30-267

ARM RIVER MOTORS
Drawer 76 Ph. 50
CRAIK, Sask.

February 9, 1946.

N Marsh

L.102,232

D. H. Q.
CHARGED TO
DATE
REC'D. CENTRAL REGISTRY
FEB 13 1946
REFERRED TO
C. R.
AJAG

The A.J.A.G.,
No. 12 D.D.,
REGINA, Sask.

Ref-

Dear Sir:

CORPORAL F.R. MARSH NO. 102252

Our conversation December 18th, 1945, I am enclosing the reference data with regards to his Court Marchal. I have contacted Colonel Ellis and Major Clark of Calgary. Either one of them will do all in their power to have the Court Marchal reconsidered and the sentance revised.

We are of the opinion that this is an unfair turn of justice considering the N.R.M.A. situation as it existed in Canada at that time.

Any further information that you require in submitting this, please contact me personally by phone or otherwise.

Yours truly,

ARM RIVER MOTORS

Per A.R. HANNA

3

Vanguard, Sask.
January 23,1946

A. J. A. G.
12th District Depot
Regina, Sask.

Dear Sir.-

Cpl F.R. Marsh
No.102252

I am writing in regards to having my Court Martial reviewed.

I submit the following information.-

Date of my enlistment - Sept,1st,1942

Date of going Overseas - Sept,13,1943

Date of joining Regiment Oct,1943 - Calgary Highlanders.

Date of going into action, July 15,1944

Date of first wound, - July 25,1944

Date of second wound, - Aug,26,1944

Date of return to Regiment after first wound - Aug,9,1944
after second wound - Nov,9,1944

I left the Regiment on November 10,1944. My reason for going was that my nerves were very bad, due to the fact I had been wounded twice in actual combat.

Date of apprehension was approximately Nov,25,1944.

I served in "D" Company of the Calgary Highlanders under Major McKenzie and Captain Harrison was second in command.

Date of Court Martial, Dec,7,1944.

Sentence of Court Martial 18 months imprisonment with hard labor, reduced to the ranks, and discharged with ignominy.

I was returned to Canada April 27,1945 to serve the rest of my sentence, but was released after serving nine months.

Date of Discharge - Sept,18,1945.

While serving in Hedley Detention in England I volunteered to go back into any branch of the services, but the Infantry, which was not considered. Being wounded twice I knew my nerves were too bad for that type of combat.

cnt.

2

cont. Cpl F.R. Marsh, No.102252

I would appreciate it very much if you could arrange to have my Court Martial sentence reweiwed and grant me an Honorable Discharge from the Services, not only for myself but for my Brother's sake - Gunner J.E.Marsh No.L-66567 -, who has just returned from Overseas. My Brother served through France, Belguim, Holland and Germany and my having a dishonorable discharge also reflects upon him. We wish to go through the world together and if possible at all join the Canadian Legion. I had no previous crimes and I hope you will consider this, and all the aspects of my case. I hope you can see fit to allow me the right to be able to apply for a job, and earn a living. My Brother and I had hoped to work together. My sentence seemsvery severe. It concerns my brother very much. I leave the matter in your hands, and will await your decision.

Yours respectfully

F.R. Marsh

F.R. Marsh, Esq.
Vanguard, Sask.

APR 8 1946

T-36-10-282 Vol. 2 (A.G.)
T-20-B-19011 T-20-P-9343
T-20-C-15326 T-20-P-9851
T-20-C-14717 T-20-P-9352
T-20-C-13701 T-20-P-9903
T-20-D-1012 T-20-R-9032
T-20-D-9982 T-20-R-9615
T-20-L-357 T-20-S-10863
T-20-M-21992 T-20-T-6723
T-20-M-23374 T-20-W-11285
T-20-O-2416 T-20-W-579

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, Military District No. 2
159 Bay Street, Toronto, Ontario,
10th October, 1945.

Central Registry Army
OCT 17 1945
3513 - M - 1658
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Army Forms A 3104 and Bomber Confidentials

E-4935, Pte. BOUCHER, E.
C-6273, Sgmn. CLIMPSON, F.J.
C-818, Tpr. COLWELL, W.L.
E-76186, Pte. COX, R.R.
A-38206, Pte. DeFOREST, H.
H-17825, Pte. DUQUAY, E.
D-81734, Pte. LAPIERRE
L-102252, Pte. MILLER, F.R.
F-64896, Pte. MORRELL, E.E.
G-2382, Rfn. OLDFIELD, W.I.
K-1188, Pte. PATTISON, W.D.
G-32355, Pte. PIERCE, R.L.
B-23589, Pte. PLOURDE, J.P.R.
K-1207, Pte. POELZER, L.F.J.
L-106505, Pte. RICHARD, J.
D-89445, Pte. RIVIERE, A.
B-310, Pte. SCOTT, J.A.
B-39741, Spr. THOMSON, G.L.
A-28077, Pte. WESTROP, J.E.P.
B-29036, Spr. WILLIAMS, V.A.

Herewith for custody the following documents:

(a) Original Bomber Confidentials for each of the marginally-named soldiers with the exception of, D-81734, Pte. Lapierre, A., B-29036, Pte. Williams, V.A., A-28077, Pte. Westrop, J.E.P. and G-2382, Rfn. Oldfield, W.I.

(b) In the cases of D-81734, Pte. Lapierre, A., and B-29036, Pte. Williams, V.A., copies of Bomber Confidentials.

(c) Army Forms A-3104 referring to A-28077, Pte. Westrop, J.E.P., and Proceedings of Field General Court-Martial referring to G-2382, Rfn. Oldfield, W.I.

(A.E. Potts)
Major-General
D.O.C. M.D. 2.

10/Marsh, F.R.

BOMBER
CONFIDENTIAL

21 Mar 45.

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

L.102252 Pte Marsh, F.R.

1. The marginally named soldier is now serving a sentence of 18 months imprisonment with hard labour and discharge with ignominy from His Majesty's Service awarded 7 Dec 44 by FGCM for an offence under AA Sec 15(1) of absenting himself without leave when his unit was about to move to a forward area in contact with the enemy. As part of this award he was reduced to the ranks from the rank of corporal. He has so far earned full remissions for good conduct while serving his sentence and if he continues so to do his sentence of imprisonment will expire 6 Dec 45.

2. This soldier enlisted 1 Sep 42 at Regina, Saskatchewan, and he is now 23 years of age. Since enlistment he has had no recorded military or civil offence except the one set forth in paragraph 1 above.

3. This soldier has been medically examined and it is certified that he is fit to undergo detention.

4. It is stated in a report from the Comd., 1 Canadian Detention Barracks, that this soldier no longer feels capable of service in action.

5. This soldier was holding the rank of L/Sergeant in an infantry battalion and at a conference with his Company Commander he was warned for an early move in contact with the enemy. Immediately following this conference he absented himself without leave. At his trial he pleaded guilty to the charge and made no statement in explanation of his conduct. It is considered that despite his good record and the fact he was twice wounded in action, his very serious offence when he had the responsibilities of a senior non-commissioned officer and the obligation to be an example to his men justifies exemplary punishment. It is accordingly recommended that the sentence of imprisonment be served in full and thereafter this soldier be discharged with ignominy from His Majesty's Service in accordance with paragraph 9 of Appendix to C.A.R.O. 1029. This soldier probably realised that his offence would lead to imprisonment and possible discharge.

6. It has been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 7 Dec 44 and original A.F. A104 in respect thereof on which this direction has been endorsed.

(E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters.

Enc. 2.

T-56-10-282 Vol.2(AJAG)
T-20-G-10729 T-20-S-18231
T-20-C-14717 T-20-M-33374
T-20-D-9988 T-20-O-2416
T-20-L-357 T-20-S-3869
T-20-M-21992 T-20-S-9084

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
25th September, 1945.

GENERAL CORR
SEP 26
File M-1657
Chgd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

343714

SUS ex UK - Remission of Sentences

F-51593, Pte. GIOVANNETTI, L.E.	- 1029(9)	- (19 Sep. 45)
G-818 Pte. COLWELL, W.L.	- 1029(8)	- (19 Sep. 45)
H-17828, Pte. DUGUAY, E.	- 1029(9)	- (18 Sep. 45)
D-81734, Pte. LaPIERRE, A.	- 1029(8)	- (19 Sep. 45)
L-102252, Pte. MARSH, F.R.	- 1029(9)	- (18 Sep. 45)
F-64898, Pte. MORRELL, E.E.	- 1029(8)	- (18 Sep. 45)
G-2382, Pte. OLDFIELD, W.I.	- 1029(9)	- (18 Sep. 45)
B-310, Pte. SCOTT, J.A.	- 1029(8)	- (18 Sep. 45)
C-9625, Pte. SELMES, A.	- 1029(9)	- (19 Sep. 45)
A-113539, Pte. ST. JOHN, J.C.	- 1029(9)	- (18 Sep. 45)

Reference H.Q.S. 8535-6 and CB 1-4-8-2 (SCA) dated 7th September, 1945.

2. The marginally-named SUS were discharged under the provision of C.A.R.O. 1029 and effective the date as indicated after each name.

3. Herewith Appendix "G" to C.A.R.O. 5913 showing Remission effective date of Discharge, Promulgation and Certified True Extract of Daily Orders Part II.

4. Also enclosed herewith for disposal is Army Form A 3104 in each case.

P J Flynn Maj
for (A.E. Potts)
Major-General
D.O.C. M.D. No.2.

COPY TO : The Commander, (FOR INFORMATION)
CAMP BORDEN,
Ontario.

29

APPENDIX "C" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM.

NDHQ File No.
District File No. T-20-M-21992

PART I

No. L-102252 Rank Cpl. Name MARSH, F.R.
Unit No. 2 District Depot, C.A. (formerly The Calgary Highlanders)

PART II

Date of Trial 6 Dec. 44
Charge(s) A.W.L. (AA Sec. 15(1)
Sentence To be reduced to the ranks and Imprisonment with Hard Labour
Date of Sentence 7 Dec. 44 for 18 months also
Confirmation - (a) Authority : ???? Discharge with Ignominy
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act ~~superior military authority under Section 57A of the Army Act~~, do hereby remit ~~the remainder of the sentence~~ the balance of Imprisonment with Hard Labour awarded the above-noted soldier effective the Date of Discharge, namely(18 Sept 45).

SIGNED at TORONTO, Ontario,
this 12th day of September
1945.

Arthur E. Potts
(A.E. Potts)
Major-General
D.O.C. M.D. 2.

PART IV
PROMULGATION

Remission (~~commutation, mitigation, suspension, putting into execution~~) promulgated and extracts taken at No. 2 District Depot, C.A.
this 18th day of September 1945.

Capt. Adj.,
Officer i/c Documents (J.J.Eyles)

(1) Unit, attachment and appointment to be stated.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. L-102252 Rank Cpl. Name MARSH, F.R.
The sentence of 18 months imprisonment with H.L. reduced to the ranks.
awarded by F.G.C.M. Court-Martial on the 7th day of Dec. 1944
194 has been remitted by 261 days
on the 18th Sept. 1945 by Major-General A.E. Potts
Unit No. 2 District Depot, C.A.

Certified true Extract of Daily Orders Part II of
242 Place Toronto, Ontario Date 20th Sept. 45
Auth: T-20-M-21992 (AJAG), d/13 Sept 45.

Capt.
Adjutant (J.J.Eyles)

Strike out and initial words not applicable.

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. L102252 Cpl. Marsh, F. R. Unit The Calg. Highrs

Sentenced to To be reduced to the ranks & to be imprisoned with hard labour for 18 months & discharged with ignominy on 7 Dec 44

Age on, and date of enlistment 21 yrs. 1 Sep 42 Term of service 2 yrs 3 mon.

FIRST TRIAL.

For details of offences, see paragraph VII.

For C.O.'s remarks, see paragraph IX.

II.—To ..... Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.

For C.O.'s remarks, see paragraph XII.

IV.—(5) To ..... Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(3712) Wt.24568/175 7,000 5/40 A.& E.W.Ltd. Gp.686 Forms/A3104/12.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	No Remission, Return to Canada in custody under sentence	(C. S. BOOTH) Brigadier, D.A.G., Canadian Military Headquarters. 20 FEB 1945	
	Remit Effective Date of Discharge	A. E. [illegible]TTS, Maj.-Gen. ~~D.G.S.~~ DOC M.D.No. 2 12 SEP 1945	

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. W.O.A.S. Absenting himself without leave in that he, in the field, at Lierre, Belgium on 9 Nov 44 when his Unit was about to move to a forward area, absented himself without leave from his Unit, from 2230 hrs 9 Nov 44 until he was apprehended at 0255 hrs 24 Nov 44 at Ghent, Belgium. Signature of Officer making entry.	9 Nov 44	6 Dec 44
VIII.—Second Trial. Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
10 Dec 44	I recommend that the sentence be fully carried out due to the fact that when the offence was committed this man was a L/Bdr. It is not a case of being an example now but a punishment for an offence committed when he was in a position where he had to be an example.	[illegible] Lt Col

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
13 Dec 44	I concur	[illegible] Brig

T-36-10-202 (AJAG) T-20-M-21998
T-20-G-10729 T-20-M-23374
T-20-G-14717 T-20-G-2416
T-20-D-9988 T-20-S-3869
T-20-L-557 T-20-S-9004
T-20-S-18231

DEPARTMENT OF NATIONAL DEFENCE

ARMY

341692

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
13th September, 1945.

SEP 14 1945
C.55-M-1658
Referred to

The Officer Commanding,
No. 2 District Depot, C.A.,
Stanley Barracks,
TORONTO, Ontario.

SUS ex UK - Remission of Sentences

F-51593,	Pte. GIOVANNETTI, L.E.	- 1029(9)
G-818,	Pte. COLWELL, W.L.	- 1029(8)
H-17828,	Pte. DUGUAY, M.	- 1029(9)
D-81734,	Pte. LaPIERRE, A.	- 1029(8)
L-102252,	Pte. MARSH, F.R.	- 1029(9)
F-64998,	Pte. MORRELL, E.E.	- 1029(8)
G-2382,	Pte. OLDFIELD, W.I.	- 1029(9)
B-310,	Pte. SCOTT, J.A.	- 1029(8)
C-9625,	Pte. SELMES, A.	- 1029(9)
A-113539,	Pte. ST. JOHN, J.C.	- 1029(9)

Reference CB 1-4-8-2 (SCA) dated 7th September, 1945.

2. The Commander, Camp Borden, has advised that the marginally-named SUS were despatched to No. 2 District Depot, C.A., on Wednesday the 12th September, 1945, for discharge under the provisions of C.A.R.O. 1029 as indicated after each name.

3. The District Officer Commanding, M.D. 2, has remitted the balance of the sentences now being served by the marginally-named SUS effective Date of Discharge.

4. Enclosed herewith Appendix "G" to C.A.R.O. 5913 effecting remission.

5. May Promulgation of the Remission be made to the said respective SUS effective the Date of Discharge, Parts IV and V of the said form completed and the form then returned to this Headquarters, please.

(F.M. Reid)
Major
A.J.A.G. M.D. 2.

COPY TO : The Secretary, (FOR INFORMATION)
Department of National Defence,
OTTAWA, Ontario.

The Commander, (FOR INFORMATION)
CAMP BORDEN,
Ontario.

21

COPY

File: GS 1-4-0-2(CA) and personal files.

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

Headquarters, Camp Borden,
Camp Borden, Ontario.
7 Sep 45.

District Officer, Commanding,
Military District No.2,
TORONTO, Ontario.

Officer Commanding,
No. 62 Military Detention Barracks,
CAMP BORDEN, Ontario.

F.81893	Pte Giovannetti L.E.	- 1029(9)
G.818	Pte Colwell E.Z	- 1029(8)
H.17686	Pte Duguay, E.	- 1029(9)
D.81734	Pte Lapierre A.	- 1029(8)
L.102352	Pte Marsh F.H.	- 1029(9)
I.64890	Pte Morrell H.H.	- 1029(8)
G.8382	Pte Oldfield T.I.	- 1029(9)
B.310	Pte Scott J.A.	- 1029(8)
G.9625	Pte Selman A.	- 1029(9)
A.113834	Pte St. John L.G.	- 1029(8)

R.C.M.P. ex C.M. at No. 62 M.D.B.

The marginally named soldiers under sentence awarded by Court-Martial Overseas, and presently serving their sentence at No. 62 Military Detention Barracks, Camp Borden, have now completed one half of their sentences, or more, and are therefore eligible for remission of the balance of the sentence in accordance with CARO 5913 para 9.

2. The Commander, Camp Borden, is prepared to remit balance of sentence in these cases, and the DOC, MD 2 is requested please, to carry out these remissions, and in this connection Report on Conduct and Army Form A2104 are enclosed. May these forms be forwarded to NDHQ when they have served their persons.

3. The marginally named soldiers under sentence will be despatched to No. 2 District Depot Custody Barracks, on Wednesday 12 Sep 45.

(A.C. Spencer)
Major-General
Commander Camp Borden

Copy to:

The Secretary,
Department of National Defence,
Ottawa, Ontario. (Ref HQS 8830-3)

Officer Commanding,
No. 2 District Depot,
TORONTO, Ontario.

20

original on Sessional file
noted on cards
JCB

CR(C) PA on file
OSS M-1658

Admin 3(a)c

Promulgated by registered letter No. 702 to

Ex-L-102252 Pte MARSH, Francis Robert - Vanguard Sask.

on 14th August 1946 and extracts taken at N.D.H.Q.

this 14th day of August 1946

(C.L. Maurin) Colonel,
Director of Records,
for Adjutant-General.

REMISSION OF SENTENCE

I, Ernest Geoffrey Weeks, Adjutant-General, an authority having power to mitigate, remit or commute the punishment awarded by the sentence of these proceedings do hereby remit that part of the sentence "to be discharged with ignominy from His Majesty's Service", awarded by the Court and confirmed by the confirming authority.

(E G Weeks)
Major-General,
Adjutant-General.

SIGNED at OTTAWA 26th day of July, 1946.

23 June, 1945.

AIR MAIL

F. B. Marsh, Esq.,
P. O. Box 363,
Vanguard, Saskatchewan.

Dear Mr. Marsh,

Re: L.102252, Pte. F. R. Marsh

With reference to my letter of the 8th June, 1945, I have received a report respecting your son, the above mentioned soldier.

I am informed that on conviction by Field General Court Martial on a charge of absenting himself without leave your son was sentenced to eighteen months imprisonment with hard labour, and to be discharged from His Majesty's Service.

You will be interested to learn that there exists a system of good conduct marks whereby a soldier undergoing detention is able to earn a remission of up to one-third of his total sentence. In view, however, of the fact that he had the responsibilities of a senior non-commissioned officer at the time of his offence, the responsible officers of the Department do not feel that they would be justified in recommending any further remission at the present time.

The ultimate date of your son's release is dependent in large part on his attitude and conduct while serving his sentence.

Yours very truly,

(H.L. Cameron) Colonel,
Military Secretary.

WHS/EW

19

19 June, 1945.

F. B. Marsh, Esq.,
Box 363,
Vanguard, Saskatchewan.

Dear Mr. Marsh,

Re: L.102252 Private Marsh, F.R.

With reference to my letter of 8 June, 1945, I have received a report respecting your son, the above mentioned soldier.

I am informed that your son was sentenced to 18 months imprisonment with hard labour, and discharge from his Majesty's Service, by a Field General Court-Martial on a charge of absenting himself without leave.

In view of the fact that he had the responsibilities of a senior non-commissioned officer at the time of his offence, the responsible officers of the Department do not feel that they would be justified in recommending a remission of his sentence at the present time.

You will be interested to learn, however that there exists a system of good conduct marks whereby a soldier undergoing detention is enabled to earn a remission up to one-third of his total sentence. The ultimate date of your son's release is therefore dependent on a large part on his attitude and conduct while serving his sentence.

Yours very truly,

(H.L.Cameron) Colonel,
Military Secretary.

18

WHS/hw

MEMORANDUM

Department of National Defence,
(Army)

M.S.

HQC 55-M-1658 Adm 3(b)2

OTTAWA, Ontario 18 Jun 45

MINISTERS OFFICE
JUN 18 1945
DEPT. N. D. OTTAWA.

S.E. 11848 d/9 Jun 45
Min File: 975-65

L.102252 Pte MARSH, F R

1. This SUS was tried by FGCM in Holland 7 Dec 44 on a charge of absenting himself without leave from 9 Nov 44 until apprehended 24 Nov 44. He was found guilty and was sentenced to 18 months imprisonment with hard labour and discharge with ignominy from His Majesty's Service. As part of the award he was reduced to the ranks from the rank of Cpl.

2. This SUS has recently been returned from O/S in custody under the provisions of GO 131/44 with the recommendation that he be required to serve the sentence in full and thereafter be discharged with ignominy in accordance with the sentence of the Court. He is presently serving sentence at No 62 MDB (Camp Borden).

3. On review of sentence, the MGA, CMHQ made the following observation in regard to the disposal of this SUS:

"This soldier was holding the rank of L/Sergeant in an infantry battalion and at a conference with his Company Commander he was warned for an early move in contact with the enemy. Immediately following this conference he absented himself without leave. At his trial he pleaded guilty to the charge and made no statement in explanation of his conduct. It is considered that despite his good record and the fact he was twice wounded in action, his very serious offence when he had the responsibilities of a senior non-commissioned officer and the obligation to be an example to his men justifies exemplary punishment. It is accordingly recommended that the sentence of imprisonment be served in full and thereafter this soldier be discharged with ignominy from His Majesty's Service in accordance with paragraph 9 of Appendix to CARO 1029. This soldier probably realised that his offence would lead to imprisonment and possible discharge."

MILITARY SECRETARY
JUN 18 1945
RECEIVED

17

for (A E Walford)
Major-General
Adjutant-General

FINAL
WSY:da

SPECIAL ENQUIRY

Date JUN 9 1945

No 1184 B

To D Admin

Reply addressed to M.S will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned, for the A.G.

W. P. Harris Maj

for: Adjutant-General

16

COPY

975-63

A.G./: May I have a report please on the circumstances of the disciplinary action taken and the result of any review that may have taken place.

Military Secretary.

OTTAWA, June 8, 1945.

F. B. Marsh, Esq.,
Box 363,
VANGUARD, Saskatchewan.

Dear Mr. Marsh,

Re: L-102252 - Private F. R. Marsh

In the absence of General McNaughton, I have your letter of 2 June, 1945, in which you request that your son, the above mentioned soldier who is presently serving a term of detention, be released in order that he may be returned to support you.

The Minister does not feel that he would be justified in granting the release of an individual soldier from the Canadian Army who is undergoing detention unless he has been so advised by the responsible officers of the Department.

I will, however, bring your representations to the attention of the responsible officers and I shall be pleased to write you again as soon as I have received a report.

Your very truly,

RECEIVED JUN 9 1945 ADMIN. 36/2

S/ML

(H.L. Cameron) Colonel,
Military Secretary.

15

405-Gn-37211

OFFICE COPY

H.Q. C.55-M-1056
M.D. 10/Marsh FR/1

GS

FIELD GENERAL
MEMORANDUM - DISTRICT COURT-MARTIAL

No. L.102252 Name MARSH, Francis Robert

Rank Cpl Unit The Calgary Highrs CAO

Charge A.A. 15(1) WOAS, AWL

Date of Crime 9-11-44

Date of Arrest 24-11-44 Charge Signed 8-12-44

Orders for F.G.C.M. Brig Comd 5 Cdn Inf Bde

Place and Date of Trial In the field; 7-12-44

Sentence Imprisonment W.H.L. 18 mos; Reduced to the ranks; Discharge with ignominy;

Date of Confirmation 10-12-44

Date of Promulgation 11-12-44

Entered in Records of J.A.G. as No. 3674

Date 14-5-45

MEMO Balance of sentence ~~remitted by Conf. Auth.~~ 8 mos

Reviewed at CMHQ

14

Remarked to
for Judge Advocate-General

10M-1-45(M-4629)

Quote No. H.Q.C.55-M-1658
(JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada
22nd May 1945.

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

L.102252 Pte. MARSH, F.R.

1. Receipt is acknowledged of your 10/Marsh, F.R./1 dated 21st March 1945, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

A.F. A3104 is also acknowledged.

WBB:JD

E L M
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

13

HQS 8536-6
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

CONFIDENTIAL

OTTAWA, Ontario
10 May 45

Commander,
CAMP BORDEN, Ontario

District Officer Commanding,
Military District No 2,
TORONTO, Ontario (for information)

L.102252 Pte MARSH, F R
SUS RETURNED FROM O/S IN CUSTODY

This SUS has recently returned from O/S in custody to complete sentence.

2. Herewith is copy of letter from CMHQ together with original AFA 3104.

3. Subject to the recommendations contained in copy of CMHQ letter enclosed, the procedure for the disposition of this soldier is outlined in Circular Letter R.731 d/ 9 Sep 44 and HQS 8536-6 d/ 26 Dec 44.

4. The original AFA 3104 is to be returned to this HQ when it has served its purpose.

5. This SUS is to be discharged under CARO 1029(S).

OR

5. It will be noted that CMHQ has recommended discharge under CARO 1029(S).

for G. A. Walford Major
(A E Walford)
Major-General
Adjutant-General

Encl. 2

12

BOMBER
CONFIDENTIAL AIRMAIL 10/Marsh FR/1

CANADIAN MILITARY HEADQUARTERS

LONDON
21 Mar 45

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

L-102252 Pte Marsh, FR

1. The m/n soldier is now serving a sentence of 18 months imprisonment with hard labour and discharge with ignominy from His Majesty's Service awarded 7 Dec 44 by FGCM for an offence under AA Sec 15(1) of absenting himself without leave when his unit was about to move to a forward area in contact with the enemy. As part of this awarde he was reduced to the ranks from the rank of Corporal. He has so far earned full remissions for good conduct while serving his sentence and if he continues so to do his sentence of imprisonment will expire 6 Dec 45.

2. This soldier enlisted 1 Sep 42 at Regina, Saskatchewan, and he is now 23 years of age. Since enlistment he has had no recorded military or civil offence except the one set forth in paragraph 1 above.

3. This soldier has been medically examined and it is certified that he is fit to undergo detention.

4. It is stated in a report from the Comd 1 Cdn Detention Barracks, that this soldier no longer feels capable of service in action.

5. This soldier was holding the rank of L/Sergeant in an infantry battalion and at a conference with his Company Commander he was warned for an early move in contact with the enemy. Immediately following this conference he absented himself without leave. At his trial he pleaded guilty to the charge and made no statement in explanation of his conduct. It is considered that despite his good record and the fact that he was twice wounded in action, his very serious offence when he had the responsibilities of a senior non-commissioned officer and the obligation to be an example to his men justifies exemplary punishment. It is accordingly recommended that the sentence of imprisonment be served in full and thereafter this soldier be discharged with ignominy from His Majesty's Service in accordance with paragraph 9 of Appendix to CARO 1029. This soldier probably realised that his offence would lead to imprisonment and possible discharge.

6. It has been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 7 Dec 44 and original AF A3104 in respect thereof on which this direction has been endorsed.

(E. G. WEEKS) Major-General
In Charge of Administration
Canadian Military Headquarters.

EW

10

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Marsh, F.R./1

CANADIAN MILITARY HEADQUARTERS

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

LONDON 21 Mar 45.

C-55-M-1658

L.102252 Pte Marsh, F.R.

1. The marginally named soldier is now serving a sentence of 18 months imprisonment with hard labour and discharge with ignominy from His Majesty's Service awarded 7 Dec 44 by FGCM for an offence under AA Sec 15(1) of absenting himself without leave when his unit was about to move to a forward area in contact with the enemy. As part of this award he was reduced to the ranks from the rank of corporal. He has so far earned full remissions for good conduct while serving his sentence and if he continues so to do his sentence of imprisonment will expire 6 Dec 45.

2. This soldier enlisted 1 Sep 42 at Regina, Saskatchewan, and he is now 23 years of age. Since enlistment he has had no recorded military or civil offence except the one set forth in paragraph 1 above.

3. This soldier has been medically examined and it is certified that he is fit to undergo detention.

4. It is stated in a report from the Comd., 1 Canadian Detention Barracks, that this soldier no longer feels capable of service in action.

5. This soldier was holding the rank of L/Sergeant in an infantry battalion and at a conference with his Company Commander he was warned for an early move in contact with the enemy. Immediately following this conference he absented himself without leave. At his trial he pleaded guilty to the charge and made no statement in explanation of his conduct. It is considered that despite his good record and the fact he was twice wounded in action, his very serious offence when he had the responsibilities of a senior non-commissioned officer and the obligation to be an example to his men justifies exemplary punishment. It is accordingly recommended that the sentence of imprisonment be served in full and thereafter this soldier be discharged with ignominy from His Majesty's Service in accordance with paragraph 9 of Appendix to C.A.R.O. 1029. This soldier probably realised that his offence would lead to imprisonment and possible discharge.

6. It has been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 7 Dec 44 and original A.F. A3104 in respect thereof on which this direction has been endorsed.

(E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters.

Enc.2.

CMHQ 1000-27
40/P & S/803 (8750)

RECORDED AT CMHQ IN AB 160 — 4L-144

CFAAO (In lieu of AFAA) 40/P & B/1668 (40/B) 4/38B

FIELD GENERAL COURT-MARTIAL

RECEIVED 1945 JAN 2 A.G.R.H.A.

Convened by Order of Brig W. J. Megill Comd 5th Cdn Inf Bde dated 6 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L 101752	Cpl		Francis Robert	MARSH	Calgary Highlanders

PROCEEDINGS REVIEWED

PROCEEDINGS OF TRIAL.

Held in the Field (country) JAG OFFICER HQ BRANCH C.M.H.Q. on (date(s)) 7 Dec 44

PROCEEDINGS REVIEWED Date 27 Dec 44 Cdr Sec G.H.Q. 2 Echelon 21 Army Gp

XV-143

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.....(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.V. Pinkham	RMC
Member	Capt	I.J. Cody	Calg Highlrs
Member	Capt	J.J. Kennedy	HQ 5th Cdn Inf Bde
Judge-Advocate	Major	H.N.E. Carey	Gen List att HQ 2 Cdn Corps
Prosecutor	Capt	W.L. Lyster	Calgary Highlanders
Defending Offr	Capt	C.L. Keatley	Calgary Highlanders

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B ~~and~~ E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(~~s~~)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(~~s~~), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(~~s~~).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No .....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1)~~ The Court decides (not) to advise accused to change his ~~(their)~~ plea(~~s~~) of Guilty to Not Guilty on ~~the~~ first charge(~~s~~). The accused is ~~(are)~~ so informed, ~~and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is ~~(are)~~ not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such paras only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(i) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B..... and Ex. C..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes through my Defending Officer.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 3674 in the Record of Proceedings kept in the office of the Judge-Advocate-General this 24 day of May 1945

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SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L 102252 Cpl Francis Robert MARSH

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA sec 18(1)	Guilty.	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for:~~ ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which nil days were spent in hospital. (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be reduced to the ranks and to be imprisoned with hard labour for eighteen months and to be discharged with ignominy from His Majesty's services.

(Sgd) [illegible] Major — Judge-Advocate, if any. 7 Dec 44 — Date awarded. (Sgd) [illegible] Maj. — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 766.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 66. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm

~~I direct that the accused be not committed to prison or detention barracks until further orders (1).~~

(1. AA 57A. Delete if not used.)

(Sgd) [illegible] Brig

Date 10 Dec 44

Commanding 5 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L102252 Cpl Francis Robert Marsh	1 Dec 44.	[illegible] Capt and The Calgary Highrs (a/Maj)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused, L-102252 Coproral Francis Robert MARSH, The Calgary Highlanders, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
A. A. Sec. 15
1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field, at Lierre, Belgium, on the 9th of November, 1944, when his Unit was about to move to a forward area, absented himself without leave from his Unit, from 2230 hours 9th November 1944 until he was apprehended at 0255 hours, 24th November, 1944 at Ghent, Belgium.

.....
(R. L. Ellis) Lt.-Col.
The Calgary Highlanders CA(O)

In the Field
6 Dec 44

To be tried by FGCM.
Brigade Brig
Cond & Cdn Inf Bde

Gabeau

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FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAE) 40/PAM/1607 (1944)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate auth. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-102252	Cpl		Francis Robert	MARSH	Calgary Highlanders

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has(~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 6 Dec 44 endorsed by me, ~~[illegible]~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial : ~~[illegible]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	E.V. Pinkham (Must be named. RP 106.)	RHC (Unit.)

MEMBERS.

Capt	J.J. Coady ~~[illegible]~~	Calg Highrs
Capt (Rank.)	J.J. Kennedy (Named or detailed. RP 106.)	HQ 5 Cdn Inf Bde (Unit.)

WAITING MEMBER.

Lt (Rank.)	L.J.A. Woods (Named or detailed, if any. RP 106.)	R de Mais (Unit.)

JUDGE-ADVOCATE.

"MAJOR" Capt (Rank.)	H.N.E. CURRY ~~[illegible]~~ (Must be named, if any. RP 106.)	GEN LIST AD H.Q. 2 Cdn Inf Div (Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

(W.J. ~~[illegible]~~ (Signed personally. RP 105 fn 1.) Brigadier (Rank.)

Date 6 Dec 44

Commanding 8 Cdn Inf Bde

Convening Officer.

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CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
(A.F. (MED) Form 537)

I certify that I have this morning examined No. 6.102453.....
..Cpl. March. F.R. ...of The Infantry Replacement Centre Regiment, and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station. In the field...

Date. ...7. Dec. 44.....

Medical Officer

E3 RE IN MITIGATION OF SENTENCE E3
CASE OF L 102252 CPL MARSH F.R.

I feel that there are certain facts in connection with the service of Corporal Marsh, which have a bearing on this case and which must be brought forth.

Corporal Marsh enlisted in September 1942 and from then until now, his record is that of a good soldier. He joined the Calgary Highlanders in time to come to France with them and from the time that the battalion first saw action, his services were sufficiently satisfactory and outstanding to bring to him the rank of Corporal.

In the battle of May-Sur-Orne in July 44, Corporal Marsh received his first wound, a piece of shrapnel in the back. This wound left its impression on him but on returning to the battalion Corporal Marsh managed to carry on sufficiently well to be promoted to Lance Sergeant. Then he received his second wound, a bullet through the arm on the Seine Lines on 16 August. This time Corporal Marsh was out of action until rejoining the battalion on 7 Nov.

The significant fact that comes out of this, is that, on two occasions, Cpl Marsh was wounded. On two occasions, he was evacuated to hospital where, by observing less fortunate comrades, he came to realize how very fortunate he had been. He also, came to fully appreciate the terrible possibilities of another such wound. These impressions are not easily shaken off. A final blow struck

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Cpl Marsh, when, on his return to the unit in November, he learned that nearly every other N.C.O. he had known in his platoon, had been killed in action."

These facts will serve to give some idea of Cpl Marsh's frame of mind when, warned that the unit was again going in to action, he chose to absent himself May they be considered when the court is arriving at a sentence

— J.

&c

Exhibit A.

Summary of Evidence in the case of L102252 Cpl Marsh, F.R., "D" Coy., The Calgary Highlanders, The Canadian Army Overseas.

By the direction of the Commanding Officer the evidence is taken under oath.

FIRST WITNESS

G27127 C.S.M. MacDonald, J.C., "D" Coy., The Calgary Highlanders, CA(O) sworn states:

I am C.S.M. of "D" Coy., The Calgary Highlanders, CA(O). On the afternoon of the 9th Nov 1944, the officer commanding "D" Coy held an "O" group which included Pl Cmdrs and Pl. Sgts, Cpl Marsh being acting Pl Sgt of No. 16 platoon. During the "O" Group, the O.C. ordered the Pl Cmdrs & Pl Sgts to have their men in barracks by 2230 hrs, and to take a Tattoo roll-call of their platoons. This report was to be handed in to me at Coy H.Q. at 2230 hrs, 9th Nov 1944 by platoon Sgts. At 2230 hrs there was no report from Cpl Marsh's platoon, so I went to investigate the matter and found Cpl Marsh to be absent. I reported him as an absentee to Bn H.Q. I did not see him again until approximately 1600 hrs, 28 Nov 1944, at Bn H.Q.

The accused declines to cross-examine the witness.

J C MacDonald
G27127 C.S.M. MacDonald, J.C.

SECOND WITNESS

Lieut. W.L. Howse, No. 16 Platoon, Support Coy., The Calgary Highlanders, The Canadian Army Overseas; sworn states:

On the afternoon of the 9th Nov 44, I was in command of No. 16 platoon, "D" Coy., and attended a "D" Coy., "O" group, where the Pl. Cmdrs, Pl. Sgts, C.S.M. & C.Q.M.S. were present. At that time, Cpl Marsh, was acting as my platoon Sgt, and was present at the "O" group. While at this "O" group we were all warned by the Coy Cmdr that "D" Coy would be moving to a forward area that following morning at approximately 0100 hrs, 10th Nov 44.

The accused declines to cross-examine the witness.

W L Howse Lt
W.L. Howse (Lieut)

THIRD WITNESS

Capt. C.W. Dore, Adjutant, The Calgary Highlanders, The Canadian Army Overseas sworn states:

I am adjutant of The Calgary Highlanders, CA(O). I present certificate of surrender under Sec 163 (1) (j) concerning L102252 Cpl Marsh, F.R. purporting to be signed by Sgt Sleeman, R; sergeant in charge Ghent detachment #2 Cdn L of C, Provost Coy., 21st Army Gp.

The accused declines to cross-examine the witness.

C W Dore
C.W. Dore (Capt)

The certificate referred to in the above evidence is attached hereto as Exhibit "A".

The accused was cautioned as follows: -
Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down and may be given in evidence.

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I do not wish to make a statement.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of two pages, were taken down by me in the presence of the accused and that R.P. 4 (c), (d), (e) and (f) have been complied with.

In the Field
29 Nov 44

W.L. Lyster A/Capt.
W.L. Lyster (A/Capt)
Officer detailed to take Summary of Evidence.

Cc

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CERTIFICATE UNDER ARMY ACT, SECTION 163 (1) (1)

"A"

Certified that No. L102258 Rank. ~~PTE~~ CPL. Name MARSH F.R.

of the CALGARY HIGHLANDERS 'B' COY. Regt., ////////// to No. B130748

was apprehended by

Rank CPL. Name KLINGBEIL O.F. of the H2 CDN. L. of C. PROV. COY.

GHENT DETACH at GHENT BELGIUM at 0235 hrs, on the

24 day of NOV. 44, as an absentee without leave.

He was wearing Military Uniform at the time of his ////////// Arrest.

Place GHENT BELGIUM.

Date 24 NOV. 44.

R. Sherman SGT. for
GHENT DETACH
H2 CDN. L. OF C. PROV. COY
21 A. GRP.

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Exhibit B.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
L-102252	Corporal	Francis Robert MARSH	The Calgary Highr CA (O)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial the summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	Nil times	Nil times.
For	Nil times	Nil times.
For	Nil times	Nil times.
For	Nil times	Nil times.
For	Nil times	Nil times.

Number of instances of gallantry or distinguished conduct, Nil

or

There are no entries in the conduct sheets of the accused. Nil

2. The accused has not been previously convicted, *or*

~~The previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and cases without trial under section 78 of the Army Act are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 13 days in military custody, making a total of 13 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~service~~ attestation paper is 23 Years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 1 st Sept 42

7. The service which the accused is allowed to reckon towards discharge ~~or retention in the reserve~~

8. The accused is entitled to deferred pay or gratuity in respect of 2 year 2 months service.

9. The accused is entitled to reckon 2 year 2 months service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~a military decoration or military award~~ (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). V.S.M. and Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated N/A and in his regiment (*or* corps *or* department) the rank of N/A dated N/A

(*16546) Wt.30246/862 75,000 12/40 A.& E.W.Ltd. Gp.498

3

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. L-102252 Rank Corporal Name Francis Robert MARSH of the Calgary Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		N/A		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7 day of Dec 1944

E W Rodd Capt
The Calgary Regt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present rank.

		Date of Promotion.
In the rank of Corporal	2 months	July 1944
In the rank of L/Sgt	3 months	Aug. 1944
In the rank of	years	

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

No L102252 Name Francis Robert Marsh | Sqn. Battery or Company | Corps C.I.C. | Date of enlistment 1 Sep 1942 | OC Badge N/A | Service or Proficiency Pay Nil | MFM 6 (AFS 122) 40/PAS/136 (5438)

Date of last entry in Company Conduct Sheet Nil | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				SUPPLEMENTARY SHEET					

Certified true copy of Supplementary Sheet M.F.M. 6 of L102252 Cpl Marsh, F.R.

C.W. Dore (Capt & Adjt)
The Calgary Highlanders, CA(O)

(PTO)

H.Q.C. 55-M-1659 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT MARTIAL.

MAILLET. GERAD JOSEPH. G-23546 PTE.

CONFIDENTIAL H.Q.C. 55-M-1659

CENTRAL REGISTRY	DATE	P.A. OR C.P.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If persons for which referred cannot be expressed on one line, add minute sheet and enter here "With Minute")		
				J. A. G	NEW FILE	C.R.	APR 18 1945
	25.1.46			Admin	Correspondence, pls return		17.4.45
MAY 25 1945	3/45			JAG	returned pls		10.5.45
JUL 13 1945							
27 1945	26.8.45				FROM C.R. SEP 28 1945		
OCT 2 - 1945	2/10/45						1.10.45
OCT 11 1945	11/10/45				FROM C.R. OCT 20 1945		
					FROM C.R. OCT 22 1945		
OCT 13 1945							
OCT 16 1945	16/10/45						18.10.45
2 1946					JAN 2 1946		
JAN 11 1946					MAY 4 1946		
					DEC 24 1946		
				VAG			
				3 C			
				3 D	Remand Pls		18.2.47
					Decision of Discharge		
					Pending Review Board		20/5/47
	24.5.47			WSG			24.5.47
FEB 2 1945	2/5/47			WSG	Remand		24.5.47
MAY 23 1947	21/5/47	PA					
					FROM REGISTRATION CR. MAY 20 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-M-1659
H.Q. File No. HQ 405-M-10,247
(D.~~R. 9(a)~~ Records 3(c)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

REGISTERED POST

OTTAWA, Canada, 19 Feb 47

Mr. Gerard Joseph MAILLET,
White Brook,
Restigouche Co., N.B.

No. G-23546 Name Gerard Joseph MAILLET

Dear Sir:

This is to inform you that the sentence of the Field General Court-Martial by which you were tried overseas on the 22nd September 1944 has been reviewed. It has now been directed that the portion of the sentence 'To be discharged with Ignominy from His Majesty's Service' which was awarded by the Court be remitted. As a consequence thereof the reason for your discharge from the service is, therefore, being amended to read "Services being no longer required". R.O. 1029 (12).

May the Discharge Certificate issued to you at time of discharge be forwarded to the undersigned. On receipt of this a new certificate will be issued, showing the amended reason, and despatched to you. In addition if, as a result of your service, you have earned a War Service Badge, this will also be forwarded to you.

As the matter of War Service Gratuity may or may not be involved, this matter will be referred to the Paymaster-General, National Defence Headquarters, for whatever action is indicated.

Yours truly,

Initialed dup on main file. eDJ

(H.M. Jackson) Lt.-Col.,
Director of Records,
for Adjutant-General.

/EMR.

"B" OTHER RANKS

1. PUNISHMENTS

(a) That part of sentence "To be disch with ignominy" awarded to the u/m by FGCM on 22 Sep 44 published in para 7(a) DO 69 d/21 Nov 44 is remitted (Auth: HQ 405-M-10247) HQC 55-M-1659) — G 23546 Pte MAILLET G.J. (X-list 1 Bn the Black Watch of Can) CIC

2. ATTACHMENTS

CANCELLATIONS

(a) Att for duty to RCEME (Woollen Mills) (para 1(B) DO 25 d/14 May 46) — SK 25532 Gnr L/Bdr CHERRY G.H. (No.11 Arm Maint Est RCA) RCA 9 May 46

3. STRENGTH INCREASE

(a) TOS (Ceases att as in HWE) from Camp Borden Mil Hosp — S. 412 A/Cpl HANNA K.C. (15 Dist Coy RCASC) RCASC 29 Sep 46

HQS 55-M-1659
HQ 405-B-10,247

H.Q. File No. ~~(D.R. Sect.)~~ Records 3(c)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

OTTAWA, Canada. 19 Feb 47

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May the Discharge Certificate issued to you at time of discharge be forwarded to the undersigned. On receipt of this a new certificate will be issued, showing the amended reason, and despatched to you. In addition if, as a result of your service, you have earned a War Service Badge, this will also be forwarded to you.

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Yours truly,

Initialed dup on main file. eld

(H.M. Jackson) Lt.-Col.,
Director of Records,
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/EMR.

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G 23546 Pte MILLET G.J. (X-list 1 Bn the Black Watch of Can) CIC

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(a) TOS (Ceases att as in HWE) from Camp Borden Mil Hosp

S. 412 A/Cpl HANNA K.C. (15 Dist Coy RCASC) RCASC 29 Sep 46

HQ 405-M-10247 Adm B 1(e)
HQC 55-M-1659

OTTAWA, Ontario

3 Jan 47

TO: D Records

(Attn: DR 6)

G-21546 MAILLET, G.J.

Attn is invited to direction of the AG on reverse side of folio 1 of the confidential file and recommendation of DRB on this soldier's open file, which is passed herewith.

2. It is requested that necessary action be taken to promulgate the above direction to the soldier and to issue a new Discharge Certificate, pursuant to the recommendation of the Board, please.

(H.M. Cathcart)
Colonel,
D.Adm.

DIRECTOR OF RECORDS
A.G. BRANCH
JAN 4
H.Q. OTTAWA
NATIONAL DEFENCE

JLT:2891:er

MEMORANDUM

TO: AG
(Through VAG)

Department of National Defence

HQC: 55-M-1659
HQ: ~~405-M-10,847~~ (Adm B1(a))

OTTAWA, Ontario,
27th December, 1946.

DEC 27 1946

REMISSION OF SENTENCE

G.23546 Pte MAILLET G J

1. The DRB has recommended that part of the sentence directing discharge with ignominy be changed to discharge under CARO 1029 (12) ref at folio.50... open file.

2. The above recommendation was approved by the VAG on 28 Nov 46 ref at folio.....56.. open file.

3. The att submission on reverse side of folio...1..... of the confidential file is recommended for your signature, please.

(J.M. Lathcart)
Colonel,
D.Adm.

GRL/6293/MP
~~FMF/2891/~~

Concur

DEC 27 1946

(30)

T-36-10-[illegible]82 Vol.2 (AJAC)

[illegible]-20-B-19933	T-20-H-7147
[illegible]-20-C-15715	T-20-[illegible]-21658
[illegible]-20-D-10524	T-20-[illegible]-10181
[illegible]-20-J-4514	T-20-R-212[illegible]
[illegible]-20-L-11460	T-20-[illegible]-6723
[illegible]-20-L-6513	T-20-W-11407
[illegible]-20-M-21993	

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
10th October, 1945.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
C-2501
OCT 12 1945
File M-1657
Chgd. to
Referred to

B.U.[illegible] ex U.K. - Remission of Sentences

G-54[illegible]7	- Pte. BERGERON, L.	- 1029(9)
B-75[illegible]2	- Pte. CASS, P.	- 1029(8)
D-14[illegible]59	- Pte. DUQUETTE, M.	- 1029(9)
[illegible]-101[illegible]31	- Gnr. JONES, R.	- 1029(9)
B-46[illegible]	- Pte. LAROSE, R.	- 1029(9)
B-14[illegible]28	- Pte. LYNCH, T.	- 1029(9)
[illegible]-33[illegible]6	- Pte. MAILLET, G.J.	- 1029(9)
B-42[illegible]8	- Pte. MESSERVIER, R.	- 1029(9)
D-129[illegible]09	- Pte. PRIMEAU, [illegible].A.	- 1029(8)
[illegible]-15[illegible]40	- Pte. RANKIN, R.	- 1029(9)
D-14[illegible]97	- Pte. TOWNSEND, K.	- 1029(9)
[illegible]-368[illegible]9	- Pte. WILSON, W.G.	- 1029(8)
D-129109	- Pte. MICHAUD, P.E.	- 1029(8)

Reference HQS 8536-6 and C3 1-4-8-2 (SCA) dated 17th September, 1945.

2. The marginally-named BUS were discharged under the provision of C.A.R.O. 1029 as indicated after each name and such discharge and remission were effective 27th September, 1945, in all cases except in the cases of D-143097, Pte. TOWNSEND, K. and C 36829, Pte. WILSON, W.G. The effective Date of Discharge in the latter two cases was the 28th September, 1945.

3. Herewith Appendix "G" to C.A.R.O. 5913 showing Remission effective Date of Discharge, Promulgation and Certified True Extracts of Daily Orders Part II.

4. Also enclosed herewith for disposal Army Form 3104 in all cases except that of G-23546 Pte. MAILLET, G.J. Army Form A 3104 was not received in his case.

(L.E. Potts)
Major-General
D.O.C. M.D. No.2.

COPY TO: The Commander (FOR INFORMATION)
CAMP BORDEN,
Ontario.

(29)

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM.

NDHQ File No.
District File No. T-20-M-21993

PART I

No. G-23546 Rank Pte. Name MAILLET, G.J.
Unit No. 2 District Depot, C.A.

PART II

Date of Trial 22nd Sept. 1944 (FGCM)
Charge(s) Wilfully injuring himself etc. (AA Sec. 16(2))

Sentence 2 years Imprisonment with Hard Labour - Discharge with Ignominy
Date of Sentence 22nd Sept. 1944
Confirmation - (a) Authority :
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act ~~(superior military authority under Section 57A of the Army Act (superior military authority under Section 57A of the army Act)~~ do hereby remit ~~(commute (mitigate) (suspend) (put into execution)~~ the balance of Imprisonment with Hard Labour awarded the above-noted soldier, effective the Date of Discharge, namely (27 Sep 45.

SIGNED at TORONTO, Ontario,
this 21st day of September
194 5.

Arthur E Potts
(A.E. Potts)
Major-General
D.O.C. M.D. 2.

PART IV
PROMULGATION

Remission ~~(commutation) (mitigation) (suspension) (putting into execution)~~ promulgated and extracts taken at No. 2 District Depot, C.A. this 27th day of September 1945.

M Eyles
Capt. Adj.,
Officer i/c Documents (J.J.Eyles)

(1) Unit, attachment and appointment to be stated.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. G.23546 Rank Pte. Name MAILLET, G.J.
The sentence of 2 yrs imprisonment with Hard Labour
awarded by Fld. Gen. Court-Martial on the 22nd day of Sep 44
194 has been remitted by 359 days
on the 27th day of September 1945 by Major-General A.E. Potts
Unit No. 2 District Depot, C.A.

Certified true Extract of Daily Orders Part II of
250 Place Toronto, Ont. Date 29 Sep 45.
Auth: T-20-M-21993 (AJAG), d/24 Sep 45.

M Eyles
Capt.
Adjutant (J.J.Eyles)

[x] Strike out and initial words not applicable.

28

No. CB 40-M-6359(SC)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Camp Borden,
Camp Borden, Ontario,
6 OCT 45.

CENTRAL REGISTRY Army
COTTAWA
104
2108
OCT 10 1945
File CSS-M-1659
Chief to
Referred to Admin

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

G 23546 Pte. MAILLET, G.J.

Reference your HQC 55-M-1659 Adm 3(b)3, dated 2 OCT 45.

2. Please be advised that a further search of our files reveals NO trace of AF A3104.

Copy to: District Officer Commanding,
Military District NO.2.,
TORONTO, Ontario.
(Ref your T20-M-21993(AJAG) d/4 OCT 45.)

(A.C. Spencer)
Major-General,
Commander, Camp Borden.

Remission effected on strength by DOC
102

27

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

5

HQC 55-M-1659
Adm 3(b)3

CONFIDENTIAL

Ottawa, Ontario, 2 Oct 5

Commander,
Camp Borden Military Camp,
Camp Borden, Ontario.

G-23546 Pte MAILLET, G.J.
SUS ex UK (No 2 DD)

Reference CB 40-M-6359 (SCA) dated 25 Sep 45.

2. AFA 3104 was forwarded Commander, Camp Borden under cover of letter from this HQ, HQS 8536-6 Adm 3(b)2 dated 10 May 45.

3. There is no other correspondence on file that would indicate that this document had been returned to NDHQ. For your information.

for (L. E. Walford)
Major-General
Adjutant-General

WBG:MB

26

C R
C S M-1659

3444

IN REPLY PLEASE QUOTE
No. CB 40-M-6359 (3CA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Camp Borden,
Camp Borden, Ontario,
25 SEP 45.

Director, Personnel Administration Services
Nat. Defence Headquarters
Ottawa, Canada

CENTRAL REGISTRY Army
CONF. SEC.
SEP 29 1945
File C.S.M-1659
Chgd. to
Referred to
Jack

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

G-23546 Pte. MAILLET, G.J.
S.U.S. ex U.K. (No.2 D.D.)

It is advised that Army Form A-3104 referring to the marginally named soldier under sentence was not received at this Headquarters.

2. For your information, please.

H

E. MacAuley
for (A.C. Spencer)
Major-General
Commander Camp Borden.

N.D. 23
3000M - 10-44 (3769)
H.Q. 1771/101-23

T-36-10-232 (AJAG)
T-20-B-19933
T-20-C-15715
T-20-D-10524
T-20-J-4514
T-20-L-11480
T-20-L-6513
T-20-M-21995
T-20-M-7147
T-20-K-21656
T-20-P-10121
T-20-R-8129
T-20-T-6722
T-20-W-11407

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
24th September, 1945

CENTRAL REGISTRY Army
SEP 26 1945
Chgd. to
Referred to

The Officer Commanding,
No. 2 District Depot, C.A.,
Stanley Barracks,
TORONTO, Ontario.

343713

6.55-M-1659

SUS ex UK - Remission of Sentences

C-34007	Pte. BERGERON, L.	- 1029(9)
B-75902	Pte. CASS, P.	- 1029(8)
D-142559	Pte. DUQUETTE, M.	- 1029(9)
L-101331	Gnr. JONES, R.	- 1029(9)
E-4630	Pte. LA ROGE, R.	- 1029(9)
B-143128	Pte. LYNCH, T.F.	- 1029(9)
C-23546	Pte. MAILLET, G.J.	- 1029(9)
E-42488	Pte. MESSERVIER, R.	- 1029(9)
D-129109	Pte. MICHAUD, P.E.	- 1029(8)
C-21566	Pte. PRIMEAU, J.A.	- 1029(8)
B-155140	Pte. RANKIN, R.	- 1029(9)
D-143097	Pte. TOWNSEND, K.	- 1029(9)
C-36829	Pte. WILSON, W.G.	- 1029(8)

Reference CH 1-4-8-2 (SCA) dated 17th September, 1945.

2. The Commander, Camp Borden, has advised that the marginally-named SUS were despatched to No. 2 District Depot, C.A., on FRIDAY the 21ST of SEPTEMBER, 1945, for discharge under the provisions of C.A.R.O. 1029 as indicated in each case, after each name.

3. The District Officer Commanding, M.D. 2, has remitted the balance of the sentences now being served by the marginally-named SUS effective Date of Discharge.

4. Enclosed herewith Appendix "G" to C.A.R.O. 5913 effecting remission.

5. May Promulgation of the Remission be made to the said respective SUS effective the date of discharge, Parts IV and V of the said form completed and the form then returned to this Headquarters, please.

(P.J. Flynn)
Major
A.J.A.G. M.D. 2.

COPY TO : The Secretary, (FOR INFORMATION)
Department of National Defence,
OTTAWA, Ontario.

The Commander, (FOR INFORMATION)
CAMP BORDEN,
Ontario.

24

H.Q. C.55-M-1659
M.D. 10/Maillet CJ/1

GS

FIELD GENERAL
MEMORANDUM - DISTRICT COURT-MARTIAL

No. G.~~23~~ 23548 Name Gerard MAILLET, Joseph

Rank Pte Unit RHR, att no 7 Cdn Gen Hosp CAO

Charge (1) A.A. 18(2) WOAS Wilfully injuring himself
(2) A.A. 40 WOAS, Neglect to the prejudice.....

Date of Crime (1) 23-8-44; (2) 23-8-44

Date of Arrest Charge Signed 14-9-44

Orders for ~~D.~~ F.G.C.M. Brig Comd Cdn Sec GHQ, 1 Ech 21 A Gp

Place and Date of Trial In the field; 22-9-44

Sentence Discharge with ignominy;
Imprisonment W.H.L. 2 yrs;

Date of Confirmation 27-9-44

Date of Promulgation 27-10-44

Entered in Records of J.A.G. as No. 3675

Date 14-5-45

MEMO. (2) Withdrawn by Prosecutor.

Extracts entered as No. in the Record of Courts Martial kept in the office of the Judge Advocate General this day of 19

Reviewed at GHQ

Balance of sentence remitted by Conf. Auth. 27-9-45

23

for Judge Advocate General

10M-1-45(M-4029)

Quote No. H.Q.C.55-M-1659
(JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada
22nd May 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial
G-23546 Pte. MAILLET, G.J.

1. Receipt is acknowledged of your 10/Maillet GJ/1 dated 24th March 1945, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

A.F. A3104 is also acknowledged.

EAM
Capt
for (R.J. Orde), Brigadier,
Judge Advocate-General.

WBB:JD

22

HQS 8536-6
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

CONFIDENTIAL

OTTAWA, Ontario
10 May 45

Commander,
CAMP BORDEN, Ontario

District Officer Commanding,
Military District No 2,
TORONTO, Ontario (for information)

G.23546 Pte MAILLET, G J

SUS RETURNED FROM O/S IN CUSTODY

This SUS has recently returned from O/S in custody to complete sentence.

2. Herewith is copy of letter from CMHQ together with original AFA 3104.

3. Subject to the recommendations contained in copy of CMHQ letter enclosed, the procedure for the disposition of this soldier is outlined in Circular Letter R.731 d/ 9 Sep 44 and HQS 8536-6 d/ 26 Dec 44.

4. The original AFA 3104 is to be returned to this HQ when it has served its purpose.

5. This SUS is to be discharged under CARO 1029(9).

OR

5. It will be noted that CMHQ has recommended discharge under CARO 1029(8).

for (A E Walford)
Major-General
Adjutant-General

Encl. 2

3615

21

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Maillet, GJ/1

CANADIAN MILITARY HEADQUARTERS

LONDON 24 Mar 45.

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

C-55-M-1659

O.23546 Pte Maillet, G.J.

1. The marginally named soldier is now serving a sentence of 2 years imprisonment with hard labour and discharge with ignominy from His Majesty's Service awarded 22 Sep 44 by FGCM for an offence under AA Sec 18(2), wilfully injuring himself with intent to render himself unfit for service. He has so far earned full remissions for good conduct while serving his sentence and accordingly, if he continues so to do, his sentence of imprisonment will expire 25 Jan 46.

2. This soldier enlisted 20 Sep 41 at Moncton, New Brunswick, and he is now 22 years of age. Since enlistment he has been found guilty of 1 offence under AA Sec 15(1), and the above-mentioned offence under AA Sec 18(2).

3. This soldier was reboarded 2 Jan 45 and placed in Pulhems Grades M2 S3 on a diagnosis of psycnopathic personality, inadequate. The Medical Board states that he is fit to undergo detention.

4. The Neuropsychiatrist and Selection of Personnel Officer who have examined this soldier state that he was only under fire for one day when this offence occurred, that he expresses a willingness to return to action for the sake of his dependents only, that he is a basically timid, unaggressive individual of low average intelligence, that he is easily frightened and is not of operational calibre.

5. Taking into consideration these reports and the serious nature of this soldier's deliberate offence, to which he pleaded guilty, it is considered that the punishment awarded is appropriate, that he should serve the term of imprisonment in full and thereafter be discharged with ignominy from His Majesty's Service in accordance with paragraph 9 of Appendix to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 22 Sep 44 and original A.F. A3104 in respect thereof on which this direction has been endorsed.

for (E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters.

Enc.2.

20

1/39B CMHQ 1000-77
45 P & S 803 (8748)

[redacted]MBER
CONFIDENTIAL

AIR MAIL

10/Maillet GJ/1

CANADIAN MILITARY HEADQUARTERS

LONDON
24 Mar 45

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

G-23546 - Pte Maillet G J

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour and discharge with ignominy from His Majesty's Service awarded 22 Sep 44 by FGCM for an offence under AA Sec 18 (2), wilfully injuring himself with intent to render himself unfit for service. He has so far earned full remissions for good conduct while serving his sentence and accordinly, if he continues so to do, his sentence of imprisonment will expire 25 Jan 46.

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3. This soldier was reboarded 2 Jan 45 and placed in Pulhems Grades M2 S3 on a diagnosis of psychopathic personality, inadequate. The Medical Board states that he is fit to undergo detention.

4. The Neuropsychiatrist and Selection of Personnel Officer who have examined this soldier state that he was only under fire for one day when this offence occurred, that he expresses a willingness to return to action for the sake of his dependents only, that he is basically timid, unaggressive individual of low average intelligence, that he is easily frightened and is not of operational calibre.

5. Taking into consideration these reports and the serious nature of this soldier's deliberate offence, to which he pleaded guilty, it is considered that the punishment awarded is appropriate, that he should serve the term of imprisonment in full and thereafter be discharged with ignominy from His Majesty's Service in accordance with paragraph 9 of Appendix to CARO 1089, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to Pc 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 22 Sep 44 and original AF A3104 in respect thereof on which this direction has been endorsed.

(E G WEEKS) Major-General
In charge of Administration,
CANADIAN MILITARY HEADQUARTERS.

19

RDED AT CMHQ IN AB 160, 40-136

HELD GENERAL COURT-MARTIAL

CPA66 (In lieu of APA31 40/P & S/1008 (16-9-41) 4/38B

Convened by ... Cond ... dated ...

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G23546	Pte		Gerard Joseph	Maillet.	GGH.

PROCEEDINGS REVIEWED 21 Nov 44

PROCEEDINGS OF TRIAL.

Held ... on (date(s)) 22 September

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 12/95

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ... as interpreter? Ans ...

The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans ...
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E. M. Meech ED KC	RCOC	Cdn Corps
Member	Major	M. L. Troy ED	RCR	2 NRD
Member	Capt	J. A. Bailleargeon	Gen List	1 Bch 121 AGP
~~Judge Advocate~~				
Prosecutor	Lt. Col.	J. W. S. Thompson MM ED	NB	2 Cdn Corps
Defending Offr	Capt	W. E. D. Stringerford	RCASC	1 Bch

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ... before arraignment make(s) (no) plea ... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsF cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on ~~all~~ 1st charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A19.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(~~s~~)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(~~s~~).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No Sir.....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is (are) not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans...... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(c).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(2)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. My Offr Defence has explained RP 6 accused. He does give evidence on oath

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor ~~produces~~ states Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, ~~which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.~~(3) are NOT available

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on ~~the Statement(s) and Conduct Sheet(s), and~~ in mitigation of punishment?(1) Ans. Yes My Offr

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

1

Extracts entered as No. 3675 in the Record of Courts Martial kept in the office of the Judge Advocate-General this 29 day of May 1943

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 23546 Pte Gerard Joseph MAILLET. R H R

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st ~~Same as~~ alternative	Guilty	Guilty	
2nd A A 40	withdrawn by Prosecution (RP 35 C)		
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of N.I. days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two (2) years and to be discharged with ignominy from H.M. Service.

(Sgd) ..... Judge-Advocate, if any. 22 Sept 44 Date awarded. (Sgd) [illegible] President. (RP 45, 50.) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~

(1. AA 57A. Delete if not used.)

(Sgd) [illegible]

Date ..... Commanding ..... Commanding Officer.

Canadian Section G.H.Q. 1 Echn. 21 Army Group. 27 Sep 1944

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G 23546 Pte Maillet G.J.	27 Oct 44	[illegible] Capt RCAMC A/Reg. No 21 Cdn Gen Hosp RCAMC

DJAG. Cdn. Sec. G.O.C. 21 A.Gp.

I certify that there are no liabilities of any description in justify additional collection of these proceedings

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

MEDICAL CERTIFICATE

I certify that I have this morning examined No. G 22546 RANK R.T.C.

NAME MALLETT C.J. R.H.C. and he is fit to undergo trial

by court martial.

22 Sep 44

Medical Officer

Reams

CHARGE SHEET

The accused No G 23546 Pte Gerard ~~George~~ Joseph MAILLET, RHC att No 7 Cdn Gen Hosp, a soldier of the Cdn Army Overseas is charged with :-

FIRST CHARGE
Army Act
Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he

In the Field on 23 Aug 44 by discharging his rifle wilfully injured himself by shooting himself through the left foot with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Army Act
Sec 40

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field on 23 Aug 44 while with his regt in the line so negligently handled his rifle as to shoot himself through the left foot thereby rendering himself unfit for service.

[illegible] Col
OC No 7 Cdn Gen Hospital

In the Field
14 Sep 44

To be tried by Field General Court Martial

[illegible]
(A W Beament) Brigadier
OIC
Cdn Sec GHQ 1 Echl 21 A Gp

In the Field
17 Sep 44.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 67(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 23546	Pte		Gerard Joseph	MAILLET	Royal Highlanders of Canada att No 7 Cdn Gen Hosp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 17 Sep 44 endorsed by me, (~~as by another order dated the ...~~) " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reasons to be specified shortly~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

(~~And I hereby make the appointments (s) these Offrs to form the Court (by and) Offr as President, for the reasons therein stated.~~)

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

(~~And I hereby appoint as Judge Advocate thereat the Offr mentioned hereunder.~~)

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E M Miller ED KC	RCOC) att Cdn Sec

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	M L Troy	Alg Regt) GHQ 1 Ech
Capt	F A Baillargeon	Gen List) 21 A Gp

(~~WAITING MEMBERS~~)

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

(~~JUDGE ADVOCATE~~)

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(A W Beament)

Dat 17 Sep 44

Commanding Cdn Sec GHQ 1 Ech 21 A Gp

Convening Officer.

Approved CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/3[illegible] Revised Edition (of AFA 3) 40(F & E)/1697 (6143)

Can. Lec. G H Q 1. Ech. 21 A Gp.

1 SEP 1944

16

21

G 23546 PG Gerard Joseph Maillet Known as Gerard

Born in New Brunswick 22 May 1922

To Gr 6 in Pub. School in N.B. Left at 16 to work around farms and woods until Enlisted Sept 41

2 mos Basic at Fredericton + 2 mos Adv. Trg at Aldershot

Then to Arty 2 years in the Kitchen at A 23 Halifax

reallocated to Inf. 6 wks trg at Debert, arr

UK 27 July 44, sent as Inf. reinf to France

in middle of August 44. Sent to R.H.R.

Did some rifle shooting but did not pass 1st Class.

Fired Bren twice, Fired Sten once Fired 2" Mortar once

Never fired live round in Pict. Never had Battle training

Never threw live Grenades in Canada. Had No

Battle training in England but did throw 2 live grenades.

Was married 2 June 42 in Canada with permission one child.

Parents French Canadian. Father died in Dec 41.

2 brothers tried to enlist in Canada but were discharged

because they were not fit and did not pass medical exam.

Their own Cat was B when Enlisted for varicose veins

I was referred 3 times. There never had any treatment.

I was raised to A in Dec 43. They just looked

at me and said I was all right. I was stripped to the waist

I feel I could not stand going back to the front.

No Th. There never had S.P. or Detention.

Read over (RP 83 B)

E. Mc Nees

Maj

Pres.

14

G-23546 Pte. Maillett G. J.
Black Watch Reg't (R.H.R.)

Plea in mitigation by defending officer

"This accused is, on the evidence, - and from the analysis made by Capt Johnson, - M.O. 53 - he is described as a "psychopathic personality and inadequate" - I can do no better than to ask the Court to treat this case as such - I would suggest that a further report by a psychiatrist should be recommended by the Court.

21: 9: 44

W.T. Mungovan Lt Capt

13

SUMMARY OF EVIDENCE

Summary of Evidence in the case of G23546 Pte Gerard Joseph MAILLET, Royal Highlanders of Canada att No 7 Canadian General Hospital, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40)

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

First Witness

G 13073 L/Cpl F Britney, 2 Cdn Pro Coy, Cdn Pro Corps, sworn states :-

I am G 13073 L/Cpl Britney, F, 2 Cdn Pro Coy, Cdn Pro Corps. I interviewed the accused, whom I recognize as G23546 Pte MAILLET GJ, at No 7 Cdn Gen Hosp on the 10 Sep 44. L/Cpl Kydd GE was present at the time. I identified myself to the accused telling him I was a member of the Cdn Pro Corps and was investigating the circumstances surrounding an injury sustained by him. I cautioned him in the following words :- "You are not obliged to say anything unless you wish to do so but whatever you do say will be taken down in writing and may be used in evidence". The accused understood this caution. He then volunteered to make a statement. This statement was reduced to writing and after it was taken the accused was given the statement to read over and he read it and then it was read over to him and he understood it and he signed it. I produce the statement I refer to in my evidence and I recognize the signature on the statement as that belonging to the accused. There were no threats, promises of reward or inducements held out to the accused to obtain this statement. The accused was not under arrest at this time.

F. Britney
Witness

The accused declines to cross-examine this witness.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit "A".

Second Witness

Capt WE Armour, RCAMC, No 7 Cdn Gen Hosp, sworn states :-

I am Capt WE Armour, medical officer in charge of ward 6 of No 7 Cdn Gen Hosp. Pte MAILLET was admitted to my ward on the 25 Aug 44 suffering from a wound of the left foot incurred on the 23 Aug 44. According to medical records accompanying him the wound passed vertically through 1st metacarpo-phalangeal joint fracturing the base of the proximal phalanx and the head of the first metatarsal He progress has been fair. At present there seems to be some infection which will require further treatment. He is still in a plaster cast and I am not prepared to state what prognosis is until this has been removed, which should be in about ten days time. In my opinion the wound could have been caused by a small arms projectile fired from a weapon held by the man himself. I am not prepared to state at what distance from the wound the weapon was fired.

W. Armour Capt
Witness

The accused declines to cross-examine this witness.

Release

12

Third Witness — Capt AM Johnson, RCAMC, No 10 Cdn Gen Hosp.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence signed by him, has been read to the accused and is attached hereto as Exhibit "B".

Officer Taking Summary

I do not require the attendance of Capt AM Johnson for the purpose of cross-examination.

Accused

The accused is cautioned as follows :-

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement at this time.

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down before me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

Officer detailed to take the summary of evidence.

In the Field
15 Sep 44

11

ADDITIONAL SUMMARY OF EVIDENCE

Additional summary of evidence in the case of G23646 Pte Gerard Joseph MAILLET, Royal Highlanders of Canada, att No 7 Cdn Gen Hosp, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40)

By direction o the Commanding Officer the evidence is taken on oath.

First Witness

M53344 Cpl SAILER, J., Royal Highlanders of Canada.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence signed by him, has been read to the accused and is attached hereto as Exhibit 'C'.

Officer Taking Summary

I do not require the attendance of M53344 Cpl SAILER, J., for the purpose of cross-examination.

(Accused)

Second Witness

B.158315 Pte Noble, R.M., Royal Highlanders of Canada.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence signed by him, has been read to the accused and is attached hereto as Exhibit 'D'.

Officer Taking Summary

I do not require the attendance of B.158315 Pte Noble, R.M., for the purpose of cross-examination.

(Accused)

I certify that the foregoing additional summary of evidence was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

In the Field,
22 Sep 44

Officer taking Summary of Evidence.

10

Statement of G-23546 Pte. Maillet G.J. Sept. 10-44
Black Watch, 2 Inf. Div.

I, Maillet G.J. after being warned that I need not say anything but what I do say will be taken down in writing & may be used as evidence do hereby give the following voluntary statement:

I enlisted on the 20th. of Sept. 41 in the North Shore Regt. & some after was sent to the admin staff of the R.C.A. from ~~May~~ Apr. 6-42 until May-44 Then I was reallocated to the B.W. I landed in Eng. 27 July 44 & in France about Aug. 12-44. going to C.B.R.D. & from there I was sent to the B.W. Regt.

About Aug. 20th. we contacted the enemy near Quesnay & exchanged some fire, then dug in. The action lasted for approx. 2½ hr. & then we moved up & dug in again. Next day we moved again in the direction of Falaise, free of any heavy fire. That afternoon we were under heavy mortar fire & I saw one man killed & two others wounded, & the right upset me pretty badly.

A fellow whom I only know as Mac was in the trench with me & when he saw how bad I was he went for the sgt. & brought him to me. The sgt. name is Dekeyle. He thought me unfit to remain under fire & had a stretcher bearer take me to the M.O. who sent me back again. We got orders to move up again to engage the enemy & I knew I could not stand it so decided to get out of it. My rifle had a bayonet on it & I stuck in in the ground with the muzzle of the rifle pointing at my left foot & pulled the trigger, & the bullet entered & pierced the base of my big toe. A stretcher bearer was called & he took me in a jeep to the M.O. He just took my boot off & sent me to a C.C.S. where a shell dressing was applied to the wound. Next morning I was taken to some Can. Hosp. & the following day to No 7 Can. Gen. Hosp. This happened

on Aug. 23rd. at approx. 2130 hrs. & I was admitted to No 1 C.G.H. on Aug. 25-44.

There is no use in my going back to the front lines as I know I couldn't stand it.

I have read the above statement, have no more to add, & it is true.

Maillet G.J.

Witness L/Cpl. H.C. Byard
#2 Coy Can Prov. Cps.
B.89475.

Statement taken by
C130713 L/Cpl. J. Bertney
#2 Coy. Can. Prov. Corps

This is Exhibit "A" referred to in the summary of evidence in the case of Pte MAILLET GJ taken before me this 15th day of Sep 44.

Officer Taking Summary

8

"I, M53344 Cpl Sailer J., of 1A Pln, #5 Section 1 Bn The Black Watch (RHR) of Canada, and on the night of 28 Aug 44 was in the field. We had been told to put on our web and prepare to move forward. I heard G2854 Pte Maillet G.J., say he would not do so and heard Sjt Dehase order him to do so. Several men were trying to get him to get his equipment on. I then heard a shot about 10 yds from where I was standing. He started to yell that he was hurt. The Sjt came over and told Pte Maillet G.J. that he was alright now. He said that he wasn't and that he was shot. That is all I know."

J. Sailer Cpl.

M53344 Cpl Sailer, J.

[illegible] Corporal [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

I am B158315 Pte Noble R.M., of 14 Pln #5 Sec, 1 Bn The Black Watch (RHR) of Canada, and on the night of 23 Aug 44 was in the field.

D.

On the night of 23 Aug 44 just at dusk, we were told to prepare to move, I heard Pte Maillet G.J., state that he wasn't going with us. Then I heard Sjt Dehase order him to put his webbing on. Pte Maillet G.J., said he wasn't going to go with us, Then I heard a shot about 10 yds from where I was standing. He started to yell that he was hurt. The Sjt came over and told Pte Maillet G.J. that he was alright now. He said that he wasn't and that he was shot. That is all I know.

Pte R. M. Noble

B158315 Pte Noble, R.M.

6

This is what I disposed of in the carry [illegible]
in the case of the Mullet the [illegible] one
[illegible]

Statement of G-23546 Pte Maillet G.J.
Black Watch Regt. 2Inf. Div.

Suspected Self-inflicted Wound

I, Maillet G.J. after being warned that I need not say anything but what I do say will be taken down in writing and may be used as evidence do hereby give the following voluntary statment:
I enlisted on the 20th Sept.41 in the N orth Shore Regt. and soon after was sent to the administration staff of the R .C.A. from April6-42 until May 44. Then I was re-allocated to the B.W. I landed in Eng. 27 July 44,and in France about Aug 12-44, going to C.B.R .G. and from there I was sent to the B.W.R sgt.

About Aug 20th. we contacted the enemy rear-guard and exchanged some fire,then dug in. The action lasted for approx.an hour and then we moved up and dug in again. Next day we moved again in the direction of Falaise, free of any Jerry fire. That afternoon we were under heavy mortar fire and I saw one man killed and two others wounded , and the sight upset me pretty badly. A fellow whom I know as Mac was in the trench with me and when he saw how bad I was he went for the Sgt. and brought him to me. The Sgt's name is Dehayes. He thought me unfit to remain under fire and had a stretcher bearer take me to the M.O. who sent me back again. We got orders to move up again to engage the enemy and I knew I could not stand it and so decided to get out of it. My rifle had a bayonet on it and I stuck it in the ground with the muzzle of the rifle pointing at my left foot and pulled the trigger,and the bullet entered and pierced the base of my big toe. A stretcher bearer was called and he took me in a jeep to the M.O. He just took my boot off and sent me to a C.C.S. where a shell-dressing was applied to the wound. Next morning I was taken to some Can. Hosp. and the following morning to No 7 Can. Gen. Hosp. This happened on Aug.23rd at approx.2130 hrs. and I was admitted to No 7 C.G.H. on Aug.25-44.

There is no use in my going back to the front lines as I know I couldn't stand it.
I have read the above statement,have no more to add, and it is true.

Signed: Maillet G.J.

Witness: L/Cpl G.E.Kydd
#2 Coy Can Prov Cps.
B-89743

Statement taken by.....G-13073 F. Britney L/Cpl
(G-13073 L/Cpl F.Britney)
#2 Coy Can Prov Corps.

Sept 10-44.

5

HOSPITAL OR SICK LIST RECORD

G-23543 MAILLET Gerard George

Pte 1st R.H.C. Age: 22

#7 Cdn Gen Hosp.

Admission: Aug 24/44 from #10 C.G.H.

Medical Notes: Wounded 23 Aug - vertically thro' 1 m.t. - phal. jt. some swelling and drainage of charged blood - no surgery. For X-Ray.

Enl Sep 41 - U.K. 27 Jul 44 - B.L.A.15.8.44 - not in action.

Problem Admitted S.I.W. (rifle)

F.H. - Parents both nervous.

Childhood timid and shy, enuretic until 15, many neurotic fears which still persist.
School - slow, shy, few social or sport interests.
Adolescence and work - odd jobs in the woods - no outside interests.
Army: Joined as B.2 (Varicose veins) - timid in B.T. - too nervous to fire a rifle - worked as fatigue man in kitchen in Halifax for over two years - upset when told he was coming O/S - frightened on the boat coming over. He was never in battle - was moving up - a mortar hit close to him - became panicky and went to M.O. He was told to return to duty - went out and shot himself in the foot. While he was under emotional tension he was in a state of mind where he appreciated the nature and quality of his acts.

Summary: This man is a timid recessive little Fr. Cdn who has always been inadequate. He is unfit for front line battle. His intellect is low average.

Read

Diag: Psychopathic Personality Inadequate
Mental retardation.

Advise - Rect. Mq SS

Fit to stand trial and punishment

(Sgd) A.M. Johnson (Capt)
29.8.44.

This is a certified true copy of Exhibit "B" referred to in the summary of evidence in the case of Pte MAILLET taken before me this 15th day of Sep 44.

Officer taking Summary

Certified true copy of orig Hosp Record returned to Prosecutor

Maj

Approved

I ...Pvt. Jack Marlett... desire to

have an officer assigned to represnnt me at my trial

by court- martial. I desire the services of

.....

...Capt. W. Butterworth...

if he is available

15 Sep 44
In the Field

Jack Marlett
Signature of accused.

3

M.F.M. 6
(A.F.B. 122)
W/V & S/Ind (3837)

No.	Name	Sqn., Battery, or Company	Corps	Date of enlistment	G.C. Badges	Service or Proficiency Pay
G23543	MAILLET G.J.		CIC	20-9-41	NIL	$1.50

Date of last entry in Company Conduct Sheet	No. and date of last drunk	Period not reckoning towards freedom from extra fine	Sheet No.	Signature O.C. Company, etc.	Character
15May 44					

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Canada		Pte		AWL (4days) A A 15-1		8 days pay	15 MAY 44		Total 12 days

Certified to be a true extract from the regimental books and documents in my custody

Ross Irwin
(O R IRWIN) Lt.
O IC Records "D"
Cdn Sec. GHQ 2nd Ech 21 A GP.

(P.T.O.)

G 23546 Pte Maillet GT

REMISSION OF SENTENCE

I, Ernest Geoffrey Weeks, Adjutant-General, an authority having power to mitigate, remit or commute the punishment awarded by the sentence of these proceedings do hereby remit that part of the sentence "to be discharged with ignominy from His Majesty's Service", awarded by the Court and confirmed by the confirming authority.

(E.G.Weeks)
Major-General,
Adjutant-General.

SIGNED at OTTAWA 27th day of December, 1946

Promulgated by registered letter No. 590 to

G-23546 Pte. Gerard Joseph MAILLET

on 19th February 1947 and extracts taken at N.D.H.Q.

this Nineteenth day of February 1947.

590

(H.M. Jackson) Lt.-Col.,
Director of Records,
for Adjutant-General.

H.Q.C. 55-M-1660

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MYERS. CLARENCE WILLIAM L.101362 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1660

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If response for which referral cannot be given on one line, add remarks to file and return to Central Registry.)		
APR 24 1945					NEW FILE C.R.		APR 16 1945
					With Papers C.R. MAY 15 1945		
MAY 18 1945					To note, pls.		
MAY 21 1945					PER B.F. MAY 27 1945		
MAY 28 1945					With Papers C.R. JUN. 5 1945		
JUN 6 1945					To note, pls.		
JUN 7 1945		P.A.		1CM	To note pls		7 6 45
JUL 23 1945	24 1945	P.A.		1CM			

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. It for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55-M-1660 (ICM)

NDHQ Ottawa, Ont

25 Jul 45 1945

CONFIDENTIAL
C.M.

District Officer Commanding,

Military District No 12,

REGINA, Sask

L-101362 Pte MYERS, Clarence Wm

Ref R.1-M-541:

2. Enclosed herewith:-

(a) MFM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford)
Major-General
Adjutant-General

for Capt

IN REPLY PLEASE QUOTE
No. R.1-M-541(AJAG).

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 2nd June 1945.

CENTRAL REGISTRY Army
CO[illegible]
JUN 5 1945
File C53-M-1660
Chgd.
Referred JAG.

12

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

319502

L.101362 - Pte. C.W. MYERS

Reference H.Q.C.55-M-1660 (ICM) dated 28th May, 1945.

2. Herewith, completed as requested, is "Report on Conduct" form in respect of the marginally noted soldier.

J. P. Davidson
Maj.
(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

Auto for
Cal K Shaw
76 Jr N.G.

N.D. 23
3000M—10-44 (5769)
H.Q. 1779-101-23

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 M-1660 (ICM)
OTTAWA, 28 Th. May 194 5

Your File - R.C.1-M-541

District Officer Commanding,
Military District # 12,
REGINA, Sask.
L-101362, Pte. C.W. MYERS.

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in # 80 DUNDURN Military Detention Barrack, under your command, a sentence of 6 Months detention awarded by a Standing Court-Martial on the 12 day of April 194 5

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC/IL

A

5M-2-45(M-4516)

HQC.55-M-1660 (JAG/D)

18 May 45

District Officer Commanding,
Military District No. 12,
REGINA, Sask.

Standing Court-Martial
L.101362 - Pte, Clarence William MYERS
No. 12 D.D., C.A.

Receipt is acknowledged of your R.C.1-M-541 (AJAG) dated 7th May, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M. 286.

Est 22 Capt

for (R.J. Orde), Brigadier,
Judge Advocate-General.

/AB

Notes
Capt

L. M. CLAYTON
Lieut.-Colonel
Deputy Director
MAY 19 1945

5M-3-45(M-4664)

I.C.M. - L 4407

REVIEW OF SENTENCE

DATE MAY 19 1945

H.Q.C. FILE: 55- 17-1660

1. NO. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES Deserting from 25 Aug. 42 until 22 March 43 — 2 yrs. 7 mos.

8. PREVIOUS CONDUCT Welcome 15-11-11111 ENLISTED ~~ENROLLED~~ 20 July 42 AGE 29

nil.

9. STATEMENT OF ACCUSED ~~Left one week~~ enlisted leave week after joined up. Father drinks & abuses mother. Left home Brother O/S. Mother alone. So stayed. Order unit. ~~Thoroughly~~. for extension. No reply. So stayed at home. Father still away. Mother now alone with 8 cattle, 4 horses, 7 pigs & 70 chickens

10. RECOMMENDATION

IN REPLY PLEASE QUOTE No. R.C.1-M-541(AJAG).

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Regina, Sask., 7th May, 1945.

C.55-M-1660

314345

CONFIDENTIAL

CENTRAL REGISTRY Army
CONF. SEC.
MAY 15 1945
File C55-M-1660
Chgd. to
Referred to

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
L.101362 - Pte. Clarence William MYERS
No. 12 District Depot, C.A.

Reference HQC.55-M-1660 (JAG/D-3) dated 23rd April, 1945, forwarding proceedings of the marginally noted Standing Court-Martial pursuant to C.A.R.O. 4565(12).

2. M.F.M. 288 has been completed in this case and is enclosed herewith, together with the proceedings.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

NAT. DEF. B. 440
25000-9-44 (A3211)
H.Q. 1752-39-147

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armoury, Regina, Sask.,

on the 12th day of April, 1945, at 1000 hours,

for the trial of: L.101362 Pte. Clarence William MYERS,
Number Rank Full Name

No. 12 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major S.L. Waterman, E.D., President Courts-Martial, M.D. 12.

PROSECUTOR: Capt. P.W. McMeans, Prosecutor Courts-Martial, M.D. 12.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ ~~OR~~ DEFENDING OFFICER: Lieut. E.G. Lee, No. 12 District Depot, C.A. (See documents marked "G" and "H" attached.)
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, L.101362 Pte. Clarence William MYERS, No. 12 District Depot, C.A., is guilty of the charge.

SENTENCE: The Court sentence the accused, L.101362 Pte. Clarence William MYERS, No. 12 District Depot, C.A., to undergo detention for six months and to be put under stoppages of pay until he has made good the sum of $45.79 in respect of the cost of apprehension and return to his Unit.

Signed at Regina, Sask., this 12th day of April, 1945.

S. Waterman Major,
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4828)
H.Q. 1772-39-2296

Extracts entered at No. 36865 in the Record of Court-Martial kept in the office of the Judge Advocate-General this 19 day of Apr 1945

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter ?~~

Answer:

Question to the accused. Do you object to L-25640 SM (A/W.O.I) W.H. Matthews, H.Q. M.D. 12 (CMSC Sub-Staff), as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial ?~~

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Not guilty.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B2" Swarzman Maj. President SCM.

CHARGE SHEET

The accused, L.101362 Pte. Clarence William MYERS, No. 12 District Depot, CA, Regina, Saskatchewan, a G.S. soldier of the Canadian Army placed on Active Service is charged with:

CHARGE
Section 12(1)a
Army Act.

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at Regina, Saskatchewan, at 0815 hours on the 25 th August, 1942, absented himself without leave from the No. 12 District Depot C.A., until apprehended at Meadow Lake District, Saskatchewan, at 0600 hours on the 22 nd March, 1945 by the Military Power, dressed in plain clothes, the cost of his apprehension and return to his unit being, $45.79.

J. C. Young
Major J.C. Young, M.C.
Officer Commanding,
No. 12 District Depot, CA, Regina.

10th April, 1945
Regina, Saskatchewan.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor declines to make an opening address.

~~The Prosecutor proceeds to call witnesses.~~

First Witness for prosecution.

~~being duly sworn, is examined by the Prosecutor.~~

Question

THE PROSECUTOR: I produce M.F.B. 375; M.F.M. 216; M.F.B. 1481 in the total sum of $9.94; and M.F.B. 1482 in the total sum of $35.85.

The Defending Officer has no objection to any of the documents.

The documents are read and marked Exhibits "I" to "L" respectively, signed by the President and attached to the proceedings.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I would sooner make a statement under oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

FIRST WITNESS FOR THE DEFENCE:

The accused, L.101362 Pte. Clarence William MYERS, No. 12 District Depot, C.A., being duly sworn, is examined by the Defending Officer.

Q. Will you tell the Court, Myers, what date you enlisted in the Canadian Army?
A. On the 16th day of July, 1942.

Q. And did you get any leave after you joined the Army?
A. Yes, sir.

Q. And when did you get this leave?
A. I just can't remember the date, sir, but it was.....

Q. Approximately how long after you joined the Army did you get leave?
A. It was about, approximately one week after I joined the Army on the 16th day of July, 1942.

Q. And what was the purpose of the leave?
A. Pardon.

Q. What was the reason for your leave?
A. Enlistment leave.

Q. And where did you go on your leave?
A. To my home town, Meadow Lake, Saskatchewan.

Q. When you were on your leave what were the circumstances at home?
A. Well, when I was at home my father was there too at the present time, and he never did very much at home when I was there. He was a man that drank a considerable lot of liquor; and he abused my mother quite a bit for another thing. And he got into some trouble at some home down at Meadow Lake, Saskatchewan, and he had a fine to pay and they also warned him that he wasn't to show up in the town again. So after this happened he was home for a couple of months--well, it was about four months after, I guess--and he left home without no reason as far as family affairs was concerned.

Q. What did you do next, Myers?
A. After my father left, well, I figured that there was just my mother at home and I have a brother what was overseas, and I stayed at home. I wrote one letter to Capt. Davies and it was sent in by a neighbour of ours; and I did not get no reply on it.

Q. What was the letter about?
A. Asking for an extension of leave.

Q. Who was Capt. Davies?
A. Pardon.

Q. Who was Capt. Davies--this Capt. Davies you sent the letter to?
A. He was in the 12th District Depot here in Regina. He was in our platoon. I addressed it to Capt. Davies at Regina, Saskatchewan, 12th District Depot.

Q. And you say you didn't have any reply?
A. No, sir.

Q. So, what were your intentions then after that?
A. I figured that I didn't get any reply so I stayed at home.

Q. You say your father left about four months after you went home on leave?
A. Yes, sir; it was approximately somewhere around there.

Q. What would your intentions have been if he had come back?
A. I would have returned to my unit, sir.

Q. Is your father at home now?
A. No, sir.

Q. Has he been home since he left in 1942?
A. No.

Q. What were the circumstances with regards to your being apprehended by the Mounted Police?
A. I beg your pardon.

Q. What were the circumstances, or--let's see, how shall I put it now--where were you at the time when the Mounted Police apprehended you?
A. I was at home, sir.

Q. And what were you doing at home at the time the Mounted Police picked you up?
A. I was in bed, sir, when they came.

The Court draws the attention of the Defending Officer to Exhibit "J".

Q. Who were you apprehended by, Myers?
A. By four Provosts that was there and two R.C.M.P's.

Q. Is there anything else then you wish to add to your statement you have already made in regards to your absence?
A. There's one thing, sir: My mother is left at home and I have 8 head of cattle, 4 head of horses, 8 pigs and approximately around about 65 or 70 chickens; and she is all alone at the present time.

Q. Is there anything else then, Myers?
A. No, sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q. Pte. Myers, you admit then that you were absent from 0815 hours on the 25th of August, 1942, from your Unit, 12th District Depot, without leave?
A. Yes, sir, I admit that. I believe I misunderstood that; I believe I said "No, sir" didn't it?

Q. Well, you were absent without a pass then?
A. Yes, sir.

Q. And you remained so absent without a pass.....
A. Yes, sir.

Q. .....until you were apprehended at 0600 hours on the 22nd March 1945 by the Military Power, as you told the Court?
A. Yes, sir.

Q. Now, I am going to try and assist you to refresh your memory on the dates of your enlistment. Actually you came in on the 16th but you were attested in the Army from as of the 20th of July, 1942; that's right, isn't it?
A. Yes, it was the 16th; yes, sir.

Q. When you first came in?
A. Yes, sir.

Q. And you were actually attested into the Army on the 20th of July; that is, by the time you got through with your medical examination and one thing and another?
A. I presume it was around there; yes, sir.

Q. And you were granted your enlistment leave from the 24th of July to the 31st of July, you recall?
A. Yes, I know it was the 31st July when I came back--the last day of the Fair--that's right.

Q. Now, when you went home on this enlistment leave, was this brother who is now serving overseas at home?
A. No, sir. He was at Rosetown, Saskatchewan, at the present time.

Q. He was working there?
A. Yes, sir.

Q. He wasn't in the Army?
A. No, not at that period of time.

Q. And your father, he was at home.....
A. Yes, sir, he was at home.

Q. .....at that time?
A. Yes, sir.

Q. And the trouble hadn't started then?
A. Pardon.

Q. The trouble hadn't started with your father in the town, other than his trouble of drinking?
A. Well, it went for a number of years, sir--his drinking--but it happened just after I got back, this trouble in Meadow Lake.

Q. Well, I mean, the first week you were home on your enlistment leave, it didn't happen then?
A. No, sir.

Q. And then you returned to your Unit, 12th District Depot, after your enlistment leave was up?
A. Yes, sir.

Q. Now, the trouble that occurred with your father then happened after you left the Unit again and were home?
A. Yes, sir.

Q. At the time of the trouble your other brother wasn't in the Army?
A. No, sir.

Q. But he was working some place?
A. Yes, he was working at Rosetown, Saskatchewan.

Q. Rosetown. The only other children are yourself and a sister who is married?
A. Yes, sir.

Q. Now, this letter that you wrote to Capt. Davies; you say you asked for an extension of your leave?
A. Yes, sir.

Q. Since the month of August, 1942, Myers, until you were apprehended did you do anything else to ascertain whether or not you had a leave--whether you were permitted to stay at home?
A. I beg your pardon.

Q. Since the 25th--since you wrote that letter to Capt. Davies.....
A. Yes, sir.

Q. .....which you said was almost right after you got home.....
A. Yes, sir.

Q. .....did you take any other steps to find out if you were doing the right thing by staying at home?
A. No, sir.

Q. You did nothing?
A. No, sir.

Q. In spite of the fact that you received no reply?
A. No, I didn't receive no reply, sir.

Q. You knew you should have received a reply?
A. Yes, sir.

Q. When did your father leave the home; the approximate month?
A. Oh, it was somewhere around in December sometime. I just forget the date. It was around the latter part of December when my father left.

Q. You told the Court that had your father returned it was your intention to come back to the Army?
A. Yes, sir.

Q. Had your father not returned, I presume you had no intention to come back?
A. Yes, I had intentions of coming back after my father had returned home to look after things at home.

Q. But while he failed to return you intended to stay at home?
A. Yes, sir.

Q. Have you heard from your father since December, 1942?
A. Yes, we had one letter from him two months ago. That is the first word of where he was; and that was received from my sister.

The Defending Officer declines to re-examine.

QUESTIONED BY THE COURT

Q. Where is your home located in reference to Meadow Lake?

A. Ten miles' west of Meadow Lake. It aint a place we are renting; it's a place we bought. It is six acres of land which we bought.

Q. Do I understand that you were at that place, at home, all the time from August 1942 until apprehended?

A. Yes, sir.

Q. Are there Mounted Police stationed at Meadow Lake?

A. Yes, sir.

Q. You say you were in bed at the time you were apprehended?

A. Yes, sir.

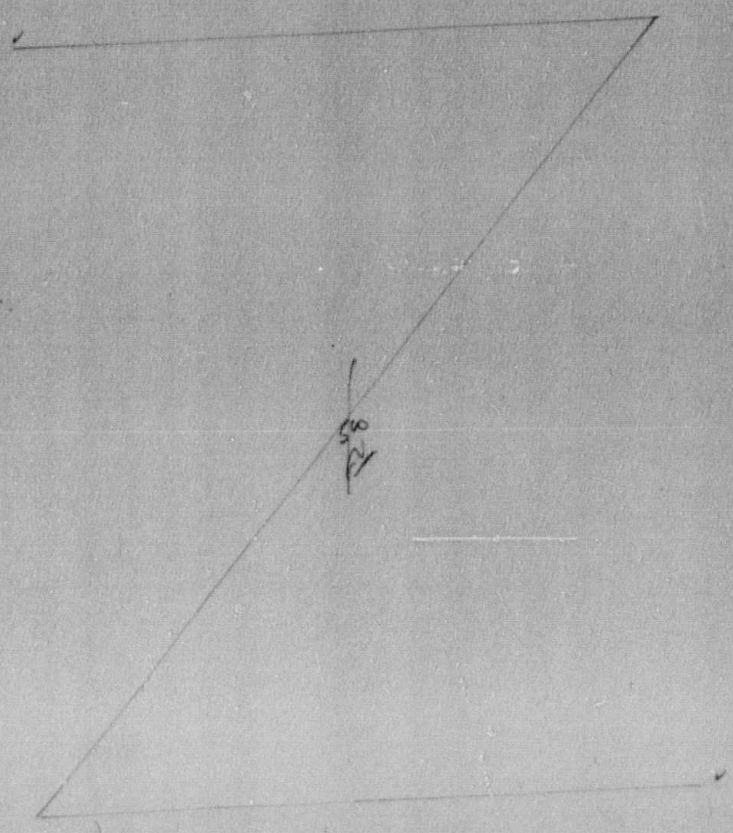
Q. Of course, you couldn't have your Army uniform on then?

A. No, sir.

The witness resumes his seat.

The Prosecutor declines to make a closing address.

The Defending Officer makes a closing address. See document marked "M" attached.



E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. No, sir.

THE COURT: Anything you wish to say, Mr. Lee?

THE DEFENDING OFFICER: I would like to enter a plea of leniency to the Court, sir, in regards to the circumstances which were found in this case, sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"G" Swarmman
President S.C.M.

23.

IN REPLY PLEASE QUOTE No. DDR 6-0-1 (legal)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Regina, Sask. 12th April, 1945.

Major S.L. Walterman, E.D.,
President Courts-Martial,
Regina, Sask.

Standing Court-Martial
L.101362 - Pte. Clarence William MYERS
No. 12 District Depot, C.A.

Lieut. E.G. Lee, No. 12 District Depot, CA, has been detailed to act as defending officer in the trial of the marginally named soldier.

A. M. Polisha Capt
for (B.A. Cooke) Lt.-Col.,
Commanding Officer,
No. 12 District Depot, C.A.

NAT. DEF. B. HQ
250M-4-44 (4507)
H.Q. 1212-38-767

"H"

S. Warriner
Major,
President, Standing Court-Martial.

MINUTE REGARDING DEFENDING OFFICER

QUESTION BY THE PRESIDENT TO THE ACCUSED

Q. There is a letter before the Court from Lieut.-Col. B. A. Cooke, Commanding Officer, 12th District Depot, stating that Lieut. E. G. Lee--this officer here on my left (indicating the Defending Officer)--has been detailed to act as your Defending Officer at this trial this morning. Is that satisfactory to you?

A. Yes, sir.

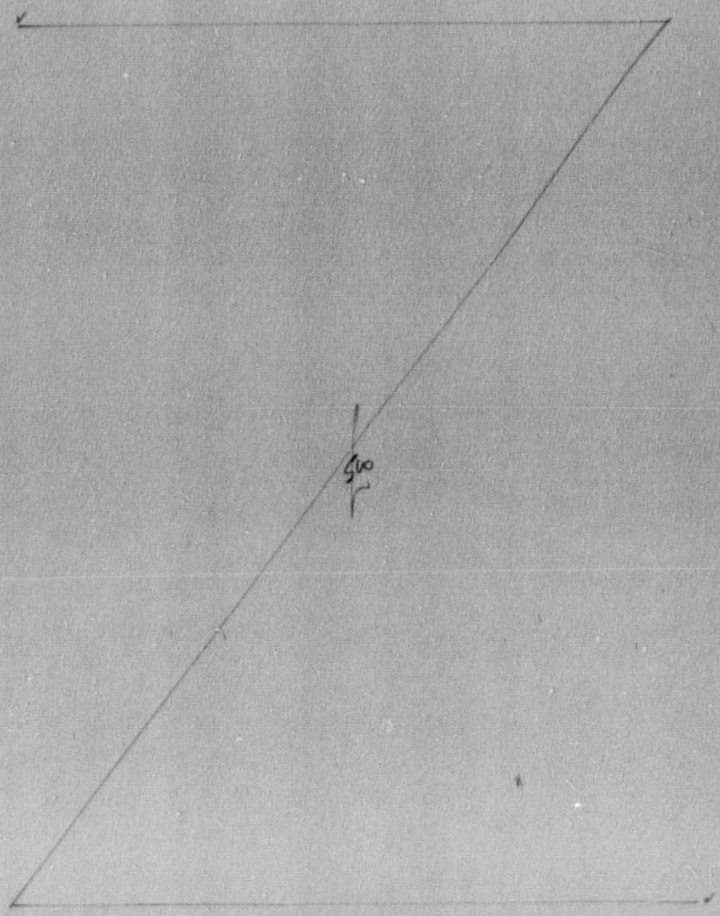


Exhibit "I" Swarmman Regn President S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at Regina, Sask. on the 23rd day of September 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L.101362 Pte. MYERS, C.W., No. 12 District Depot, C.A.

DECLARATION

The Court declare that No. L.101362 Pte. MYERS, C.W., No. 12 District Depot, C.A. illegally absented himself without leave from No. 12 District Depot, C.A. at REGINA, Sask. at 0815 hrs on the 25th day of August, 1942, that he is still so absent, and that on the 22nd September, 1942, he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES	VALUE
Battle Dress Blouse	1	2.79		
Battle Dress Trousers	1	2.80		
Boots, ankle, prs.	1	3.90		
Caps Field Service	1	.58		
Drawers Cotton Short prs.	1	1.24		
Shirt, under, cotton, prs.	1	1.30		
Socks, prs.	1	.27		
Shirts, Khaki, cotton WSS	1	1.75		
Pins, collar, safety	1	.07		
Braces, prs.	1	.27		
Brushes, shaving	1	.30		
Razor, safety sets	1	.39		
Towels, hand	1	.21		
		$15.87		

Capt. S.A. Pechey, No. 12 DD., CA. President

Lieut. C. Watt, No. 12 Recruit Depot Member

Signed at REGINA, Sask.,

Lieut. C.R. King, No. 12 DD., CA. Member

this 23rd day of September 19 42.

Signature of Commanding Officer (B.A. Cooke) Lieut.-Col., CO., #12 DD., CA.

Certified true copy J.A. Peters

(J.A. Peters) Capt. & Adjt., No. 12 District Depot, CA.

Signature of Officer having custody of original record

M.F.B. 125
A.F.B. 115
MM—5-41 (1000)
H.Q. 1772-39-227

Exhibit "J" Swarzman Map
President S.C.M.

29.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY [redacted] SERVICE AUTHORITIES)

I, Major L.A. MALLESON, Officer i/c Regina Detachment, No.43 Provost
(Number) (Rank) Company, C.Pro.C.
(Name) (Unit)

hereby certify that L.101362 Private MYERS, Clarence William
(Number) (Rank) (Name in full)

of the No. 12 District Depot, C.A. Regina, Sask.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ([redacted] L.55234 Lance Corporal
(Number) (Rank)

Donald Oscar SABINE, Regina Detachment, No.43 Provost Company, C.Pro.C.
(Name) (Unit or appointment)

at Meadow Lake District, Sask. at 0600
(Place) (Hour)

on the 22nd day of March, 1945.

Strike out words not applicable } as a [redacted] absentee without leave), and that at the time of his arrest he was [redacted] uniform (dressed in civilian clothes).

Dated at Regina, Sask. this 25th day of March, 1945.

L.A. Malleson
(L.A. Malleson), Major.
(Signature, Number, Rank, Unit or appointment)
Officer i/c Regina Detachment,
No.43 Provost Company, C.Pro.C.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3739)
H.Q. 1772-39-1936

31.

Exhibit "K" Swearing Witness President Com.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. (Rank) C.L.Stephenson (Name), No.12 District Company RCASC CA (A) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transportation for escort

Complete — to proceed from SASKATOON, SASK (Place) to NORTH BATTLEFORD, & REGINA SASK (Place) for the purpose of escorting

Full description of soldier being escorted — and return to SASKATOON, SASK (Place) MYERS, C.W. (Name in full) L/101362 (Number) Private (Rank) No.12 District Depot, Regina, Saskatchewan. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~[illegible]~~) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
23rd March 1945 M.D.No.12 Transport Warrant No.C.900672 dated 23rd March 1945 covering: One single second class fare - NORTH BATTLEFORD, SASK to REGINA, SASK - for prisoner -	4.97
23rd March 1945 M.D.No.12 Transport Warrant No.C.900674 dated 23rd March 1945 covering: One second class fare - SASKATOON, SASK to NORTH BATTLEFORD, SASK and return - for escort - L/150552 Pte. Sidebottom, J.A., #43 Provost Coy., Of which One Half is recoverable from the above Absentee, One Half of $3.70¢,.....	1.85
23rd March 1945 M.D.No.12 Transport Warrant No.C.900675 dated 23rd March 1945 covering: One second class fare - SASKATOON, SASK to REGINA, SASK and return - for escort - L/150552 Pte. Sidebottom, J.A. #43 Provost Coy ,.... Of which One Half is recoverable from the above Absentee, One Half of $6.24¢ ,.....	3.12
TOTAL	$ 9.94

Dated at Saskatoon, Sask this 23rd March 1945 A.D. 19

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~[illegible]~~) (C.L.Stephenson) Lieut.

Strike out description not applicable

Lieut. C.L.Stephenson
No.12 District Company
RCASC CA(A)
Saskatoon, Saskatchewan

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
[illegible]
M.D. [illegible]

Exhibit "L" Swarsman
Sgt. President S.C.M.

93

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(INCIDENTAL EXPENSES)

Complete description — I, L.150552 Pte. Joseph Abraham SIDEBOTTOM, Saskatoon Detachment, (No.) No.43 Provost Company, C.Pro.C. (Unit)

Strike out words not applicable — as (escort) (~~member of escort~~) consisting of L.150552 Pte. Joseph Abraham

Members of escort — SIDEBOTTOM, Saskatoon Detachment No.43 Provost Company, C.Pro.C.

detailed to proceed from Saskatoon, Sask. (Place) to North Battleford, Sask. (Place)

Name and description of soldier escorted — to return L.101362 Pte. MYERS, C.W. No. 12 District Depot, C.A.

alleged to be a deserter or absentee without leave, to Regina, Sask. (Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement		Amount
EXPENSES INCURRED BY THE R.C.M.P.		
22 March, 1945.		
Mileage police car code #8184 Meadow Lake to Meadow Lake District & return effecting arrest: 13 miles (one way) @.15¢ per mile.	1.95	
Hired Livery team, Meadow Lake District effecting arrest 8 miles (one way) @.15¢	1.20	
23 March, 1945.		
Police Car code #8184 Meadow Lake to North Battleford and return 110 miles (one way) @.15¢	16.50	
Hire of day guard	3.00	
1 Breakfast, 1 Lunch, 1 Dinner, Absentee @.41¢	1.23	
22 March, 1945.		
1 Breakfast, 1 Lunch, 1 Dinner Absentee @.41¢	1.23 ~~Hire of da~~	
Hire of day guard	3.00	
Hire of Night Guard	3.00	
24 March, 1945. 1 Breakfast, Absentee	.41	
1 Breakfast, 1 Lunch, 1 Dinner, Escort @.65¢	1.30	
	.65	
	33.47	33.47
EXPENSES INCURRED BY NO. 43 PROVOST COMPANY, C.PRO.C.		
23 March, 1945.		
1 Dinner, Escort.	1.07	
1 Room, Escort.	1.50	
24 March, 1945.		
1 Breakfast, Escort.	.51	
3 Lunches, Escort & two Absentees.	1.68	
	4.76	2.38
TO BE DIVIDED BETWEEN TWO ABSENTEES. Total		$ 35.85

Dated at Saskatoon, Sask. this 25th day of March, A.D. 1945.

J. A. Sidebottom Pte.

L.150552 Pte. J.A. Sidebottom, Saskatoon Detachment, No.43 Provost Company, C.Pro.C.

Signature and rank ~~Officer or soldier~~ of ~~O.~~ S.

Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1482
75M—2-43 (8626)
H.Q. 1772-59-1499

"M"

Major,
President, Standing Court-Martial.

CLOSING ADDRESS BY THE DEFENDING OFFICER

I wish to submit this to the Court, sir, in summarization: That the accused volunteered his services in the Canadian Army in July of 1942. Shortly after he had enlisted his father was evidently in a little trouble at home and appears, according to the accused's statements to be--shall I say--irresponsible and not capable of looking after his farm and land. So, according to the accused's statement, he throught that he should look after his mother on the farm. And he did, according to his statement, make application for leave, to which he had no reply. And shortly after he went home his father left and the accused decided to stay and look after his mother and the farm.

That is all I have, sir.

560

"Y" Guarantee man Resident S.C.A.

37.

M.F.B. 355
H.Q. 1772-39-620
10M-8-40 (M19)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or unit)~~
L.101362	Pte.	Clarence William MYERS,	No. 12 District Depot, CA

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron/Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	Nil	times	Nil	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

~~NOTE: If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a ~~court-martial or a civil court~~, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and dispensations with trial under ~~A.A. 73~~ A.F.A. 73 are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 2 days in civil custody, and 20 days in military custody, making a total of 22 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 29 years, 6 months

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 20 July, 1942

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~

10. (If the accused is a warrant officer.) ~~The accused before he was made a warrant officer last held the regimental rank of .....~~

38

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force / Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th day of April, 1945

A/Capt. J.M. Policha, Legal Officer, #12 D.D.

Officer having charge of original records, No. 12 Dist. Depot, CA

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.S.122)
750M—12-43 (7537)
H.Q. 1772-28-1652

L.101362 MYERS, Clarence William
No. Name

Sqn., Battery, or Company: 12 th Dist. Depot, C.A.A. Regina
Corps

Date of enlistment: 20-7-42
Badges: d.c.
Tradesmen's Rates of Pay:
Signature O.C. Company, etc.: E.Ingle, Capt.
Character

No. and date of last drunk:
Period not reckoning towards freedom from extra line:
Sheet No.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY
J.W. Policha
(J.W. Policha) A/Capt., Legal Officer, No. 12 District Depot, C.A.
Officer having charge of original records, No. 12 District Depot, CA.

"L" Swarsma
President. S.C.M.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. L.101362 - Pte. MYERS, C.W.

of #12 District Depot, C.A. is in a Good state of health,

and fit to undergo Trial by Court martial.

E. R. Rafuse Capt
Medical Officer
R.C.A.M.C. Att. to No. 12 District Depot, C.A.

Station Regina, Sask.,

Date 12 Apr. 45.

M. F. B. 246
DSM—10-43 (6503)
H.Q. 1772-30-480

PRECIS OF EVIDENCE

in the case of

L.101362 Pte. Clarence William MYERS, No. 12 District Depot, C.A., Regina, Saskatchewan, a G.S. soldier of the Canadian Army placed on Active Service.

CHARGE: WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

To prove the charge, the following evidence is available:

DOCUMENTARY: MFB 375
MFM 216
MFB 1481
MFB 1482

(J.M. Policha), A/Capt.,
Officer detailed to take
the Precis of Evidence,
No. 12 District Depot, CA.

HQC.55-M-1660 (JAG/D-3)
Your File R.C.1-M-541

23 Apr 45

District Officer Commanding,
Military District No. 12,
REGINA, Sask.

STANDING COURT-MARTIAL

L.101362 - Pte. Clarence William MYERS
No. 12 D.D., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

EMC/AB

(R.J. Orde), Brigadier,
Judge Advocate-General.

THIS COPY FOR H.Q. C.55-M-1660
M.D. R.C.1-M-541

G.S.

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. L.101362 Name MYERS, Clarence William

Rank Pte Unit No. 12 D.D. C.A.

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 25-8-42

Date of Arrest 22-3-45 Charge Signed 10-4-45

Orders for D.C.M.

Place and Date of Trial The Armoury Regina Sask 12-4-45

Sentence Det 6 mos; stoppages $45.79

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36865

Date 19-4-45

MEMO

M.D. 12 - No. 12 D.D.

Absent	Sentence
2 yrs 7 mos	Det 6 mos

for Judge Advocate-General

10M-1-45 (M-4629)

23 April 1945

Passed - no unusual notes

PEG

IN REPLY PLEASE QUOTE
No. R.C. 1-M-541

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 13 April, 1945.

VIA AIRMAIL

CONFIDENTIAL

C 55-M-1660

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

L.101362 - Pte. Clarence William MYERS
No. 12 District Depot, C.A.

1. Pursuant to the provisions of paragraph 39 of C.A.R.O. 4366, I enclose herewith proceedings of the Standing Court-Martial held in connection with the marginally named soldier.

S.I. Waterman

(S.I. Waterman), Major,
President, Courts-Martial, M.D. 12.

Encl. 36865

N.D. 23
3000M—10-44 (5769)
H.Q. 1773-101-23

H.Q.C. 55-M-1661

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS-REFERENCE

SUBJECT

STANDING COURT-MARTIAL-

MILLER. ANTHONY RALPH L.606732 RFN.

CONFIDENTIAL
H.Q.C. 55-M-1661

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				J. A. G.	NEW FILE	C.R.	APR 16 1945
	23/4/45			S.C.M	Per request, pls return	E.H.M	24/4/45
APR 24 1945							
APR 27 1945							
APR 30 1945	24/4/45	P.A.		S.C.M.			24/4/45
				J.A.G.	APR 28 1945		
MAY 1 1945							
MAY 14 1945				Jam	To note Bl.		11-5-45
MAY 28 1945	1/4/45			Jam	PER B.F. MAY 23 1945		
JUN 12 1945				LCM	PER B.F. JUN 12 1945		
JUN 25 1945	7/4/45			L.C.M.	PER B.F. JUN 26 1945		
				J.A.G.			
OCT 4 - 1945							
OCT 6 - 1945				CMBR	Instructions & Kim	JJ	3-10-45
OCT 5 - 1945	6/10/45	P.A.		ICM	To file		5 Oct 45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-M-1661 (JAG/D-5)

3 October, 1945.

District Officer Commanding,
Military District No. 6
Halifax, N. S.

L-606732 Rfn. A.R. Miller

Receipt is acknowledged of your H. M-4414 (JAG) dated 27 Sept 45, under cover of which you forwarded to this Headquarters MFM 288 in connection with the m/n soldier.

E.L.M.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

LCC:jb

IN REPLY PLEASE QUOTE
No. H. M-4414 (JAG)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CANADA

CONFIDENTIAL

Headquarters, M. D. No. 6,
Halifax, N. S., 27 Sep 45. 194

495
OCT 2 1945
File 8-M-1661
Chgd. to
Referred to

Secretary,
Department of National Defence,
Ottawa, Ontario.

L-606732 Rfn. A.R. Miller

M.F.M. 288 in respect to the m/n soldier is forwarded herewith, completed in Part VI.

2. This Form was received under cover of M.D.12 letter R.1-M-2075(AJAG) dated 13 Sept 45.

3. This soldier was released from No. 70 M.D.B., Debert, N.S. to No. 2 Transit Camp, Debert, N.S., on the 11th Aug 45.

(J.C.Stewart) Brigadier,
D. O. C., M. D. No. 6.

not allowed on 14 Oct 45

N.D. 23
3000M—10-44 (3769)
H.Q. 1772-101-23

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of L.606732 (Number) Rfn. (Rank) Anthony Ralph MILLER (Name in full)

No. 12 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to Undergo detention for six months. Stoppages: $15.24.

on 12th day of April, 1945. at Regina, Saskatchewan.

being served at No. 79 Military Detention Barracks, Regina, Sask. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 years, 8 months. 12th August, 1942.

Medical grade or category 20-1-1-1-1-1-1.

FIRST TRIAL—PART II

To Adjutant-General, Department of National Defence, Ottawa, Ont. (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be (suspended) (~~put into execution) (reviewed~~ on ..... (date)) for reasons given in paragraph X.

Place Regina, Sask.,

Date 5th May, 1945.

(Confirming Authority)
(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offence, see parts VIII. For C.O.'s remarks, see parts XII.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 283
(Army Form A-3506)
25M—6-43 (1604)
H.Q. 1772-35-2975

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
27 Sep 45.	Released from #70 MDB 11th Aug 45 on completion of sentence.	(J.C.Stewart)Brig., D. O. C., M.D.No.6.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE - Not guilty of desertion, but guilty of A.W.L. AWL from 0600 hrs 28 Dec 44, until apprehended at Glidden Dist., Sask., at 1210 hrs 26 Mar 45, by the Civil Power, dressed in plain clothes, cost of apprehension & return to Unit being, $15.24.	28 Dec 44	12 Apr 45

B A Cooke
Signature of Officer making entry
(B.A. Cooke) Lt.-Col.,
Commanding Officer,
No. 12 Dist. Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
4th May, 1945.	That consideration be given to early dispatch overseas, with remission of sentence after embarkation.	B A Cooke (B.A. Cooke) Lt.-Col., Commanding Officer No. 12 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
5th May, 1945.	Recommend that soldier be despatched overseas under suspended sentence in accordance with para. 6A radio Rank 6253.	(G.A.H. Trudeau), Brigadier, D.O.C., M.D. No. 12.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

HQC 55-M-1661 (ICM)

MENQ Ottawa, Ont

~~31 Jul 45~~ 1945

CONFIDENTIAL
C.M.

~~District Officer Commanding,~~

~~Military District No. 12,~~

~~REGINA, SASK.~~

~~L.606732 Rfn. MILLER, A. R.~~

Ref 1-M-2075

2. Enclosed herewith:-

(a) MFM 288

(b) most recent report on conduct.

[redacted]

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for J. B. Gordon Capt
(A E Walford)
Major-General
Adjutant-General

HQC.55-M-1661 (JAG/D)

12

11 May 45

District Officer Commanding,
Military District No. 12,
REGINA, Sask.

Standing Court-Martial
L.606732 - Rfn. Anthony Ralph MILLER
No. 12 D.D., C.A.

Receipt is acknowledged of your R.C.1-M-2075 (AJAG) dated 5th May, 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial., together with M.F.M. 288.

E.F.M.
Capt.

/AB

for (R.J. Orde), Brigadier,
Judge Advocate-General.

L.H. CLAYTON
Lieut.-Colonel,
Director of Courts-Martial
MAY 12 1945

IN REPLY PLEASE QUOTE No. R.C.1-M-2075(AJAG).

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Regina, Sask., 5th May, 1945.

312919

CENTRAL REGISTRY Army
CONFIDENTIAL
MAY 9 1945
File C 55-M-1661
Chgd. to
Referred to JAG

CONFIDENTIAL

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
L.606732 - Rfn. Anthony Ralph MILLER
No. 12 District Depot, C.A.

Reference H.Q.C.55-M-1661 (JAG/D-3) dated 26 April, 1945, forwarding proceedings of the marginally noted Standing Court-Martial pursuant to C.A.R.O. 4565(12).

2. M.F.M. 288 has been completed in this case and is enclosed herewith, together with the proceedings.

(G.A.H. Trudeau),
Brigadier,
D.Q.C., M.D. No. 12.

Att:

NAT. DEF. 8. 440
250106-4-44 (4521)
H.Q. 1772-39-787

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armoury, Regina, Sask.,

on the 12th day of April, 1945, at 1500 hours,

for the trial of: L.606732 Rfn. Anthony Ralph MILLER,
Number Rank Full Name

No. 12 District Depot, C.A.
Unit Attachment, if any

PRESIDENT Major S.L. Waterman, E.D., President Courts-Martial, M.D. 12.

PROSECUTOR Capt. P.W. McMeans, Prosecutor Courts-Martial, M.D. 12.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ ~~OR~~ DEFENDING OFFICER: Lieut. D.J. Sheridan, No. 12 District Depot, C.A.
(See documents marked "G" and "H" attached.)
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, L.606732 Rfn. Anthony Ralph MILLER, No. 12 District Depot, C.A., is not guilty of desertion but is guilty of absence without leave.

SENTENCE: The Court sentence the accused, L.606732 Rfn. Anthony Ralph MILLER, No. 12 District Depot, C.A., to undergo detention for six months and to be put under stoppages of pay until he has made good the sum of $15.24 in respect of the cost of apprehension and return to his Unit.

Signed at Regina, Sask., this 12th day of April, 1945.

S. Waterman
Major,
President,
Standing Court-Martial.

M.F.B. 1436
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered in the Record of Proceedings kept in the office of the Judge Advocate-General this 19 day of Apr. 1945
36863

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter ?~~

Answer:

Question to the accused. Do you object to L-25640 SM (A/W.O.I) W.H. Matthews, H.Q. M.D. 12 (CMSC Sub-Staff), as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial ?~~

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

~~(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B2" Swarsman Maj
President SCM

5.

CHARGE SHEET

The accused, L.606732 Rfn. Anthony Ralph MILLER, No. 12 District Depot CA, Regina, Saskatchewan, a NRMA soldier of the Canadian Army placed on Active Service is charged with:

CHARGE
Section 12 (1) (a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE,

in that he

at London, Ontario, at 0600 hours on the 28th December, 1944, absented himself from the 1st Battalion Oxford Rifles until apprehended at Glidden District, Saskatchewan, at 1210 hours on the 26th March, 1945, by the Civil Power, dressed in plain clothes, the cost of apprehension and return to Unit being, $15.24.

J. G. Young
Major J.G. Young, M.C.,
Officer Commanding,
No. 12 District Depot, C.A. Regina.

10th April, 1945,
Regina, Saskatchewan.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor declines to make an opening address.

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

being duly sworn, is examined by the Prosecutor.

Question

THE PROSECUTOR: I produce Daily Part II Order No. 19, 1st Bn. Oxford Rifles; M.F.M. 215; M.F.B. 1481; and M.F.B. 1482.

THE COURT: Have you any objection to the Part II Order?

THE DEFENDING OFFICER: No objection, sir.

THE COURT: I presume this Daily Orders Part II of the Oxford Rifles is being submitted under C.A.R.O. 5126?

THE PROSECUTOR: Yes, sir.

THE COURT: That Order states in paragraph 1: "For the purposes of Section 163 of the Army Act the following books, orders and documents, or certified copies thereof, or certified extracts therefrom, filed with and kept by any unit..." etc. "...shall be deemed to be regimental books...", and I think under that Order this document is properly admissible, despite the previous ruling on page 109 of the Digest of Opinions and Rulings which states: "They (Part I and Part II Orders) should be put in through copies certified by the officer having charge of the books of the Unit, who should offer his true signature, not a mimeographed one." It would seem that the purpose of C.A.R.O. 5126 is to simplify the production of documents for the purpose of evidence as constituting prima facie evidence of the facts thereby stated, and that such facts refer to the person charged. As this document clearly purports to be Part II Order No. 12 of the 1st Bn. Oxford Rifles, dated 28th December, 1944, the same is admitted as an exhibit.

Part II Order No. 19 is read and marked Exhibit "I" signed by the President and attached to the proceedings.

THE COURT: Have you any objection to M.F.M. 215?

THE DEFENDING OFFICER: No objection, sir.

M.F.M. 215 is read and marked Exhibit "J", signed by the President and attached to the proceedings.

THE COURT: Have you any objection to M.F.B. 1481?

THE DEFENDING OFFICER: Yes, sir. Although it is signed by this Stephenson, it doesn't show his appointment, except for the fact that he is a member of No. 12 District Company, R.C.A.S.C., but not every officer in 12th District Company has the authority, or is entitled to sign 1481; only those who happen to be D.S. & T.O., A.D.S. & T.O., C.S. & T.O., or A.C.S. & T.O.

THE COURT: You will notice in the Handbook on District Courts-Martial, under "Evidence" on page 63(c)--page 23 of the amendment--dealing with M.F.B. 1481, paragraph (4) states: "The officer signing M.F.B. 1481 must be the same as the one referred to in line one of said form"--that part is all right--"and should set out his rank"--his rank is set out--"his unit"--his unit is set out--"attachment (if any) and appointment." And it is in respect to that part the Defence is objecting. The document does not set out the appointment of the officer signing the transport warrants. Have you anything to say on that, Capt. McMeans?

THE PROSECUTOR: Sir, in paragraph (2) on the same page, the mandatory portion of the regulation states: "The form must be signed by the officer who actually issued or authorized the issuance of the transport warrants..... It may not be signed by another officer "for" such officer." It is particularly submitted that the word "must" is used in paragraph (2) and that in paragraph (4) it should be noted the word "should" is used. It says again, "...must be the same as the one referred to in line one" as has already been read, " and should set out his rank, unit, attachment (if any) and appointment."

It is respectfully submitted, sir, that on the face of the document this is a substantial compliance with the regulations, particularly since an officer of No. 12 R.C.A.S.C. Company of M.D. 12 can reasonably be inferred to be an officer having authority to issue such transportation. It is open to the Defence, once the document has been accepted as prima facie evidence, to dispute the fact that this officer was not an officer authorized to issue the warrant.

Again, if any sensible broadening of the powers that permitted production of documentary evidence is to be taken from C.A.R.O. 5126, surely under paragraph (2), sub-paragraph (iv): "Documentary evidence of the expenses incurred in apprehension and return of an absentee or deserter as made admissible by law shall, on production thereof, in any proceedings.....be admissible in evidence in proof of the facts thereby stated, without further verification of such facts, or the necessity of their production through a witness" etc.

It is not the intention of the Prosecution to produce, on the strength of this Routine Order, loosely and carelessly drawn documents. It would certainly not be in the interests of justice to do so. Nevertheless, the Prosecution does not desire, for the sake of a formality, to have an accused languish for a further period of time awaiting his trial, if the document in the first instance is prima facie and admissible. Sir.

THE COURT: We are dealing here actually with something in the nature of a statutory requirement. That is what we are debating on the form, and you will note in the authority the Prosecutor quoted, sub-paragraph (iv) of (2), C.A.R.O. 5126: "Documentary evidence of the expenses incurred in apprehension.....as made admissible by law." That is a prior requirement before you can go on to "shall, on production thereof" etc. That is, the requirement is that the document submitted must be made admissible by law before you can discuss the question of producing it at all and having it accepted. So, it hinges on the point as to whether the omission to state the signing officer's appointment makes this document inadmissible. That is what it boils down to.

In the governing instructions in the Handbook on District Courts-Martial, page 23 of the amendments, on this type of document paragraph (4) does state the officer signing must be the same as the one in line one, and as stated before that is complied with here. And it goes on, "...and should set out his rank, unit, attachment (if any) and appointment." It goes on further in the next sentence, "He should also strike out and initial the inapplicable words underneath his signature." I think the interpretation of the word "should" there is that that should be done to comply with the requirement on the form.

THE PROSECUTOR: May the Prosecution suggest, sir: Why the change from "must" to "should" in the same paragraph?

THE COURT: I am just trying to put the Court's interpretation on it. I must take note of this because, supposing the rank and unit had been left out, it would not be complying with the requirements of the form. And then, the Defence has properly raised the question as to whether the omission to put the appointmentin, which is one of those requirements, is fatal or not. However, there is a footnote on the form itself and it only states: "Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return.....etc.", and as the Court does not feel like ruling that the omission to state the appointment is fatal, the document will be admitted subject to the objection of the Defending Officer.

M.F.B. 1481 is read and marked Exhibit "K", signed by the President and attached to the proceedings.

THE COURT: Any objection to the M.F.B. 1482?

THE DEFENDING OFFICER: No objection, sir.

M.F.B. 1482 is read and marked Exhibit "L", signed by the President and attached to the proceedings.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I will take the evidence, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

FIRST WITNESS FOR THE DEFENCE:

The accused, L.606732 Rfn. Anthony Ralph MILLER, No. 12 District Depot, C.A., being duly sworn, is examined by the Defending Officer.

Q. Will you give the Court your correct regimental number, rank, name and unit?
A. L.606732 Pte. Miller, A.R.

Q. You were granted leave last December sometime to go where?
A. To go home.

Q. Where is "home"?
A. Glidden, Saskatchewan.

Q. Now, will you tell the Court what happened after you arrived at home?
A. Yes, sir. After I got home my dad he took an operation on hemorrhoids and my brother was left on the farm by himself. So he had too much stock to take care of at the time so I stayed to help him until.....

Q. You state that you stayed and helped him, until when?
A. Until all the work was over and.....

Q. Which would be about how long a period of time?
A. About..... Well, it was about three months.

Q. And what were your intentions after you had helped your brother on the farm, after this three-month period had elapsed?
A. My intentions were coming back here to the Army afterwards.

Q. Afterwards?
A. Yes, sir.

Q. When were you first called up as a N.R.M.A. or a H.D. soldier?
A. The 12th of August 1944--1942.

Q. 1942?
A. 1942.

Q. Now, will you trace--just give us some of your history whilst in the Army?
A. Yes, sir. Well, I was in Regina here for about a month and then I was drafted out to Victoria to take my basic and advanced. I did four weeks of basic and advanced training. After I had that I went to Vancouver--Point Grey Barracks at Vancouver. After about eight months I was promoted to Lance Bombardier. After--a year or so after when I was transferred or drafted to infantry, the Oxford Rifles.....

Q. What year would that be?
A. That was in 1944. It was either the end of August or beginning of September. I was in the infantry for about five weeks and I was promoted to Corporal again. And on the 24th of December I was given this leave and went home.

Q. What language do your parents speak?

A. German. They come from Russia but speak German. They come from a German settlement in Russia.

Q. Have you any relatives in the German Army?
A. Yes, sir, I have.

CROSS-EXAMINED BY THE PROSECUTOR

Q. Rfn. Miller, you admit then that you were absent from your Unit, 1st Bn. Oxford Rifles, then stationed at London, Ontario, from 0600 hours the 28th December 1944, without a leave?
A. Yes, sir.

Q. And that you remained so absent until you were apprehended by the civil power at 1210 hours on the 26th March 1945 at Glidden District, Saskatchewan?
A. What do you mean by civil power, sir?

Q. Mounted Police?
A. Right, sir.

Q. You were dressed in plain clothes at the time?
A. I had my Army boots on, underwear and my winter melton cap.

Q. Your winter melton cap?
A. Right.

Q. What else did you have on?
A. That's all I had on.

Q. You walked around in boots and cap and underwear?
A. I had civilian pants, yes.

Q. Both your parents are living?
A. Yes, sir.

Q. You have two brothers?
A. Yes, sir.

Q. And three sisters?
A. Right.

Q. I show you a document. Is that your signature?
A. Yes, sir, that is.

Q. Do you know what that document is?
A. No, sir, I don't.

Q. Well, try and refresh your memory. Do you remember the 9th December 1944 at Nanaimo, B.C.?
A. Yes, sir. I was there.

Q. You were there?
A. Right.

Q. You were paraded that day with the rest of the troops?
A. Yes, sir.

Q. What is the heading on this document?
A. Warning Order.

Q. Warning Order?
A. Right.

Q. Now, does that refresh your memory any?
A. Well, all we did that day was sign. We signed papers that day. We didn't know what we were signing.

Q. You didn't know what you were signing?
A. No, I didn't.

Q. Were you told on parade what you were signing?
A. No, sir.

Q. And, having been a Corporal, you didn't know what you were signing that day?
A. No, sir. We were rushed through the orders one right after another; and all they told us was "Sign" and we would get through.

Q. Did you know what you were signing for?
A. No, sir.

Q. Did you know what was going on that day?
A. I don't remember, sir.

Q. What sort of leave did you think you got to go home?
A. I didn't know what the leave was for at all.

Q. You didn't know what the leave was for?
A. No.

The Prosecutor tenders the warning order as an exhibit.

The Defending Officer has no objection to the document.

The warning order is read and marked Exhibit "M", signed by the President and attached to the proceedings.

Q. Where were you supposed to report after your leave was over?
A. London, Ontario.

The Defending Officer declines to re-examine.

The witness resumes his seat.

The Prosecutor declines to make a closing address.

The Defending Officer makes a closing address. See document marked "N" attached.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, through my Defending Officer.

THE DEFENDING OFFICER: Sir: In my plea for mitigation of sentence I would like to bring to the attention of the Court the exceptionally good military record of the accused since enrolment in the H.D. Army. Not only is his Conduct Sheet clear of any entries, but this soldier was for sometime a Lance Bombardier in his original unit, the Artillery, then was reverted in order to transfer to the Infantry. And shortly after being taken on strength of an Infantry unit his superior officers there thought that he had enough on the ball to warrant being promoted to the rank of Corporal; which means that Miller was a Lance Bombardier in the Artillery and a Corporal in the Infantry. That is all, sir..

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"G" Swarman President S.C.M.

23

IN REPLY PLEASE QUOTE No. DDR 6-0-1 (legal)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Regina, Sask. 12th April, 1945.

Major S.L. Walterman, E.D.,
President Courts-Martial,
Regina, Sask.

Standing Court-Martial
L.600732 - Rfmn. Anthony Ralph MILLER
No. 12 District Depot, C.A.

Lieut.D.J. Sheridan, No. 12 District Depot CA, has been detailed to act as defending officer at the trial of the marginally named soldier.

for (B.A. Cooke) Lt.-Col.,
Commanding Officer,
No. 12 District Depot, C.A.

NAT. DEF. B. ARO
150,000-4-45 (4221)
H.Q. 1272-39-752

"H"

S. Warman
Major,
President, Standing Court-Martial.

MINUTE REGARDING DEFENDING OFFICER

QUESTION BY THE PRESIDENT TO THE ACCUSED

Q. There is a letter before the Court (document marked "G") from Lieut.-Col. B. A. Cooke, Commanding Officer of No. 12 District Depot, stating that Lieut. D. J. Sheridan--that is this officer here (indicating the Defending Officer)--has been detailed to act as your Defending Officer at this trial today. Is that satisfactory to you?

A. Yes, sir.

Exhibit "I" Swarming mats President S.C.M.

27

DAILY ORDERS PART II

Issued by

LT-COL. E. ELLIOTT M.C.
Officer Commanding

1 BN OXFORD RIFLES C.A.

ORDER NO. 19
28 DEC 44
LONDON, Ontario

(Last Order Issued No. 18 d/27 Dec 44)

"A" - OFFICERS

N I L

"B" - OTHER RANKS

1. ABSENT WITHOUT LEAVE

(a) A.W.L. from 0600 hrs 27 DEC 44

A-604842	Rfn	BIELAK.	H.W.
A-601076	Rfn	BRINKERT.	W.J.
A-607026	Rfn	DEACON.	J.I.
A-551308	Rfn	FEDY.	N.A.
A-604810	Rfn	HAMARA.	W.
A-606860	Rfn	KING.	A.A.
A-610318	Rfn.	LAMBIER.	L.L.
A-607055	Rfn	LAND.	E.R.
A-610416	Rfn(A/L/Sgt)	LAUB.	J.
A-610324	Rfn(L/Cpl)	LOCKHART.	A.E.
A-608245	Rfn	MARIANYCH.	W.
A-610227	Rfn	MOORE.	C.G.
A-604149	Rfn	MOORE.	L.V.
A-610344	Rfn(U/L/Cpl)	PERRAULT.	L.J.
A-451689	Rfn	RICE.	J.C.
A-607957	Rfn	ROY.	R.J.
A-607067	Rfn	VICKERD.	W.J.

(b) A.W.L. from 0600 hrs 27 DEC 44

B-606643	Rfn	ALBANESE.	M.J.
B-629889	Rfn	A[illegible]K.	J.
B-633162	Rfn.	A[illegible]DERSON.	M.
B-632207	Rfn	BALYCH.	D.B.
B-123592	Rfn	BERNIER.	J.P.
B-601748	Rfn	BONAZZA.	W.J.
B-602385	Rfn	BONNALLIE.	J.L.
B-622216	Rfn	BUTKOVICH.	S.
B-621144	Rfn	CAMPBELL.	J.R.
B-498325	Rfn	CONFORTI.	D.
B-631041	Rfn	COSTA.	E.
B-634247	Rfn	CROCCO.	A.B.
B-621145	Rfn	DAVIES.	H.E.
B-631672	Rfn	DeCAPRIO.	J.A.
B-612276	Rfn	DELICH.	M.
B-602462	Rfn	DESSON.	W.P.
B-624752	Rfn	DICASA.	F.

fs.

1. ABSENT WITHOUT LEAVE (Cont'd)

B-548055	Rfn	DICKEY.	E.	
B-627727	Rfn	DOLISZNY.	B.W.	
A-600175	Rfn	D HAM.	F.R.	
B-631291	Rfn	FEDOROVITCH.	M.	
B-624174	Rfn	FIORAMANTI.	J.S.	
B-626827	Rfn	FULOP.	F.	
B-528587	Rfn	GIANGUALANO.	S.	
B-528771	Pte	GRASSI.	D.	(RCASC)
B-558301	Rfn	GULLA.	W.	
B-632279	Rfn	HALLIKAINEN.	R.N.	
B-630475	Rfn	HOFFMAN.	M.	
B-632467	Rfn	JASON.	J.J.	
B-631645	Rfn	JONKE.	F.	
B-602214	Rfn	KOWALSKY.	E.	
B-628398	Rfn	KUSMIRSKI.	T.	
B-632287	Rfn(L/Cpl)	LASOVICH.	J.	
B-622611	Rfn.	LEHIKOINEN.	T.A.	
B-632245	Rfn	LYPCHUK.	M.	
B-448276	Rfn	MacDONALD.	L.	
B-630362	Rfn	MATAIJA.	T.J.	
B-630430	Rfn	McDONALD.	C.J.	
B-630497	Rfn	MELENCHENKO.	N.	
B-630533	Rfn	MICELI.	R.	
B-625746	Rfn	MILLS.	W.A.	
B-612291	Rfn(A/Cpl)	MISKIMINS.	L.S.	
B-632166	Rfn	MORELLO.	J.A.	
B-621522	Pte	MORIN.	E.	(RCASC)
B-632615	Rfn	NELSON.	O.E.B.	
B-633500	Rfn	NEWSON.	H.C.	
B-602103	Rfn	OSBORNE.	J.G.	
B-633815	Rfn	PATTERSON.	E.W.	
B-629585	Rfn	P WLUK.	F.	
B-632537	Rfn	P DIRZ.	F.J.	
B-630652	Rfn(L/Cpl)	PIDSODNY.	P.	
B-632530	Rfn	PIORCZYNSKI.	T.	
B-612336	Rfn(A/Cpl)	PRITCHARD.	H.W.	
B-627610	Rfn	PROCHER.	E.M.	
B-630524	Rfn	REMONDE.	J.	
B-448840	Pte	SAVARD.	A.L.	(RCASC)
B-630635	Rfn	SCHULTZ.	J.H.	
B-634909	Rfn	SHERMAN.	M.N.	
B-622453	Rfn	SIBBICK.	W.A.	
B-630717	Rfn	STOYANOFF.	C.	
B-600687	Rfn	TOFFOLI.	J.	
B-625065	Rfn	TRBOVICH.	D.	
B-626138	Rfn	TROCHIMCHUK.	W.	
B-633809	Rfn	WALTERS.	N.H.	
B-625336	Rfn	WATSON.	A.R.	
B-624215	Rfn	WILLOUGHBY.	D.	
B-630757	Rfn	YACOBINO.	D.M.	
B-633784	Rfn	ZELINKA.	J.J.	

G.

1. ABSENT WITHOUT LEAVE (Cont'd)

(c) A.W.L. from 0600 hrs 28 DEC 44

H-606856	Rfn	ADAMS.	W.A.
H-606697	Rfn	AMEDEO.	F.
H-614456	Rfn	ANDERSON.	W.F.
H-606703	Rfn	BELBAS.	N.
H-605596	Rfn	BODNER.	W.
H-616647	Rfn	CHAMPAGNE.	G.J.
H-616843	Rfn	COMEAU.	J.G.
H-613615	Rfn	COOKE.	H.
H-602498	Rfn	CORRIGAL.	E.C.
H-615676	Rfn	COULOMBE.	E.
H-606712	Rfn	CROOKS.	A.
H-614820	Rfn	DEDA.	P.
H-617047	Rfn	DIUK.	E.
H-613339	Rfn	DUCHNICKI.	P.P.
H-617031	Rfn	DYCK.	J.
H-617725	Rfn	FINGAS.	E.W.
H-616848	Rfn	FINNEY.	D.
H-602274	Rfn	FROBISHER.	R.
H-616143	Rfn	FUZ.	M.
H-615094	Rfn	GLOCK.	J.
H-540214	Rfn	GOMBOLA.	S.J.
H-617468	Rfn	GROUCH.	F.
H-540066	Rfn	GRUEN.	H.
H-601549	Pte	GUNNARSON.	J.A. (RCASC)
H-613384	Rfn	GUNTHER.	D.
H-613808	Rfn	HAGER.	W.
H-615558	Rfn	HANDZIUK.	W.
H-601882	Rfn	HENKEL.	B.R.
H-615663	Rfn	HERSACK.	S.
H-616762	Rfn	HNYDYSHYN.	W.
H-617523	Rfn	HOTA.	R.
H-541324	Rfn	KANNEGIESSER.	A.
H-43556	Rfn	KILFOYLE.	R.J.
H-540428	Rfn	KIVINEN.	A.W.
H-616690	Rfn	KIZLIK.	P.
H-530858	Rfn	KUCHMA.	P.
H-614019	Rfn	KOHUT.	J.
H-606724	Rfn	KOZAK.	N.
H-540923	Rfn	KUC.	M.
H-613776	Rfn	KUDELSKI.	P.
H-614979	Rfn	KULCHYCKI.	S.
H-601322	Rfn	JAKUBOWSKI.	J.T.
H-600502	Rfn	JOHNSON.	H.M.
H-615323	Rfn	LANGNER.	G.W.
H-613236	Rfn	LAMBOURNE.	C.
H-530930	Rfn	LEBEDOWICK.	W.
H-600679	Rfn	LECUYER.	L.
H-616925	Rfn	LENKEWICH.	J.
H-602329	Rfn	LUKWECKI.	P.
H-601032	Rfn	LUY.	J.
H-614403	Rfn	LYCHOWIT.	J.

ls/

1. ABSENT WITHOUT LEAVE (Cont'd)

H-605887	Rfn	McDONALD.	N.M.
H-615111	Rfn	MADER.	C.M.
H-605132	Rfn	MARCON.	M.
H-617103	Rfn	MAZZIE.	N.
H-616148	Rfn	MELLISH.	H.J.
H-614381	Rfn	MOLLY.	P.J.
H-610116	Rfn	MOROZ.	E.
H-601015	Rfn	NAHIRNY.	S.
H-613749	Rfn	NYKOLUK.	M.
H-605583	Rfn	OLSON.	A.G.
H-530824	Rfn	OSHUST.	M.
H-605949	Rfn	PARTANEN.	U.
H-601200	Rfn	PAWLUK.	D.D.
H-615214	Rfn	PELTIER.	W.
H-615202	Rfn	PETROVITCH.	J.E.
H-511310	Rfn	PIHULAK.	A.
H-613506	Rfn	POLLOWAY.	A.E.
H-600046	Rfn	PROCEVIAT.	F.
H-615217	Rfn	PROVENSKI.	K.
H-613602	Rfn	PRZEDNOWEK.	A.W.
H-613566	Rfn	RECKSIEDLER.	E.A.
H-614312	Rfn(L/Cpl)	RIPCO.	M.
H-501250	Rfn	RYBAK.	P.
H-541141	Rfn	SALO.	F.J.
H-616930	Rfn	SAGNES.	J.E.
H-615233	Rfn	SCHMIDT.	J.
H-617446	Rfn	SCHYKULSKI.	S.
H-615234	Rfn	SEMINIUK.	P.
H-617707	Rfn	SHAKOTKO.	P.
H-613362	Rfn	STARODOM.	M.
H-613489	Rfn	SUDEYKO.	H.
H-602765	Rfn(L/Cpl)	SUL.	J.
H-606387	Rfn(A/Cpl)	SUOMU.	A.A.
H-613365	Rfn	SUS.	N.
H-501403	Rfn	SYROWAY.	M.
H-613499	Rfn	UNRAU.	D.
H-617343	Rfn	WACH.	M.
H-615259	Rfn	WALKO.	G.A.
H-606644	Rfn	WARFULA.	R.J.
H-614783	Rfn	WEAVER.	R.J.
H-540549	Rfn	WENSTROM.	C.G.
H-613369	Rfn	YAKABOWSKY.	S.
H-606402	Rfn	YAREMA.	S.
H-616532	Rfn	ZELISKO.	F.
H-606403	Rfn	ZUNI.	V.
H-521248	Rfn	ZUBA.	W.

(d) A.W.L. from 0600 hrs 28 DEC 44

K-606044	Rfn	ANSELMO.	T.A.
K-602019	Rfn	BARRON.	L.W.
K-548967	Rfn	BIANCHIN.	G.
K-601565	Rfn	BIANCHIN.	J.

/50

ABSENT WITHOUT LEAVE (Cont'd)

(d)

K-603784	Rfn	BILODEAU.	A.	
K-607480	Rfn	BROWN.	D.	
K-604647	Rfn	CANAL.	H.	
K-603416	Rfn	CARON.	J.J.	
K-604617	Rfn	COYNE.	J.R.	
K-605523	Rfn	DETTERBECK.	J.	
K-602078	Rfn	DIDIER.	S.D.	
K-602080	Rfn	DIXON.	E.	
K-601315	Rfn	DREYER.	H.J.	
K-601778	Rfn	DUNIEC.	J.	
K-603803	Rfn	ELUIK.	G.	
K-573546	Rfn	EWAN.	D.P.	
K-4889	Rfn	FEENEY.	N.	
K-601338	Rfn	FERRARO.	E.	
K-4895	Rfn	FILLMORE.	K.L.	
K-607477	Rfn	FLAVELL.	A.J.	
K-574501	Rfn	FLELLO.	W.H.	
K-608257	Rfn	GROUNDS.	H.	
K-602705	Rfn	GYURKOVITS.	L.	
K-608206	Rfn	HATLEVIK.	S.M.N.	
K-604979	Rfn	HELMAN.	G.F.	
K-606720	Rfn	HUTH.	T.	
K-602158	Rfn	KARDOS.	M.J.	
K-602440	Rfn	KELSALL.	J.B.	
K-604568	Rfn	KLUB.	W.	
K-604395	Pte	KOSHIL.	R.	(RCASC)
K-605096	Rfn	KRULITSKI.	F.	
K-604666	Rfn	LAHTINEN.	T.V.	
K-602655	Rfn	LEIB.	S.	
K-607455	Rfn	MacDONALD.	D.I.	
K-604792	Rfn	McINTOSH.	S.W.	
K-603806	Rfn	McKILLIGAN.	M.W.	
K-600239	Rfn	MAHY.	M.	
K-573926	Rfn	MANUEL.	E.E.	
K-605612	Rfn	MARCELLIN.	L.	
K-608325	Rfn	MORFEY.	M.H.	
K-606280	Rfn	MIHALCHEON.	W.	
K-604770	Rfn	MUDRY.	J.H.	
K-606237	Rfn	MURPHY.	E.A.	
K-604750	Rfn	NOGA.	J.	
K-603720	Rfn	O'LAUGHLIN.	J.S.	
K-606802	Rfn	O'LAUGHLIN.	W.J.	
K-607833	Rfn	PAUL.	M.H.	
K-603960	Rfn	PAVLIS.	P.J.	
K-547376	Rfn	PEDERSON.	K.M.	
K-608948	Rfn	PENNER.	J.	
K-608264	Rfn	PESUT.	P.	
K-608018	Rfn	PETERSON.	O.W.	
K-604211	Rfn	PETRIE.	J.	
K-602235	Rfn	PITT.	P.	
K-607082	Rfn	PITTAO.	O.J.	
K-603909	Pte	RENNER.	O.	(RCASC)
K-604235	Rfn	REPP.	E.A.	

1. ABSENT WITHOUT LEAVE (Cont'd)

(d)

K-604366	Rfn	RICE.	L.J.
K-574771	Rfn	ROGERS.	R.
K-602251	Rfn	ROSICKY.	A.W.
K-603199	Rfn	ROSS.	R.
K-604213	Rfn	SAVAGE.	W.A.
K-602574	Rfn	SCHWEITZER.	J.
K-603961	Rfn	SANDBERG.	C.F.
K-605840	Rfn(A/Cpl)	SINCLAIR.	W.B.
K-605001	Rfn	SOPIT.	M.
K-603891	Rfn	STEDILE.	V.
K-603829	Rfn	TARTHGLIA.	R.P.
K-606114	Rfn(L/Cpl)	TAYLOR.	D.C.
K-608183	Rfn	THOMAS.	D.L.
K-608956	Rfn	THOMAS.	L.P.
K-607679	Rfn	TORRAVILLE.	T.F.
K-607710	Rfn	VERIGIN.	P.
K-603429	Rfn	WALL.	G.J.
K-605047	Rfn	WILKINSON.	J.F.
K-600777	Rfn(L/Cpl)	WILLAN.	G.S.
K-605225	Rfn	WILLGRESS.	S.R.
K-605146	Rfn	WINSKI.	H.J.
K-605119	Rfn	WOLOSCHUK.	J.
K-608715	Rfn	YOUNG.	D.J.

(e) A.W.L. from 0600 hrs 28 DEC 44

M-610636	Rfn	ADAM.	P.
M-602124	Rfn	ADAMIC.	A.
M-602636	Rfn	ANTOSKO.	J.
M-608934	Rfn	BARBARO.	J.
M-609087	Rfn	BELL.	F.V.
M-610648	Rfn	BENOIT.	M.J.
M-610614	Rfn	BEZUBIAK.	G.J.
M-609657	Rfn	BOSSOWICZ.	P.
M-610559	Rfn	BUCHAL.	T.
M-607717	Rfn	BUCKNA.	H.M.
M-607817	Rfn	BUHLER.	H.
M-609094	Rfn	BUHLER.	J.
M-610770	Rfn	BURCHETT.	N.W.
M-608549	Rfn	CARLSON.	U.A.
M-610140	Rfn	CERKOWNIAK.	A.
M-610369	Rfn	CHIMIUK.	S.R.
M-610267	Rfn	CHORNEY.	R.
M-610413	Rfn	CHRUNIK.	J.
M-609670	Rfn	COLLAR.	A.E.
M-608333	Rfn	COMEAU.	J.C.L.
M-607884	Rfn	CONN.	S.M.
M-610229	Rfn	DACH.	S.
M-610820	Rfn	DANILAK.	S.
M-608320	Rfn	DAY.	A.G.
M-608084	Rfn	DEHID.	N.
M-612071	Rfn	DENESIUK.	J.
M-612193	Rfn	DOUGLAS.	D.W.
M-609013	Rfn	EDINGA.	C.

2. ABSENT WITHOUT LEAVE (Cont'd)

(e)

M-607635	Rfn	EHRET.	E.	
M-610968	Rfn	ENDERS.	O.V.	
M-610060	Rfn	ERTMAN.	A.	
M-610733	Rfn	FORTIER.	G.S.	
M-608724	Rfn	FRANSON.	A.	
M-607644	Rfn	GALENZA.	V.	
M-607287	Rfn	GEIER.	H.	
M-612029	Rfn	GERLITZ.	A.	
M-607878	Rfn	GETZ.	C.	
M-610130	Rfn	GOERZ.	N.W.	
M-612125	Rfn	GOZJOLKO.	J.	
M-602215	Rfn	GRABAS.	F.	
M-608706	Rfn	GRANT.	G.	
M-610298	Rfn	GRANT.	G.S.	
M-12559	Pte	GRAYDON.	J.A.	(RCASC)
M-610726	Rfn	GREENE.	R.E.J.	
M-478040	Rfn	GRESL.	F.	
M-608984	Rfn	GUGLICH.	M.	
M-605359	Rfn	HACHEY.	L.	
M-608582	Rfn	HALL.	M.	
M-610715	Pte	HALLER.	J.	(RCASC)
M-610767	Rfn (A/Cpl)	HAWRELKO.	M.	
M-609520	Rfn	HAWRELKO.	W.	
M-610986	Rfn	HAWRYLUK.	P.	
M-601947	Rfn	HEDLUND.	E.A.	
M-607592	Rfn	HENDERSON.	F.	
M-607340	Rfn	HERGERT.	D.	
M-605593	Rfn	HESSLER.	O.	
M-610204	Rfn	HOYLAND.	A.E.	
M-602370	Rfn	HRYNIW.	J.	
M-611086	Rfn	HUTCHAK.	J.F.	
M-609197	Rfn	HUNKA.	W.	
M-610738	Rfn	HUTCHINSON.	O.W.	
M-601507	Rfn	JAREMCO.	J.M.	
M-610627	Rfn(L/Cpl)	JOHNSON.	V.W.	
M-612223	Rfn	JOHNSON.	W.T.	
M-610415	Rfn	KARPYSHYN.	P.	
M-608758	Rfn	KESSLER.	R.	
M-39883	Rfn	KIRKPATRICK.	F.N.	
M-610462	Rfn	KLARKE.	N.	
M-538648	Rfn	KLIMCHUK.	H.	
M-609026	Rfn	KOCH.	P.	
M-612234	Rfn	KOSIOREK.	C.W.	
M-538680	Rfn	KOZOWY.	J.	
M-608600	Rfn	KUHN.	H.	
M-605488	Rfn	KUSHNIRAK.	T.E.	
M-602285	Rfn	LEAVITT.	K.	
M-507505	Rfn	LEITERT.	J.A.	
M-610129	Rfn	LIBICH.	S.	
M-607679	Rfn	LODERMEIER.	R.A.	
M-612214	Rfn	LORENZ.	F.J.M.	
M-608578	Rfn	LUCIUK.	J.	
M-602166	Rfn	McCOLMAN.	A.W.	
M-611053	Rfn	McNEILL.	M.F.	

1. ABSENT WITHOUT LEAVE (Cont'd)

(e)

M-562583	Rfn	MAINKA.	E.
M-607438	Rfn	MARCINEK.	S.
M-610583	Rfn	MARKO.	P.
M-602647	Rfn	MARTENIUK.	A.
M-610465	Rfn	MERCIER.	L.G.
M-608701	Rfn	MERRY.	C.
M-538019	Rfn	MIHALCHEON.	S.
M-609159	Rfn	MIDDLESTADT.	A.R.
M-39849	Rfn	MILLER.	C.B.
M-608799	Rfn	MOORE.	E.L.
M-608955	Rfn	MOUNTNEY.	C.D.
M-610746	Rfn	NORMAN.	A.
M-608756	Rfn	OSTROPOLSKI.	E.
M-610707	Rfn	PERFENIUK.	J.
M-602070	Rfn	PHILLIPS.	G.F.P.
M-608054	Rfn	PETERSON.	E.D.
M-610662	Rfn	PROSSER.	E.W.
M-612183	Rfn	PRUNER.	M.M.
M-612014	Rfn	PURSHKE.	R.
M-609088	Rfn	RAUSCH.	J.
M-508057	Rfn	REDEKOPP.	A.
M-609458	Rfn	REID.	J.
M-39882	Rfn	RICHTER.	G.J.
M-608809	Rfn	ROKOVETSKY.	J.
M-609685	Rfn	ROBINSON.	P.A.
M-610639	Rfn	ROSKO.	M.
M-610797	Rfn	ROUTHIER.	A.
M-610512	Rfn	RUTAR.	N.
M-610160	Rfn	SAWCHUK.	H.
M-479070	Rfn	SCHAFER.	W.C.
M-612127	Rfn	SCHILDS.	W.F.
M-478525	Rfn	SCHNURR.	G.A.
M-607567	Rfn	SCHRADER.	A.
M-611273	Rfn	SLIWKANICH.	G.
M-610841	Rfn	SLYWKA.	W.
M-608919	Rfn	SMITH.	G.J.
M-609496	Rfn	SODERSTROM.	O.G.T.
M-612036	Rfn	SOHOLOTIUK.	N.
M-610134	Rfn	SORELL.	E.I.
M-608944	Rfn	STOLLER.	B.
M-608928	Rfn	THOMPSON.	N.H.
M-612178	Rfn	TKACHUK.	G.
M-610580	Rfn	UCHMAN.	S.
M-609263	Rfn	WARDACH.	B.
M-602773	Rfn	WEISS.	B.
M-538727	Rfn	WENGER.	M.
M-507678	Rfn	WHEELER.	D.
M-609793	Rfn	WIEDEMANN.	V.S.
M-609699	Rfn	WIEST.	R.L.
M-605463	Rfn	WILD.	O.H.
M-602468	Rfn	WITWICKI.	J.M.
M-612009	Rfn	WOOLSEY.	R.K.

/s/

/AE

ABSENT WITHOUT LEAVE (Cont'd)

(e)

M-611054	Rfn	WOSNACK.	S.
M-611104	Rfn	YAHODENKO.	W.
M-607045	Rfn	ZACHER.	J.
M-610373	Rfn	ZAYEZIERSKI.	S.
M-609382	Rfn	ZIEMINEK.	E.
M-607628	Rfn	ZIMMERMAN.	J.

(f) A.W.L. from 0600 hrs 28 DEC 44

L-600151	Rfn	ABBOTT.	F.K.
L-608891	Rfn	ANDERSON.	A.G.F.
L-610933	Rfn	ARMSTRONG.	C.
L-610194	Rfn	BABICHUK.	J.
L-609452	Rfn	BAKER.	F.
L-606794	Rfn	BAUER.	J.
L-600723	Rfn	BEAULIEU.	L.P.
L-609683	Rfn	BECK.	H.H.
L-601675	Rfn	BEITEL.	J.J.
L-609972	Rfn	BENDER.	D.
L-610042	Rfn	BENEDIK.	E.
L-606731	Rfn	BERKACH.	F.
L-608774	Rfn	BIEN.	W.J.
L-600964	Rfn	BIGLER.	H.L.
L-603873	Rfn	BILANSKI.	J.
L-603909	Rfn	BILANSKI.	P.
L-608496	Rfn	BITZ.	E.J.
L-603491	Rfn	BOECHLER.	C.
L-532694	Rfn	BOECHLER.	G.M.
L-466509	Rfn	BOEHMER.	K.F.
L-600304	Rfn	BOLEN.	M.
L-601587	Rfn	BOSER.	F.N.
L-603862	Rfn	BOYCHUK.	H.
L-607070	Rfn	BROST.	H.J.
L-602428	Rfn	BUNKO.	M.
L-600409	Rfn	BUCHHOLZ.	R.
L-602025	Rfn	BUDZ.	F.
L-603716	Rfn(A/Cpl)	CAREY.	J.B.
L-465711	Rfn	CHERPIN.	J.
L-600008	Rfn	COLBOW.	E.C.
L-609403	Rfn	CUNNINGHAM.	A.C.
L-603858	Rfn	DECK.	J.J.
L-610702	Rfn	DEIS.	W.M.
L-610509	Rfn	DENESYK.	S.
L-609135	Rfn	DIAKOW.	A.
L-608833	Rfn	DOHMS.	L.
L-608864	Rfn	DOUMA.	L.A.
L-608881	Pte	DUBIEL.	C.W. (RCASC)
L-466559	Rfn	DUKE.	W.
L-533250	Rfn	DUNSING.	J.C.
L-610337	Rfn	DUTKA.	H.
L-609385	Rfn	EBEL.	H.N.
L-608813	Rfn	EBERLE.	F.F.
L-608931	Rfn	EGELAND.	L.H.

1. ABSENT WITHOUT LEAVE (Cont'd)

(f)

L-603881	Rfn	ELASH.	B.	
L-608353	Rfn	EWANUS.	M.	
L-611018	Rfn	FENIUK.	F.	
L-608430	Rfn	FEBER.	C.	
L-603622	Rfn	FOLK.	M.G.	
L-601808	Rfn	FRIESS.	H.C.	
L-607313	Rfn	GEORGE.	A.	
L-609236	Rfn	GISLASON.	D.	
L-602172	Rfn	GREENING.	E.K.	
L-607693	Rfn	GROMNICKI.	J.W.	
L-602173	Pte	GRUBER.	A	(RCASC)
L-608766	Rfn	GRUENDING.	H.B.	
L-606914	Rfn	GUEST.	M.R.	
L-608583	Rfn	GUST.	W.J.	
L-533954	Rfn	HALLMAN.	S.A.	
L-610964	Rfn	HAMMEL.	M.M.	
L-607982	Rfn	HANSEN.	P.A.	
L-608826	Rfn	HANSON.	A.C.W.	
L-154491	Pte	HANDYSIDE.	R.T.	(RCASC)
L-608017	Rfn	HAUBRICH.	J.W.	
L-602130	Rfn(L/Cpl)	HAUCK.	I.	
L-603806	Rfn	HARTMAN.	L.W.	
L-608876	Rfn	HEEBNER.	W.A.	
L-610988	Rfn	HELMECZI.	A.V.	
L-610307	Rfn	HERINGER.	A.	
L-609517	Rfn	HERMAN.	A.G.	
L-610929	Rfn	HOFFART.	P.G.	
L-602239	Rfn	HOLLINGER.	A.	
L-606811	Rfn	HOLTZ.	A.E.	
L-155872	Rfn	HOLTZ.	W.F.	
L-610168	Rfn	HOZEMPA.	J.	
L-610859	Rfn	HRYNKIW.	N.	
L-602371	Rfn	HUARD.	V.J.P.	
L-609926	Rfn	JOHNSON.	B.	
L-609423	Rfn	JOHNSON.	M.	
L-610998	Rfn	KOHMARSKI.	P.S.	
L-609625	Rfn	KALINOCHA.	P.	
L-155781	Rfn	KASUN.	N.E.	
L-607487	Rfn	KAYNER.	J.	
L-607966	Rfn	KELLER.	L.	
L-603886	Rfn	KERLUKE.	K.	
L-608812	Rfn	KLEMENZ.	F.J.	
L-610002	Rfn	KNIPPSHILD.	A.A.	
L-610507	Rfn	KOPP.	J.	
L-607898	Rfn	KOSOKOWSKY.	P.L.	
L-610155	Rfn	KOST.	W.	
L-608393	Rfn	KOVATCH.	A.	
L-608606	Rfn	KOWTEK.	J.	
L-610543	Rfn	KOZLOSKI.	J.	
L-533149	Rfn	KUNY.	P.	
L-610890	Rfn	KUSS.	H.H.	
L-608814	Rfn	LANZ.	G.A.	
L-607457	Rfn(L/Cpl)	LEGAULT.	A.J.	
L-464786	Rfn	LENIUS.	F.S.	
L-608887	Rfn	POWASZCZUK.	J.	

/5

1. ABSENT WITHOUT LEAVE (Cont'd) 0600 hrs 28 Dec 44

(f)

L-608492	Rfn	LIPINSKI.	E.
L-608390	Rfn	McDONALD.	J.A.
L-532226	Rfn	McGILLIS.	J.G.W.
L-611020	Rfn	MACK.	F.J.
L-609374	Rfn	MAGNUS.	E.W.
L-610323	Rfn	MARSH.	C.A.
L-534221	Rfn	MARTEL.	N.
L-464118	Rfn	MARTIN.	M.R.
L-608843	Rfn	MAZUR.	M.
L-465881	Rfn	MELLOM.	J.H.
L-610545	Rfn	MENZIES.	D.D.
L-609849	Rfn	MICHALEZKI.	J.
L-606732	Rfn	MILLER.	A.R.
L-609910	Rfn	MOEN.	A.
L-608119	Rfn	MRYGLOD.	N.
L-606536	Rfn	NAGEL.	C.
L-465042	Rfn	NAGEL.	W.
L-601910	Rfn	NOBEL.	G.
L-611003	Rfn	NUSPL.	J.
L-606835	Rfn	OCHS.	S.S.
L-600234	Rfn	OLLINGER.	P.L.
L-610197	Rfn	OLSON.	A.L.
L-534296	Rfn	OLSON.	B.
L-607778	Rfn	OLSON.	L.A.
L-533382	Rfn	OLYNYK.	M.
L-611088	Rfn	OSHANEK.	P.B.
L-608745	Rfn	OYSTRYK.	S.
L-610329	Rfn	PARR.	E.
L-608854	Rfn	PEKRUL.	E.A.
L-610818	Rfn	PELLERIN.	A.A.
L-609304	Rfn	PERREAUX.	L.L.
L-602797	Rfn	PFEIL.	J.
L-533431	Rfn	PFLEGER.	A.J.
L-609314	Rfn	POHL.	W.
L-534361	Rfn	POPADYNETZ.	M.
L-605076	Rfn	RADCHENKO.	A.
L-610969	Rfn	RAGLIN.	B.R.
L-610500	Rfn	RENN.	A.W.
L-609723	Rfn	RINTOUL.	R.A.
L-608853	Rfn	RISCHE.	H.W.
L-608796	Rfn(A/Cpl)	ROSZLEIN.	J.M.
L-465305	Rfn	SABO.	M.E.
L-603237	Rfn	SALISBURY.	G.R.
L-534433	Rfn	SHPIEHA.	J.
L-534436	Rfn	SARETSKY.	J.R.
L-465102	Rfn	SATHER.	F.
L-533557	Rfn	SAYERS.	C.H.
L-608772	Rfn	SCHERBANIUK.	C.
L-606799	Rfn	SCHERBEY.	J.
L-534450	Rfn	SCHMITKE.	G.
L-606905	Rfn	SCHMIDTZ.	A.P.
L-606694	Rfn	SCHULLER.	F.L.
L-607722	Rfn	SCHULMANN.	M.
L-608831	Rfn	SCHULTZ.	C.
L-606781	Rfn	SEDLOVITCH.	N.H.

1. ABSENT WITHOUT LEAVE (Cont'd)

(f)

L-601050	Rfn	SEREDIAK.	N.
L-534471	Rfn	SHAWAGA.	D.
L-606702	Rfn	SIKORSKI.	C.P.
L-464758	Rfn	SPOONER.	A.J.
L-608432	Rfn	STACHOSKI.	A.
L-606701	Rfn	STANG.	R.
L-603248	Rfn	STAPLETON.	V.N.
L-604020	Rfn	STEENBRUGGEN.	J.
L-607256	Rfn	STEFFENSON.	A.H.
L-607431	Rfn	STEIN.	J.F.
L-607104	Rfn	STOBER.	A.
L-609404	Rfn	STOPANSKI.	W.
L-606570	Rfn	STORLE.	LK.
L-611080	Rfn	STRIGA.	F.
L-155792	Rfn	SWITZER.	W.H.
L-610980	Rfn	TERLESKI.	W.
L-607826	Rfn	THOMPSON.	R.A.
L-610974	Rfn	TOTH.	A.J.
L-607963	Rfn	TREBLE.	W.O.
L-609313	Rfn	TURCHANIAK.	M.
L-609291	Rfn	ULBRICHT.	J.
L-610907	Rfn	VOLIMAN.	G.P.
L-602198	Rfn	WAGMANN.	W.S.
L-608829	Rfn(A/Cpl)	WANNER.	J.C.
L-608128	Rfn	WARN.	R.
L-608712	Rfn	WEGER.	W.
L-607230	Rfn	WEIMER.	D.
L-603943	Rfn	WEISMILLER.	J.M.
L-466299	Rfn	WHITTMIRE.	J.
L-609467	Rfn	WICK.	E.W.
L-601609	Rfn	WILDEMANN.	P.A.
L-465608	Rfn	WILDERMAN.	W.
L-603361	Rfn(A/Cpl)	WILM.	W.E.
L-608093	Rfn	WOLFE.	W.
L-610300	Rfn	YAKYMYK.	M.
L-606761	Rfn	YATCYSHYN.	J.
L-603605	Rfn	YOUNG.	J.E.
L-533840	Rfn	ZAHARA.	P.
L-606275	Rfn	ZAHARYCHUK.	D.
L-603663	Rfn	ZALAPSKI.	J.H.
L-533845	Rfn	ZAZULA.	S.
L-610328	Rfn	ZEREBESKI.	S.R.
L-609469	Rfn	ZIGLERY.	H.
L-610841	Rfn	ZIP.	M.E.
L-603669	Rfn	ZWICK.	A.G.

"C" - ATTACHED OFFICERS

N I L

"D" - ATTACHED OTHER RANKS

N I L

D. S. Grant Lieut(A/Capt)
(D. S. GRANT)
ADJUTANT
1 BN OXFORD RIFLES C.A.
LONDON, Ontario

END OF PART II ORDER NO. 19 d/28 DEC 44

18

Exhibit "J"
Swaranmiah
President SCM

39.

Certificate in accordance with Order-in-Council P.C.2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(Apprehension by or surrender to civil authorities)

I certify that the person whose description is given below was arrested by ~~xxxxxxxxxxxxxx~~ Cst. F. P. SPINNEY, (Name of Peace Officer or Constable) R.C.M.Police at Glidden Dst., Sask. (Place) at 12.10 p. m. (Hour) on the 26th day of March 1945. and at the time of arrest ~~xxxxxxxxx~~ he was ~~xxxxxxxxxxxxxx~~ ~~xxxxxxxxxxxxxxxx~~ (dressed in civilian clothes).

(Strike out words not applicable)

Regimental particulars of officer or Soldier referred to above.

(No. L 606732
(Rank Gnr.
(Name MILLER, Anthony Ralph.
(Unit Oxford Rifles, Animo, B.C.

Description

(Age 24 yrs.
(Height 5' 7".
(Complexion Ruddy.
(Hair Lt. Brown.
(Eyes Blue
(Marks Nil.

Signature of peace officer or constable by whom arrest or to whom surrender was made, or officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.)

Cst.
Reg. No. 13670 (F. P. Spinney)
Kindersley Detachment - R.C.M.P.
(Peace Officer)(Constable) (Strike out words not applicable.)
~~xxxxxxxxxxxxxxxx~~
~~xxxxxxxxxxxx~~.

M.F.M 215
25M-4-42 (M1125)
H.Q. 1772-39-1935

Exhibit "K" Swarman Map President SCM.

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ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. C.L.Stephenson, No.12 District Company RCASC CA(A)
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from SASKATOON, SASK (Place) to KINDERSLEY, & REGINA, SASK (Place)

and return to SASKATOON, SASK (Place) for the purpose of escorting

Full description of soldier being escorted — L/606732 (Number) Rifleman (Rank) MILLER, A.R. (Name in full)

1st Btn Oxford Rifles of Canada. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation provided~~) and the cost thereof for said soldier and escort being as follows:

	PARTICULARS	COST
26th March 1945	M.D.No.12 Transport Warrant No.C.900694 dated 26th March 1945 covering:	
	One single second class fare - KINDERSLEY, SASK to REGINA, SASK - for prisoner - ,.....	5.59
26th March 1945	M.D.No.12 Transport Warrant No.C.900695 dated 26th March 1945 covering:	
	One second class fare - SASKATOON, SASK to KINDERSLEY, SASK and return -for escort - L/106332 L/cpl. Reed, H.E., #43 Provost Company Of which One Half is recoverable from the above Absentee, One Half of $4.89¢ ,.....	2.44
26th March 1945	M.D.No.12 Transport Warrant No.C.900696 dated 26th March 1945 covering:	
	One second class fare - SASKATOON, SASK to REGINA, SASK and return - for escort - L/106332 L/Cpl. Reed, H.E. #43 Provost Company Of which One Half is recoverable from the above Absentee, One Half of $6.24¢ ,.....	3.12
	TOTAL	$ 11.15

Dated at Saskatoon, Sask this 26th day of March A.D. 1945

Lieut. C.L.Stephenson
No.12 District Company
RCASC CA(A)
Saskatoon, Saskatchewan

C.L.Stephenson
(C.L.Stephenson) Lieut.
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorized the transportation~~)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
12Dm—10-42 (1683)
H.Q. 1775-64-1481

Exhibit "L" Sgt Wakeman ~~major~~ President SCM.

43

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(INCIDENTAL EXPENSES)

Complete description

Strike out words not applicable

Members of escort

Name and description of soldier escorted

I, L-106332 L/Cpl. Henry Earl REED, Saskatoon Detachment, No. 43 Provost Company, C.Pro.C.
(No.) (Rank)
as (escort) ~~XXXXXXXXXXXXXXX~~ consisting of L-106332 L/Cpl. Henry Earl REED, Saskatoon Detachment, No. 43 Provost Company, C.Pro.C.
(escort)
detailed to proceed from Saskatoon, Sask. (Place) to Kindersley, Sask. (Place)
to return L-606732 Gnr. MILLER, A.R., Oxford Rifles of Canada.
alleged to be a deserter or absentee without leave, to Regina, Sask. (Place)
hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement		Amount
EXPENSES INCURRED BY THE R.C.M.P.		
26 March, 1945.		
To Hire of Night Guard.	1.50	1.50
EXPENSES INCURRED BY NO. 43 PROVOST COY.C.PRO.C.		
26 March, 1945.		
1 Dinner (Escort).	.46	
1 Room (Escort).	1.50	
27 March, 1945.		
1 Breakfast (Escort).	.46	
4 Dinners (Escort & 3 Absentees). @ $1.07	4.28	
28 March, 1945.		
1 Lunch (Escort).	1.07	
	7.77	
TO BE DIVIDED BETWEEN THREE (3) ABSENTEES.		2.59
Total		$ 4.09

Dated at Saskatoon, Sask. this 28th. day of March, A.D. 1945.

L/Cpl. H. E. Reed

L-106332 L/Cpl. Reed, H.E.
Saskatoon Detachment,
No. 43 Provost Company, C.Pro.C.
(Signature and rank of escort) ~~XXXXXXXXXXXXXXX~~ Strike out if not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1402
75M—3-42 (6526)
H.Q. 1772-59-1550

Exhibit "N" Swarmman President Com.

45

WARNING ORDER

Nanaimo, B.C.
9 Dec 44

I the undersigned hereby acknowledge that I have been ordered to report upon the expiration of my leave at No. 13 Dist Depot, Calgary, Alta.
..... (Unit and Place) by
1400 24 Dec 44
..... hrs ..... (Date) and I am aware that if I absent myself wit out leave or if I overstay my pass or furlough for any time or if I fail to report as ordered I shall be liable to be charged with desertion under Section 12 Army Act.

L.606732 Rfn. A.R. Miller
Signature of Soldier

L.606732, Rfn. Miller, A.R.

"H"

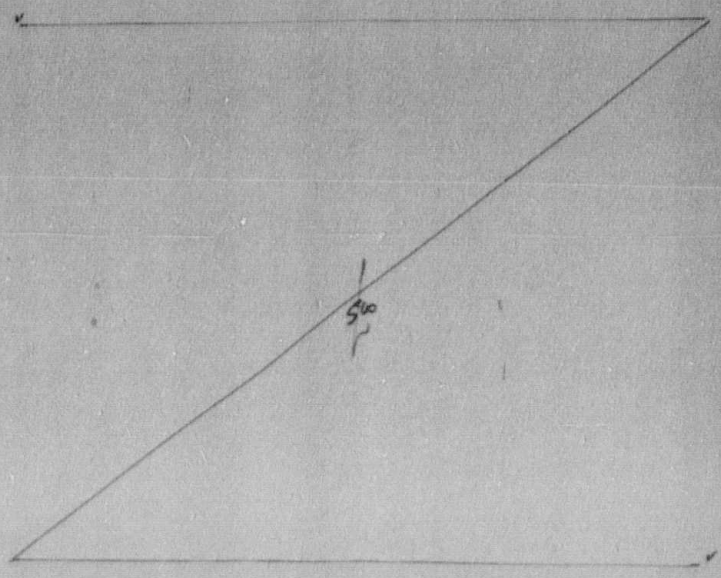
S/Waterman
Major,
President, Standing Court-Martial.

CLOSING ADDRESS BY THE DEFENDING OFFICER

Sir: In this charge of desertion against Pte. Miller the onus is upon the Prosecution to establish without a doubt that the accused had intended to desert.

It is the contention of the Defence that from the sworn statement by the accused; also from the evidence which he gave that he did have some Army clothing on when apprehended, namely a melton cap on which the badge would appear, that he had or he did intend to come back. Therefore, it is the contention of the Defence that the Court consider changing this charge of desertion to one of absence without leave.

Sir.



"Y" Guardroom map President Scan

49

M.F.B. 355
50M—9-42 (5992)
H.Q. 1772-30-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or~~ unit)
L.606732	Rfn.	Anthony Ralph MILLER	No. 12 Dist. Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ Regimental and ~~Squadron or Battery~~ Conduct sheets ~~or Company (Guard Books~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

~~NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act and dispensations with trial under A.A. 73 A.F.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges for 1 days in civil custody, and 17 days in ~~military~~ service custody, making a total of 18 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment form is ~~attested paper is~~ 24 years, 4 months

6. The date of his ~~enlistment~~ enrolment specified in his ~~record of service~~ enrolment form is ~~attested paper~~ 12th August, 1942.

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no military decoration, or military reward ~~(or is in possession of or entitled to). State any air force military decoration or reward.~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force military regimental rank of~~

50.

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number..... Rank..... Name..... of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th day of April, 1945.

J.N. Polichs
A/Capt. J.N. Polichs,
Legal Officer, # 12 DD
Officer having charge of original records, No. 12 Dist. Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

51

Sheet One destroyed 30-Feb-43

(WMA)

No.	Name	Squ., Battery, or Company	Date of enlistment	G.C. Badges	Tradesmen's Rates of Pay	Period not reckoning towards freedom from extra fine	No. and date of last drunk	Signature O.C. Company, etc.	Character
L.606732	MILLER, A.R.	13 A.A. Bty., R.C.A. CA. Corps	12-8-42					C.A. Hunt, Lt.	good

Sheet No. Two

M.F.M. 6 (A.F.B.132) 750M—12-42 (7332) H.Q. 1772-39-1032

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY

J.M. Policha

(J.M. Policha) A/Capt., Legal Officer, No. 12 District Depot, C.A.

Officer having charge of original records, No. 12 District Depot, C.A.

"L" Swarmen
Mafin
President Scan

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. L.600732 Rfn. MILLER, A.R.

of #12 District Depot, CA is in a Good state of health,

and fit to undergo Trial by Court martial.

E. R. Johnson
Medical Officer
R.C.A.M.C. att. No. 12 District Depot, CA

Station Regina, Sask.

Date 12 Apr 45

M. F. B. 246

15M—10-42 (5503)
H.Q. 1772-39-450

PRECIS OF EVIDENCE

in the case of

L.606732 Rfn. Anthony Ralph MILLER, No. 12 District Depot CA, Regina, Saskatchewan, a NRM A soldier of the Canadian Army placed on Active Service.

CHARGE: WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE.

To prove the charge, the following evidence is available:

DOCUMENTARY:

Copy of 1st Bn. Oxford Rifles C.A., Part Two Order No. 19 d/ 28 December, 1944.
M.F.M. 215
M.F.B. 1481
M.F.B. 1482

(J.M. Policha) A/Capt.,
Officer detailed to take the Precis of Evidence,
No. 12 District Depot, C.A.

MEMORANDUM

To:-
D Mov.
(Attention Lt.Col. Fisher).

Department of National Defence,
HQC.9039-1,FD 10,(ICM),
OTTAWA, 28 APR 45.

Soldiers under Sentence - No.12 District Depot.
Suspension one day after embarkation.

Ref. attached letter dated 24 Apr.45, from D.A.A.G.,M.D.12.

2. The sentences of the seventeen soldiers set out in para 2 thereof have been suspended effective one day after embarkation.

3. Might the necessary action please be taken to have these suspensions carried out.

4. Might I please be advised when this has been done, together with the date of embarkation in each case.

5. Might this Memorandum together with the attached letter please be placed on HQC.9039-1,FD 10, which was passed to you by hand on 24 APR 45.

6. For necessary action, please.

(L.H. CLAYTON) Lieut-Col.
Inspector of Courts-Martial.

LHC:WS.

RS 3-1-5E (DAAG)
RESTRICTED

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Headquarters M.D. No. 12,
REGINA, Sask., 24 APR 45.

DAK/JH

Officer Commanding,
No. 12 District Depot, CA (A),
REGINA, Sask.

--for information--

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

D.O.C., M.D. No. 6,
HALIFAX, Nova Scotia.

O.C. No. 2 Transit Camp,
DEBERT, Nova Scotia.

Cmmd't Dundurn Trg. Area,
DUNDURN, Sask.

O.C. No.43 Provost Coy. C.Pro.C.,
REGINA, Sask.

Officer Commanding,
No.79 Mil. Det. Barracks,
REGINA, Sask.

D.P.M., M.D.No.12.
D.T.O., M.D.No.12.
D.REC.O., M.D.No.12.
D.A.P.M., M.D.No.12.
A.J.A.G., M.D.No.12.
D.S.&T.O., M.D.No.12.
D.A.Q.M.G., M.D.No.12.
C.S.&T.O., DUNDURN, Sask.

I

Soldiers under Sentence - No. 12 District Depot
Despatched as Reinforcements

Further to this Headquarter's letters dated 20 APR, 21 APR and 23 APR 45.

2. The sentences of the undermentioned soldiers, who are presently undergoing detention or imprisonment awarded by D.C's.M. or S.C's.M. in this District, have been suspended by superior military authority under Section 57(a) Army Act, effective the day following the date of embarkation Overseas. They are to be despatched under escort on Friday, April 27th, 1945, to report to the Officer Commanding No. 2 Transit Camp, Debert, N.S., on instructions from D.A.Q.M.G., M.D. No.12.

II

ICM

To note, please.

W.A.Stilwell, Maj.

for D Adm. 27-4-45

L-610806	Gnr. BLEILE L.J.
H-617002	Tpr. BOKI J.
L-602025	Rfn. BUDZ F.
L-608675	Rfn. DEMASSON H.T.
L-609125	Rfn. HINKE E.
L-609308	Pte. KOEHLER W.K.
L-607172	Rfn. KUNZ J.M.
L-607272	Rfn. LESANKO N.
L-609063	Fus. LOLACHER M.
L-606732	Rfn. MILLER A.R.
L-466139	Rfn. NEIBAUER R.
L-610936	Pte. NEUMILLER E.
L-602356	Pte. PROKOP S.
L-604062	Tpr. SELINGER T.J.A.
L-602197	Pte. VOLK J.
L-610290	Pte. YURCHUK D.
L-609469	Rfn. ZIEGLER H.

3. Arrangements will be made by the D.A.P.M., M.D. No.12.

(a) For the immediate concentration of these personnel at No.79 Military Detention Barracks, Regina, and

(b) For the provision of escort personnel, including one Provost Officer. In this connection it should be borne in mind that attempts to escape may be anticipated, for which reason adequate and reliable escort personnel will be provided.

4. It must be ensured by the Officer Commanding No. 12 District Depot that all of the soldiers being despatched on the contemplated move 27 APR 45 are, of course, of suitable age and category for Overseas Service.

5. The attention of the Officer Commanding No.12 District Depot is directed to the necessity for the proper completion of these soldier's documents prior to despatch. All documents will accompany these soldiers.

6. This Headquarters is to be advised of the time of despatch of the soldiers who are suitable, in order that notification may be sent NDHQ and the D.O.C.,M.D. No. 6 of the date and hour of arrival at Debert, N.S. Immediately after despatch this Headquarters will be supplied with a nominal roll of those actually despatched, as well as of those who were not found suitable and the reasons.

7. The authority for suspension is A.G. Radiogram CONFIDENTIAL IGM 202 dated 24 APR 45.

J.C. KNOWLES,
Major,
D.A.A.G.,M.D. No. 12.

H.Q.C.55-M-1861 (JAG/D-3)
Your File - R.C. 1-M-2075

26 Apr 45.

District Officer Commanding,
Military District No. 12,
Regina, Sask.

STANDING COURT-MARTIAL

L.606732 - Rfn. Anthony Ralph MILLER
No. 12 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

EMC/ET

THIS COPY FOR

H.Q. C.55-M-1661
M.D. R.C.1-M-2075

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. L.606732 Name MILLER. Anthony Ralph

Rank Rfm Unit No. 12 D.D. CA

Charge A.A. 12 (1) (a) - Desertion

Date of Crime 28-12-44

Date of Arrest 26-3-45 Charge Signed 10-4-45

Orders for D.C.M.

Place and Date of Trial The Armoury Regina Sask 12-4-45

Sentence Det 6 mos; stoppages $15.24

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36863

Date 19-4-45

MEMO Guilty A.W.L.

M.D. 12 - No. 12 D.D.

Absent	Sentence
3 mos.	Det. 6 mos

for Judge Advocate-General

10M-1-45(M-4629)

23 April 1945
Passed - no regulation rule

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE N.C.9039-1, ID10, (IGM)

PLACE — DATE

OTTAWA, Ontario. — 24 APR 45.

District Officer Commanding,
Military District No. 12,
REGINA, Sask.

CONFIDENTIAL IGM 202

REFEL R 3228 DATED 21 APR 45 P.O SENTENCES OF ALL SOLDIERS NAMED THEREIN SUSPENDED EFFECTIVE ONE DAY AFTER EMBARKATION

ADJUTANT-GENERAL

Copy

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED Major-General, Adjutant-General		IMPORTANT	2409302

COPY 3 - C.G.S. INFORMATION COPY

★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

CIPHER MESSAGE

ARMY MESSAGE (incoming)

CLASSIFIED

PLACE FROM: REGINA, Sask.

DATE & TIME: 211150 APR 45

C.G.S. N.S. D.M.O. & P. A.G. (ACTION) HQC 9039-1, Z 8/10

I

...I M P O R T A T...

R 3228

THE SEC DND OTTAWA ONT

PARA ONE...RETEL RANKS 6253 DATED 7th APRIL 1945 AND FURTHER THIS HEADQUARTERS R 3111 DATED 7th APRIL

FOLLOWING ALL OF SERIAL 2952 STRAGGLERS EX PACIFIC COMMAND NOW IN DETENTION UNDER SENTENCE OF SCM RECENTLY AWARDED

L.610806 GNR BIEILE LJ

H.617002 TPR BOKI J

L.602025 RFN BUDZ F

L.608675 RFN DEMASSON HT

L.609125 RFN HINKE E

L.609308 PTE KOEHLER WK

L.607172 RFN KUNZ JM

L.607272 RFN LESANKO N

L.609063 FUS LOLACHER W

L.606732 RFN MILLER AR

L.466139 RFN NEIBAUER R

L.610936 PTE NEUMILLER E

L.602356 PTE PROKOP S

L.604062 TPR SELINGER TJA

L.602197 PTE VOLK J

L.610290 PTE YURCHUK D

L.609469 RFN ZIEGLER H

II

ICM

For your attention, pls.
W.A. Stilwell,
23-4-45 Maj. for D.Adm.

III

D.A.G.(B).
Recommended,
L.H.Clayton, Lieut-Col.
Inspector of Courts-Martial.
Apr 24 1945.

IV

APPROVED;
G.A.Ferguson,
Brigadier,
D.A.G.(B)
APR 24 1945.

PARA TWO..RECOMMENDED THAT SENTENCES THESE SOLDIERS BE SUSPENDED PURSUANT TO PARA 2A RANKS 6253 SO THAT THEY CAN BE DESPATCHED ALONG WITH DRAFT OF SOLDIERS UNDER SENTENCE AT PRESENT BEING MAKEUP IN THIS DISTRICT. URGENT

COMMANDING TWELVE

33581/PHB/2123050 APR 45

IN REPLY PLEASE QUOTE

No. R.C. 1-M-2075

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 13 April, 1945.

VIA AIRMAIL

CONFIDENTIAL

L-55-M-1661

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

L.606732 - Rfn. Anthony Ralph MILLER
No. 12 District Depot, C.A.

1. Pursuant to the provisions of paragraph 39 of C.A.R.O. 4566, I enclose herewith proceedings of the Standing Court-Martial held in connection with the marginally named soldier.

S.L. Waterman

(S.L. Waterman), Major,
President, Courts-Martial, M.D. 12.

Encl.

56863

N.D. 25
300632—10-44 (5769)
H.Q. 1772-101-23

DUPLICATE

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of L606732 Rfn. A.R. MILLER,
Number Rank Name in full

.....
Unit Attachment (if any)

Sentenced to.....

on..... at.....

being served at.....
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment.....

Medical grade or category.....

FIRST TRIAL—PART II

To.....
Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on.....) for reasons given in paragraph X.
date

Place.....

.....
Confirming Authority

Date.....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To.....
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on.....and sentenced

to....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place.....

.....
Confirming Authority

Date.....

M.F.M. 258
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
APR 24 1945	Suspended effective one day after authorization	J. H. Carter Lt Col Adjutant-General for Superior Military Authority	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

H.Q.C. 55-M-1662

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

SUBJECT

STANDING COURT-MARTIAL

MATHIEU, BENOIT H.23455 PTE.

CROSS REFERENCE

CENTRAL REGISTRY	DATE	R.A. OR D.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 25 [redacted]					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
					[redacted]		
				A.G.	NEW FILE C.R.		APR 18 1945
[redacted]					[redacted] C.R. MAY 8		
					[redacted]		

CONFIDENTIAL
H.Q.C. 55-M-1662

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1662 (JAG/D-4)

7 May 45.

District Officer Commanding,
Military District No.5,
Quebec, Que.

.....Court-Martial
Standing
H-23455, Pte. Benoit MATHIEU
General List, CA, (Att. A-13 CITC, CA)

Receipt is acknowledged of your C.39-M-3096 (JA)
dated 194 , under cover
returned to this office for custody the proceedings
of the marginally noted Court-Martial.
1st May.
Standing

Noted
J. H. CLAYTON
Lieut.-Colonel,
Inspector of Courts Martial
MAY 10 1945

/ET

E. L. M.
Capt.
for
(E.L.Orde) Brigadier,
Judge Advocate General.

IN REPLY PLEASE QUOTE No. Q. 39-M-5096 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

310734

QUEBEC, P.Q., 1 May 45.

THE SECRETARY,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
MAY 3 1945
File 55-M-1662
Chgd. to
Referred to

STANDING COURT-MARTIAL
H-23455, Pte. Benoit MATHIEU,
General List, CA, (Att. A-13 CITC, CA)

1. Reference HQC. 55-M-1662 (JAG/D-4) dated 24 Apr 45.

2. The proceedings of the marginally noted SCM are returned herewith for custody.

3. M.F.M.286 is not attached hereto as the OC, A-13 CITC, does not wish to recommend a revision of the sentence.

JAC/C.

(Edmond BLAIS) - Brigadier,
District Officer Commanding
Military District No.5.

A

Formule de procès verbal de cour martiale permanente

/P.Q.

Procès verbal d'une cour martiale permanente tenue à No. 54 CIBTC., C.A., Valcartier,

le 9ème jour d'avril 1945 à 10:15 heures,

pour le procès de H-23455, Soldat Benoit MATHIEU, Liste Générale, A.C.,
Matricule Grade Nom et prénoms

att. A-13 CITC., A.C.
Unité Détachement, le cas échéant

PRÉSIDENT: Major Armand SYLVESTRE, Président Permanent, C.M.D., Q.G., R.M. No. 5.

PROCUREUR: Lt.(A/Capt.) Pierre TASCHEREAU, Procureur Permanent, Q.G., R.M. No. 5.
Grade Nom et prénoms Unité Détachement, le cas échéant

XXXXXX
XXX OFFICIER DÉFENSEUR: Lt. Jean-Paul DUFOUR, att. A-13 C.I.T.C., A.C.
Grade Nom et prénoms Unité Détachement, le cas échéant

VERDICT: La Cour déclare le prévenu coupable sous le premier chef d'accusation, et coupable sous le deuxième chef d'accusation, sauf que le montant des effets perdus est de $15.61 au lieu de $47.52.

SENTENCE: La Cour condamne le prévenu à la détention pendant QUATRE-VINGT-DIX (90) jours, et à une suppression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, savoir: $15.61.

Signé à VALCARTIER, P.Q. ce 9ème jour d'avril 1945.

-Major
Président de la cour martiale permanente
Q.G., R.M. No. 5.

M.F.B. 1486A
5M-6-44 (4820)
H.Q. 1772-33-2200

36862 in the office of the Judge Advocate-General this 19th day of April 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non Monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. Vous opposez-vous à Mlle Thérèse Leclerc comme sténographe ?

Réponse: Non Monsieur.

La sténographe [illegible] est dûment assermentée (Minute d'ajournement et de reprise d'audience, voir document "F" ci-joint.)

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non Monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui Monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable.

~~*Question à l'accusé.* Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef ~~d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.~~

CHARGE SHEET

in the case of

The accused, No. H-23455 Private Benoit MATHIEU, General List, C.A., attached to A-13 C.I.T.C., C.A., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE: Sec.12(1)(a) Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he

at Valcartier Camp,P.Q., at 0800 hours, on the 20th December 1944, after having been warned for proceeding on special duty, with intent to avoid so proceeding, absented himself without leave from A-13 C.I.T.C., C.A., until apprehended by Military Authorities at Boischatel, P.Q. on the 2nd day of April 1945, at 0100 hours, dressed in civilian clothes.

SECOND CHARGE: Sec. 24(2) Army Act.

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND NECESSARIES,

in that he

at Valcartier Camp,P.Q. on the 3rd April 1945, was deficient of the following articles, viz:

(Equipment and clothing)

	CARO 1862	Less 25% CARO 3464	
Clo. Div. "A"			
1 Anklets web pr	0.74	0.55	
1 Greatcoat drab	15.54	11.65	
1 Gloves woollen	0.66	0.49	
1 Overall combination	2.52	1.89	14.58
Clo. Div. "B"			
1 Battle dress blouse	6.50	4.87	
(1) 2 Battle dress trousers	13.10	9.82 4.91	
1 Boots ankle prs	5.82	4.36	
1 Drawers cotton short	0.42	0.31	
2 Drawers woollen	2.80	2.10	
1 Jacket sweater	1.38	1.03	
2 Shirts flannel khaki	3.26	2.44 1.22	
1 Shirt under cotton	0.43	0.32	
2 Shirts woollen	2.40	1.80	
3 4 Socks woollen prs	1.84	1.36 1.02	
1 Beret khaki	1.20	0.90	29.31
Clo. Div. "C"			
1 Braces pr	0.28	0.21	
1 Brass button	0.02	0.02	
1 Brush button	0.11	0.08	
1 Brush cloth	0.17	0.13	
1 Brush shaving	0.42	0.31	
1 Comb hair	0.04	0.03	
1 Fork table	0.08	0.06	
1 Knife table	0.18	0.13	
1 Spoon table	0.08	0.06	
1 Housewife	0.35	0.26	
1 Holdall	0.22	0.16	
1 Razor safety set	0.42	0.31	

2 Towels hand	0.62	0.46	
1 Necktie black	0.19	0.14	
1 Pin collar safety	0.06	0.04	
2 Socks black prs	0.56	0.42	
1 Knife clasp	0.99	0.74	3.56
Clo. Div. "D"			
1 Badge cap CIC	0.09	0.07	0.07

TOTAL NET....$ 47.52

Valcartier Camp, P.Q., this
5th day of April, 1945.

D. Menard

(D. MENARD) Colonel,
O.C. A-13 C.I.T.C., C.A.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé. Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non Monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins.~~

~~XXXXXXXXXX~~

~~XXXXXXXXXX~~

~~Les documents ci-dessous sont intercalés par le procureur.~~

~~XXXXXXXXXX~~

LE PROCUREUR REMET LES DOCUMENTS SUIVANTS AU PRESIDENT, LESQUELS DOCUMENTS SE RAPPORTENT A L'ACCUSE.

1° Extrait certifié des Ordres du Jour, Partie II, No. 6, en date du 8 janvier 1945, émis par A-13 CITC., A.C., se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier."

2° M.F.B. 375 en date du 23 janvier 1945, se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier."

3° M.F.M. 216 en date du 2 avril 1945, se rapportant à l'accusé.

"Ce document est lu par la Cour, marqué "I", signé par le Président et versé au dossier."

LE PROCUREUR PROCEDE A L'APPEL DES TEMOINS

PREMIER TEMOIN DE LA POURSUITE: Lt. P.A. DUPUIS, Liste Générale, A.C. att. A-13 GITC., A.C., étant dûment assermenté, est interrogé par le Procureur:

Q. Quelles sont vos fonctions?

R. Officier en charge de la documentation, 9ème Infanterie A-13.

Q. Est-ce que vous connaissez l'accusé dans cette cause?

R. Personnellement, non.(regarde l'accusé.)

Q. Est-ce que vous l'avez déjà vu?

R. Probablement vu à la 9ème Infanterie.

Q. Voulez-vous prendre connaissance de ce document-ci et dire de quoi il s'agit?

R. C'est un avis d'embarquement qu'on lit et qu'on explique au soldat lorsqu'il est averti qu'il s'en va en congé d'adieu, et qu'il est requis pour devoir spécial, ensuite on lui fait signer.

Q. Le 14 décembre 1944 voulez-vous dire qu'est-ce qu'il s'est passé?

R. Nous avons averti un groupe d'hommes qui venaient de la 1ère Infanterie qu'ils étaient disponibles pour devoir spécial et qu'ils s'en allaient en congé d'adieu le même jour. Nous leur avons expliqué et ils sont partis en congé.

Q. L'avez-vous fait à l'accusé?

R. Parmi ce groupe-là il y avait H-23455, Pte Mathieu, B.

Q. Qu'est-ce que le soldat Mathieu a fait une fois que vous avez lu l'avis d'embarquement?

R. Il en a pris connaissance et l'a signé devant témoins.

Q. Devant qui?

R. Le Major Bonin et moi-même.

Q. Vous-même qu'est-ce que vous avez fait?

R. J'ai signé comme témoin.

Q. Voulez-vous produire ce document-ci comme exhibit?

R. Oui Monsieur. (le témoin remet le document à la Cour.)

"Ce document est lu par la Cour, marqué "J", signé par le Président et versé au dossier."

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER CONTRADICTOIREMENT.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83(B).

LE TEMOIN SE RETIRE.

DEUXIEME TEMOIN DE LA POURSUITE: D-646690, A/Sgt. B. BOILEAU, att. A-13 CITC., C.A., étant dûment assermenté, est interrogé par le Procureur:

Q. Quelles sont vos fonctions?

R. Instructeur dans le camp Valcartier A-13.

Q. Est-ce que vous connaissez l'accusé dans cette cause?

R. Non Monsieur.

Q. Etes-vous au A-13 et votre numéro est D-646690?

R. Oui Monsieur.

Q. Vous ne l'avez jamais vu?

R. Il n'en passe plusieurs dans la 9ème.

Q. Voulez-vous dire à la Cour si vous avez eu l'occasion de faire l'inspection de l'équipement de H-23455, soldat Benoit MATHIEU?

R. Ca se peut que j'aie fait l'inspection. Je m'en souviens pas. Il n'en passe plusieurs. Je me souviens pas de tous les visages.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER CONTRADICTOIREMENT.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83(B).

LE TEMOIN SE RETIRE.

D

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: L'accusé désire rendre témoignage sous serment, Monsieur. (Voir page D-3 et suiv.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non Monsieur.

~~Question~~ ~~Avez-vous quelque~~ ~~témoin à l'appui de votre défense?~~

~~Réponse~~

TEMOIN DE LA DEFENSE: L'accusé, H-23455, Soldat Benoit MATHIEU, Liste Générale, A.C., att. A-13 CITC., A.C., étant dûment assermenté, est interrogé par l'Officier Défenseur:

Q. Vous êtes dans l'Armée depuis combien de temps?

R. J'ai été dans l'Armée 8 mois.

Q. Est-ce que vous avez été appelé?

R. Oui Monsieur.

Q. Vous avez signé actif?

R. Oui Monsieur.

Q. Avez-vous une raison?

R. Oui Monsieur. J'ai deux raisons: Quand on m'a appelé j'étais à Port Arthur, a fallu que je me rende au dépôt à Winnipeg. Après le dépôt on m'a demandé si je voulais signer actif. Je voulais pas. Je leur ai demandé des conditions, que si one me donnait l'avantage et si je signais actif que j'étais tout prêt à signer actif si je faisais un cours. Le capitaine m'a dit on te promet pas un cours, si ta conduite est bonne on peut te donner un cours. On a donné des cours à des recrues; la majorité a été donnée aux actifs. Avant de partie pour Winnipeg, j'ai été chez l'Army Examiner. J'ai dit que j'ai toujours désiré de suivre un cours. Au civil j'ai jamais gagné assez cher pour suivre un cours. J'ai été transféré à Sorel. J'ai été à l'Army Examiner. Je voulais un cours dans le Corps des Signaux. Il m'a dit la même chose. Il a dit si ta conduite est bonne, si tout va bien on peut te donner un cours. On peut pas refuser ça. Quand le camp a fermé à Sorel j'ai été à Sherbrooke. J'ai complété mon Basic à Sherbrooke. En partant j'ai été chez l'Army Examiner. Il m'a dit qu'il pouvait pas me donner mon cours, fallait que je fasse mon Advanced. Il m'a

dit qu'il fallait faire le Basic et l'Advanced. J'ai insisté pour avoir mon cours. Il a pas pu me le donner. On m'a transféré à Valcartier. J'ai paradé deux fois à l'Army Examiner. La première fois il m'a dit que j'avais une chance vu que mon Conduct Sheet était blanc. Ma conduite était assez bonne dans le passé. Quand mon Advanced a été passé ici j'ai paradé à l'Army Examiner. Je pouvais pas avoir mon cours. J'ai dit que la majorité des actifs avaient des cours, que je voyais pas pour quelle raison je pouvais pas suivre un cours. Il m'a dit qu'il pouvait pas me le donner. La deuxième raison, j'avais des maladies quand je suis rentré dans l'Armée qui ont jamais été dévoilées. Le docteur s'en est aperçu ce matin. Il m'a demandé est-ce que tu as déclaré ça. J'ai dit non.

Q. Quelle maladie?

R. La haute pression de sang. J'ai été appelé en 1940 ou 1941. J'avais été refusé par rapport à ça. On m'avait classé C-2. Durant le temps de mon entraînement j'ai évité d'aller chez le docteur. J'avais la certitude d'avoir mon cours. J'ai pensé que c'était mieux de pas aller le voir.

Q. Avez-vous une assurance?

R. Non parce que quand j'ai été chez un docteur il m'a toujours refusé. J'ai même le certificat du docteur qui me refuse dans la compagnie d'assurance. L'accusé remet à la Cour un certificat médical, signé par le docteur J.H. LaRue, en date du 5 avril 1945.

"Ce document est lu par la Cour, marqué "K", signé par le Président et versé au dossier."

L'accusé remet à la Cour un autre certificat médical, signé par le docteur Chs. Côté, en date du 5 avril 1945.

"Ce document est lu par la Cour, marqué "L", signé par le Président et versé au dossier."

Q. Souffrez-vous d'autres maladies que la haute pression?

R. Il y a deux ans j'ai été opéré pour les deux côtés du nez. Il y a une narine qui est pas guérie encore. Le docteur qui m'a soigné pour le nez m'a fait une opération pour le nez, ce qui occasionne du saignement de nez. La semaine passée j'ai saigné 2 ou 3 fois.

Q. Etes-vous déjà allé chez le M.O. pour d'autres choses?

R. Oui pour les hémorroïdes. On m'a donné 2 pilules blanches. On m'a fait aucune inspection.

Q. Est-ce que ça vous fait souffrir?

R. On peut être une semaine. Des fois on les a assez fortes, ça nous empêche de marcher.

Q. Après votre embarkation leave qu'est-ce que vous avez fait?

R. Après avoir eu mon congé, je me suis rapporté ici le 20, je crois, au matin. J'ai parti le 20 au soir.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR.

Q. Mathieu, est-ce que c'est bien votre signature qui apparaît ici. (le Procureur montre à l'accusé l'avis d'embarquement)

R. Oui Monsieur.

Q. Vous vous souvenez qu'on disait la dessus que vous étiez susceptible d'être appelé en devoir spécial n'importe quel temps à partir du 20?

R. Oui.

Q. Et que si vous ne vous rapportiez pas vous étiez passible d'être accusé de désertion?

R. Oui Monsieur.

Q. Est-ce que vous avez compris ce que vous signiez là?

R. Oui.

Q. Je comprends que vous êtes revenu le 20 au matin?

R. Oui.

Q. Etes-vous allé à la parade?

R. Oui. Le matin et le midi on a pris le roll call, après on a été au Quartier-Maître dans l'après-midi. On a été chez le docteur le matin. Dans l'après-midi on a été au Quartier-Maître. Le matin j'ai dit au docteur quelle maladie j'avais. Il m'a demandé quel remède je prenais. J'ai dit "des suppositoires". On m'a donné une petite feuille pour donner à l'assistant. Son assistant m'a donné deux pilules blanches avec un verre d'eau.

Q. Qui était l'assistant?

R. Je peux pas dire son nom.

Q. Le soir vous êtes parti à quelle heure?

R. Vers 6 heures.

Q. La draft n'était pas partie?

R. Non Monsieur.

Q. Vous avez été absent depuis ce soir-là jusqu'au 2 avril 1945, est-ce exact?

R. Oui Monsieur.

Q. On dit, Mathieu, à votre retour ici, le 3 avril cette année, il vous manquait des articles d'équipement dont vous avez entendu la lecture tout à l'heure. Est-ce vrai que ça vous manquait?

R. Oui c'est vrai, presque les trois quarts sont revenus ici. Chez nous sont venus me voir dimanche. Il y avait du linge qu'ils ont pas pu trouver chez nous. C'est chez nous encore.

Q. Qu'est-ce qu'on vous a rapporté:

1 greatcoat
1 pr. de bottines
1 battledress, pantalon et blouse
2 sous-vêtements d'hiver
1 sous-vêtement d'été
1 pr. bas de laine
1 pr. bas de coton
1 pr. d'anklets
1 gilet sweater jacket
1 chemise en flannelle
1 brosse pour le linge
1 brass button
1 pr. de bretelles
1 kit bag

le reste des articles c'est chez nous.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83(B).

L'ACCUSE REPREND SON SIEGE

LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE.

L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non Monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Non Monsieur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

"P"

MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE

- - - - - - - - - - - - - - - -

A 10:25 heures a.m., le 9ème jour d'avril 1945 la Cour s'est ajournée.

A 13:45 heures p.m., le 9ème jour d'avril 1945 la Cour se rassemble.

- - - - - - - - - - -

LE PROCES SE POURSUIT.

DAILY ORDERS PART II
by
COLONEL DOLLARD MENARD , D.S.O.
Commanding

A-13 CANADIAN INFANTRY TRAINING CENTRE

Order No.6
8 Jan 45
Valcartier,Que.

- - - - - - - - - (Last Orders issued No.5 d/ 5 Jan 45) - - - - - - - - -

"B" OTHER RANKS

14. ABSENT WITHOUT LEAVE

A) Absent without leave from 0800 hrs. 20 Dec 44.

H-23455 Pte MATHIEU, B.

(Signed) M. Thivierge Lt.
For: (R. PLANTE) Capt. A/Adjutant
A-13 CANADIAN INFANTRY TRAINING CENTRE
VALCARTIER CAMP,P.Q.

Certified true extract
of Daily Orders Part 11,
No. 6 d/ 8 January 1945.

J.L. Ramsay Lt., Gen.List,C.A.
Off. i/c Records,A-13 C.I.T.C.,C.A.

"H"

RECORD of the Declaration of a Court of Inquiry assembled at Valcartier Camp, P.Q.

on the 23rd day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H-23455 Pte Mathieu, B. Gen. List, Att. to C.I.T.C. A-13.

DECLARATION

The Court declare that No. H-23455 (Regt'l No.) Private (Rank)

Mathieu, B. Gen. List, Att. to C.I.T.C. A-13 (Full Name) (Unit)

illegally absented himself without leave from A-13 C.I.T.C., C.A.

at Valcartier, P.Q. (Place) at 0800 hours on the 20th day of December 1944,

that he is still so absent, and that on the 20th December 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
1 Anklet web prs	0 74	1 Beret khaki	1 20
1 Great coat drab	15 54	1 Braces pr	0 28
1 Gloves woollen prs	0 66	1 Brass button	0 02
1 Overall combination	2 52	1 Brush button	0 11
1 Battle dress blouse	6 50	1 Brush cloth	0 17
2 Battle dress trousers	13 10	1 Brush shaving	0 42
1 Bootsankle prs	5 82	1 Comb hair	0 04
2 Drawers cotton short	0 84	1 Fork table	0 08
2 Drawers woollen	2 80	1 Knife table	0 18
1 Jacket sweater	1 38	1 Spoon table	0 08
2 Shirts flannel khaki	3 26	1 Housewife	0 35
2 Shirts under cotton	0 86	1 Holdall	0 21
2 Shirts woollen	2 40	1 Razor safety set	0 42
4 Socks woollen	1 84		

J. Allaire Capt. R.22eR. (Name) (Rank) (Unit) President
Att. C.I.T.C. A-13

P.A. Dupuis, Lieut Gen.List, (Name) (Rank) (Unit) Member
Att. C.I.T.C. A-13

M. Lebon Lieut Airborne Troops (Name) (Rank) (Unit) Member
Att. C.I.T.C. A-13

Signed at Valcartier Camp, P.Q.

this 23rd day of January 1945

Signature of Commanding Officer D. Menard Colonel, O.C. A.I.T.C. A-13 (Name) (Rank) (Unit)

Certified true copy J. L. Rameau Lieut., General List, C.A. (Name) (Rank) (Unit)
Off. i/c Records, (Signature of Officer having custody of original record)
A-13 C.I.T.C., C.A.

M.F.B. 575
A.F.B. 186
200M—1-44 (3878)
H.Q. 1772-59-257

ARTICLES	VALUE	ARTICLES	VALUE
2 Towels hands	0 62		
1 Necktie black	0 19		
1 Pin collar safety	0 06		
2 Socks black prs	0 56		
1 Knife clasp	0 99		
1 Badge cap	0 09		
C.A.R.O. 1862	$ 64 33		
CARO 3464 Less 25% Total	$ 48 18		

"I"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major, J.G. LeBlanc (Number) (Rank) O.C. 3c Coy., C. Pro. C. (CA) (Name) (Unit)

hereby certify that H-23455 (Number) Pte. (Rank) MATHIEU (Name in full) B.

of the 9 Inf. A-13 (CA) Valcartier (Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~[illegible]~~) E-49792 (Number) Pte. (Rank)
D-57912 Cpl.

Fortier, J.M.
Boutin, C. (Name) 3c Coy., C. Pro. C. (CA) (Unit or appointment)

at Boischatel, Que. (Place) at 0100 (Hour)

on the 2nd day of April 19 45

Strike out words not applicable } as a ~~[illegible]~~ (or absentee without leave), and that at the time of his arrest he was ~~[illegible]~~ (dressed in civilian clothes).

Dated at Quebec this 2nd day of April 19 45

(J.G. LeBlanc)-Major,
(Signature, Number, Rank, Unit or appointment)
O.C. 3c Coy., C. Pro. C. (CA)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 210
100M—11-42 (6890)
H.Q. 1772-39-1936

"J"

A-13 C.I.T.C., Valcartier, P.Q.

H-23455 Pte. Mathieu B.
(Att. to A-13 C.I.T.C., C.A.)

Je, soussigne, reconnais par les presentes avoir recu un avis d'embarquement ce 14 jour de Mar 1944 a l'effet que je devrai partir pour devoir special a n'importe quel moment a partir de 1600 heures, le 14 jour de Mar 1944 et je comprends que si je m'absente sans permission ou si je depasse la limite de temps alloues pour mon conge, je serai passible d'une accusation de desertion aux termes de la Section 12 Army Act.

Et j'ai signe: B. Mathieu

Signe devant moi: A. Bouchard
(Officier faisant l'appel)

Temoin de l'appel nominal
et de la signature.

TEMOIN: D.A.W. Faux Cpl

ORDONNANCE MEDICALE
"K"

Nom .....

Adresse .....

℞

Je ai, à différentes occasions, examiné M. Benoit Mathieu de Boischatel et à chaque fois il faisait de l'hypertension artérielle. Aucune compagnie d'assurance ne l'accepte à cause de cela.

Dr J. G. Lalime

5 avril 1945.

"L"

TEL. 8304

DR CHS COTE

MEDECIN-CHIRURGIEN

SPECIALISTE POUR LES YEUX, NEZ, OREILLES ET GORGE

EX-ELEVE DU NEW-YORK POLYCLINIC HOSPITAL

699 RUE ST-VALLIER

Bienfait Sask.

QUEBEC. le 5 avril 1945

La présente pour certifier que j'ai traité, Mr Benoit Mathieu, Boischatel en 1938 pour hypertension artérielle, hemmorroides, épistaxis,

Chs Côté m.d.

"Y"

M.F.B. 355
(RM—5-43 (3992))
M.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-23455	Private	Benoit MATHIEU, General List, C.A.,	attached to A-13 C.I.T.C., C.A.

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 6 days in military custody, making a total of 6 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 25 yrs old

6. The date of his attestation specified in his attestation paper is 12 July 1944

9. The accused is in possession of or entitled to no military decoration, or military reward

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Name.....of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge on which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

J. L. Ramsay Lt
Offr. R. Records

Signed this..... day of.....

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

No. H-23455 Name MATHIEU, Benoit Sqn., Battery, or Company

Corps C.I.C.

Date of enlistment 12 July 4[illegible]

G.C. Badges

Tradesmen's Rates of Pay

M.F.M. 6
(A.F.B. 122)
500M—11-41 (2400)
H.Q. 1772-39-1653

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No. one

Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY					
				A. L. Rameau 2/Lt. Gen. List, C.A.					
				Off. i/c Records, A-13 C.I.T.C., C.A.					

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. H 23455 Pte Mathieux, B.

of 9th Inf Coy A-13 is in a good state of health,

and fit to undergo Trial by Court martial.

J. Groleau Capt (R.C.A.M.C.) AF

M.O. A.M.C. del B.D.S. Officer

Station Valcartier, Camp. Que.

Date 9 Apr. 45

M. F. B. 246

SFM—2-45 (334)
H.Q. 1772-99-480

PRECIS OF EVIDENCE

in the case of

No. H-23455 Private Benoit MATHIEU, General List, C.A., attached to A-13 C.I.T.C., C.A.

CHARGES:- (1) WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

(2) LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND NECESSARIES.

To prove the first charge, the following evidence is available:

Documentary: - M.F.B. 375,
M.F.M. 216,
Extract from Part 11 Order of A-13 C.I.T.C., C.A., No. 6 dated 8 Jan 45, respecting the absence of the accused.
Certified true copy of Warning Order.

Verbal: - Lieut. P.A. Dupuis, General List, C.A. who will produce a certified true copy of Warning Order.

To prove the second charge, the following evidence is available:

Documentary: - M.F.B. 375.

Verbal: - D-646690 A/Sgt B. Boileau, N.R.M.A., C.A. who will give evidence as to recoveries and deficiencies at kit inspection.

THIS COPY FOR H.Q. C.55-M-1662
M.D. Q.39-M-5096

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. H.23455 Name MATHIEU, Benoit

Rank Pte Unit Gen List C.A. att A 13 C.I.T.C. CA

Charge (1st) A.A. 12 (1) (a) - Desertion

(2nd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 20-12-44; (2) 3-4-45

Date of Arrest (1) 2-4-45 Charge Signed 5-4-45

Orders for D.C.M.

Place and Date of Trial No. 54 C.I. (B) T.C. CA Valcartier Que 9-4-45

Sentence Det 90 days; stoppages $15.61

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36862

Date 19-4-45

MEMO

M.D. 5 - No. 54 CI(B)TC CA

Absent	Sentence
3½ mos	Det. 90 days

J.G. Lahey capt
for Judge Advocate General

10M-1-45(M-4629)

no inequalities noted.

21.4.45 [illegible]

IN REPLY PLEASE QUOTE
No. Q:39-M-5096

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Quebec, P.Q., April 16th. 1945.

THE JUDGE ADVOCATE GENERAL,
Dept. of National Defence,
Ottawa, Ont.

655-M-1662

STANDING COURT-MARTIAL
H/23455, Pte. Benoit MATHIEU,
General List, C.A.,
(Att.to No.54 CIBTC.C.A.)

Please find enclosed herewith the proceedings of the m/n Standing Court-Martial, which are forwarded to you pursuant to C.A.R.O. 4565 (11)(a).

(ARMAND SYLVESTRE) - Major,
Permanent President S.C.M.

36862

N.D. 23
1,500M—7-42 (3219)
H.Q. 1772-101-23

H.Q.C.55-M-1662 (JAG/D-4)
Your File - Q.39-M-5096

24 Apr 45.

District Officer Commanding,
Military District No. 5,
Quebec, Que.

STANDING COURT-MARTIAL
H/23455, Pte. Benoit MATHIEU,
General List, C.A.,
(Att. to No. 54 CIBTC, C.A.)

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

JOGR/ET

H.Q.C. 55-M-1663

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MACNEIL, HUGH JOSEPH F.55412 PTE

999-38

CONFIDENTIAL
H.Q.C. 55-M-1663

CENTRAL REGISTRY	DATE	P.A. OR S.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
		(If purpose for which referred cannot be expressed on one line, add minute to file and					
MAY 1 5 1946	25/4/46	PAO		WG Chen	MAY 9		
NOV 1 4 1946	29/11/46	TPR	Gras	VRB	NOV 13 1946		
DEC 2 1 1946							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IPG V LRIE SRL 107

FROM: CANMILITRY 271820B

TO: CDN 02E AAI

A5195 HT

RESTRICTED(.) PARA (1) ONE (.) FGCM PROCEEDINGS G3918 PTE SEERS WF B113995 PTE LAMOUREUX SO BOTH SERIAL 43/1 F35589 PTE LANE FA SERIAL 42/1 F55412 PTE MCNEIL HJ SERIAL 357/1 RECEIVED 25 JUL 44 ENDORSED BY MGA 27 JUL 44 QUOTE I CONFIRM THE FINDINGS AND SENTENCE AND I DIRECT THAT A PART OF THE SENTENCE NOT EXEEDING 2 YEARS SHALL BE SERVED IN A MILITARY PRISON UNQUOTE (.) PARA (2) TWO (.) PROCEEDINGS A11516 PTE LECLARE JE SERIAL 107/1 RECEIVED 25 JUL 44 ENDORSED BY MGA 27 JUL 44 QUOTE I CONFIRM THE FINDING AND SENTENCE I REMIT 5 YEARS PENAL SERVITUDE (.) I DIRECT THAT A PART W THE SENTENCE NOT EXCEEDING TWO YEARS SHALL BE SERVED IN A ILITARY PRISON UNQUOTE (.) PARA (3) THREE (.) ADVISE G O C CDN ARMD DIV THAT HE HAS FULL DISCRETION AS TO FORM OF PROMULGATION (.)

272250 HJN Q CK K

SRL 107 272251 WW R1 K

S-20-
HQ 5 Cdn Armd Div
9 Jul 44

CONFIDENTIAL

1 Cdn Corps (Legal)

Field General Courts Martial
K-55412 Pte Hugh Joseph MacNEIL - C B Highrs
K37518 - Pte James Irvine CALVERT - Ir R C

1. Enclosed herewith proceedings and certified true copies in the m/n cases which have been reserved for confirmation by superior authority.

2. It is recommended that the sentences be confirmed as passed.

3. May it be directed please by the confirming authority that the findings and sentence be publicly promulgated on a parade of the soldier's Bns.

(B M Hoffmeister) Maj Gen
GOC 5 Cdn Armd Div.

KLS

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F55412 Pte Hugh Joseph MacNEIL, C B Highrs

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

WMWS ~~[illegible]~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 37 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer penal servitude for a term of three years.

(Sgd) "W M W Shaw" Capt — Judge-Advocate, if any. 4 Jul 44 — Date awarded. (Sgd) "H A Snelgrove" Maj — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve confirmation of the finding and the sentence for superior authority.

Date 4 Jul 44 (Sgd) Ian S Johnston Brig Commanding 11 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: "I confirm the findings and sentence and I direct that a part of the sentence not exceeding 2 years shall be served in a military prison"

I ~~direct that the accused be not committed to prison or detention barracks until further orders~~.(1)

(1. AA 57A. Delete if not used.)

Date LONDON 27 Jul 44. (Sgd) {"P J Montague"} Major General i/c Administration, CANADIAN MILITARY HEADQUARTERS. Commanding — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F55412 Pte MacNeil, H.J.	8 Aug 44	P Christie Colonel, Commandant, 1 Cdn Base Reinforcement Depot

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 SSS-50

CFA98 (In lieu of AFA98) 40/P & E/1658 (2604)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier I S Johnston Comd 11 Cdn Inf Bde dated 1 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F55412	Pte		Hugh Joseph	MacNEIL	C B Highrs

Certified true copy
W M W Shaw Capt
ADJ 5 Cdn Armd Div

(122)

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 4 Jul 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnn RQs. For guidance on procedure when a variation in this form arises, see forms for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1050 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

WMWS ~~The Prosecutor informs the Court that accused is (are) by reason of illness or any other cause unfit to undergo trial.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

WMWS A5. President to accused: ~~Are you willing to be tried by this Court?~~

~~The interpreter [illegible] the accused.~~
~~The interpreter is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H A Snelgrove	Perth R
Member	Capt	R L Simmonds	P L Fus
Member	Capt	S E Cameron	Ir R C
Judge-Advocate	Capt	W M W Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	A C Sim	C B Highrs
Defending Offr	Capt	J F Lockman	C B Highrs

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. ~~The accused~~ before arraignment make(s) (no) ~~[illegible]~~ plea WMWS (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

WMWS A9. The accused is ~~not~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

WMWS A10. The Court ~~withdrawn~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No, Sir (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. [redacted]
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fill here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No, Sir (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

WMWS D2. The Prosecutor makes [redacted] (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

WMWS D4. The Prosecution is closed.(1) [redacted]
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Do neither. Do you intend to call witnesses on your behalf?

WMWS Ans. No Sir. [redacted]
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the Second charge(s), being subject to confirmation, will be promulgated later.(1)

WMWS *Or,* [redacted]
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

WMWS D9. [redacted]

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No, Sir
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes thru def offr (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, F55412 Pte Hugh Joseph MacNEIL, "C" Coy Cape Breton Highlanders, CMF, is charged with:

First Charge
AA Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 0815 hrs 14 Apr 44 and remained absent until he surrendered himself to Lieut. WNS Watts at #1 CBRD at 0800 hrs 5 May 44. (Absent 20 days 23 hrs 45 mins).

Second Charge
Sec 12(1)(a)
AA

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

in the Field, at or near the River MELFA, in ITALY, at about 1630 hrs 25 May 44, while in the vicinity of the enemy absented himself without leave with intent to avoid battle, and remained absent until he reported to Bn Guard Room at 1910 hrs 16 Jun 44.

In the Field,
29 Jun 44

(Sgd) "J B Weir" Lt-col
OC C B Highrs

To be tried by Field General Court Martial.

In the Field,
1 Jul 44

(Sgd) "Ian S Johnston" Brig
Comd 11 Cdn Inf Bde

"WMWS" "HAS"

Field,
4 Jul 44

I certify that F55412 Pte H J MacNeil of the C B Highrs is fit to undergo trial by Field General Court Martial.

(Sgd) "R W Boyden" Major
Medical Officer

"WMWS"

FIELD GENERAL COURT-MARTIAL

CFAR5 (In lieu of AFA2)
40/FAR/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F55412	Pte		Hugh Joseph	MacNEIL	C B Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 2 Jul 44 endorsed by me, ~~(or by an offr of my staff for me),~~ " To be tried by Field General Court-Martial ". ISJ

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint as three offrs members of the Court, (a) a Bde Offr as President, for the reasons I have attached hereto:~~ ISJ
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Unit.)
Major	H A Snelgrove (Must be named. RP 106.)	Perth R

MEMBERS.

(Rank.)		(Unit.)
Capt	A C Sim	C B Highrs
Capt	S E Cameron (Named or detailed. RP 106.)	Ir R C

WAITING MEMBER.

(Rank.)		(Unit.)
Capt	R L Simonds (Named or detailed, if any. RP 106.)	P L Pus

JUDGE-ADVOCATE.

(Rank.)		(Unit.)
Capt	W M W Shaw (Must be named, if any. RP 106.)	HQ 5 Cdn Armd Div

On Active Service in the Fd

in Italy (Country.) "Ian S Johnston" (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 2 Jul 44 Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

HAS WMWS

Capt A C Sim, not available because prosecuting case to be heard by court, Capt R L Simmonds takes his place.

1st Witness, G27701 Sgt Thompson, R J H, C B Highrs, duly sworn states:

"Pl Sgt 14 Pl - at approx 0500 hrs 25 May we moved from area near sqn of tanks to coy HQ where had breakfast. Mr McKeen got story for day and gave it out to Sec leaders to give to secs. Accd's sec ldr was Cpl MacDonald, D.R, who was killed the following day. To go thru Irish on north side of Melfa that day. Pushed off 0900 hrs, under shell fire, stopped at different intervals and dug in 3 times. On last stop were to have supper, which had at 1600 hrs. Before supper noticed MacNeil in sec area. After supper Mr McKeen gave out dope and Cpl MacDonald later reported. We then checked pl area and kitchen area looking for accd. I went to 15 pl to check buddies. Could not find accd or trace him. After ret'd from 15 Pl I reported accd "missing". We moved over river that night and went thru Irish but accd not with us. Not with us again, next saw on 16 June when as acting CQMS he asked for set of mess tins. Had been lot of shelling so classified him as "missing". At time were south of Melfa river a mile or so, close enough that he could shell us from bank of river. Had been fully prepared since the day before and Pl was told by Mr McKeen then. Accd in 5 sec - had been in close arrest but released from escort the day before this. Accd was rfm and carrying a case of PIAT bombs that afternoon. Had been under heavy shell fire before HITLER line broken and lost several men then. Definitely understood and well known that going into action that night."

Cross Examination

"Accd not present when Mr McKeen had "O" gp in morning. Accd was around until 4 o'clock.

Re-Examination - Nil.

Court

"Was definitely understood that we were going. Before Gustav line GOC told regt that we were going in as Armd Div and fighting as a Corps."

R.P. 83(B) complied with.

2nd Witness, F55125 Sgt Erickson, C F, C B Highrs, duly sworn states:

"On 16 June was gd comd - at 1910 hrs accd reported to gd room. Told me had been AWL. I turned him over to Ord Sgt. Accd is Pte MacNeil."

Cross Examination - Nil

Court - Nil.

R.P. 83(B) complied with.

3rd Witness, F54869 CSM MacIntyre, JG, C B Highrs, duly sworn states:

"On 25 May about to cross Melfa River about 1630 hrs - started to cross and got on objective. Next morning Sgt Thompson reported to me. I checked pl and coy area but did not find him. Pushed on and he was posted as missing. Our orders if man not seen to be hit was to be posted as missing. Contacted enemy on 25. Had been shelled previously. On 23 and 24 May were in concentration area getting ready to make crossing. Col had bn parade and told them the role the Armd and Inf Div would be playing - a bn muster parade on 16 May - coy all present. GOC and Bde Comd talked to bn also as to ops. Had been shelled in concentration and forming up areas also. Had casualties all

✓

way thru. Cpl MacDonald killed 26 May.

Cross Examination - Nil.

Court

"Can't say found accd's arms. Accd is Pte MacNeil."

R.P. 83(B) complied with.

Pros in closing: Evidence shows time and place when accd went absent; role of coy; knowledge of ops; return also shown. Accd member of fighting sec armed and ready and evidence conclusive that all knew what impending - shell fire several days. Obvious what was coming up.

Def Offr in closing: Possible that while under close arrest was not on parades of GOC and Bde Comd. Possible that accd would not know going to make actual contact with the enemy.

JA sums up: function of court; duty of prosecution, reasonable doubt, desertion, AA 56.

Def Offr in mitigation:

"Joined army '40 - 4 yrs with no serious crime - minor charges. MFM 6 speaks for itself.

"W M W Shaw" Capt

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

F55412 Rank Pte Name MacNeil H J Unit C B Highrs

Age 23 M or S S No of Dependents Nil

No of days in close arrest awaiting trial

Civil Military 37days Hosp Total 37 days

Decorations CVSM & Clasp

In the Field,
4 July 44

(Sgd) R T Bonnell Capt
Offr IC regtl books
C B Highrs

"B" WMWS

No F55412 Name MacNeil, H J Coy C Corps CBH (CIC) Date of Enlistment 11-7-40

Barrack Green	1-3-41	Pte	AWL 8 hrs 30 mins	Forf 1 days pay
Camp Borden	9-7-41	Pte	Sec 40 Kit not laid out properly	7 days CB 7 days pay.
Debert	6-10-41	Pte	AWL 9 hrs 4 mins	14 days CB forf 4 days pay
Maida Bks	25-4-42	Pte	Sec 40 Dirty rifle	3 days CB
Field	5-12-42	Pte	Sec 40 failed to have his water available when on duty as night fireman	3 days CB
Field	27-2-43	Pte	Sec 10 breaking out of camp Sec 11 disobeying army orders found in public house Sec 15(1) AWL 1 hr	10 days FP 11 days pay

Certified true copy

"D G McKeen" Lt 10 May 44

"C" WMWS

405-M-7466
55-M-1463

(Records 3)

13th December, 1946.

Hugh Joseph McNeil, Esq;
39 Reservoir Ave.,
Glace Bay, N.S.,

WAR SERVICE BADGE
GENERAL SERVICE CLASS NO. 862933

Dear Sir:-

With reference to this Office letter dated 12th December 1946, herewith War Service Badge "General Service Class", number as marginally noted, issuable in respect of your service in the Canadian Army (Active), together with corresponding Certificate, which must be carried at all times when the Badge is worn, and which please complete by signing, with your usual signature, in the space provided.

It is requested that the attached form of receipt be completed and returned to this Department, in the envelope enclosed for that purpose, which requires no postage.

Yours truly,

(A.C. Chadwick) Major,
for Director of Records,
for Adjutant-General.

ACC/GR

DESP. DEC 18 1946
PEGN No. 583

MEMORANDUM

TO:

M.S.

999-38 Gen

Department of National Defence,
(Army)

NQC 55-M-1663 Adm 3(b)2

OTTAWA, Ontario 10 Dec 45

S.E. 1069/6220/6159B/3339B d/3 Dec 45
Min File: 999-38

V.55412 Ex-Pte MACNEIL, H J

This ex-soldier was tried by FGCM in Italy on 4 Jul 44 on 2 charges:

(i) absenting himself without leave from 14 Apr 44 until he surrendered himself 5 May 44 (an absence of approx 21 days).

(ii) desertion - absenting himself without leave with intent to avoid battle from 25 May 44 until he reported 16 Jun 44 (an absence of Approx 22 days).

2. He was found guilty of both offences and was sentenced to suffer penal servitude for a period of 3 years.

3. There is nothing in the CM Proceedings to indicate that this ex-soldier's " nerves had cracked up". He gave no evidence on CM, called no witnesses and made no statement. The statement in mitigation of sentence was confined to a statement of this ex-soldier's service. A certificate was filed the date of the trial by the Medical Offr stating that he was fit to undergo trial. Previous convictions indicate 9 summary convictions including 3 absences without leave.

4. He was medically boarded at the time of his discharge and was pulhemized 1 1 1 1 1 1 1 and he had no complaints.

5. This ex-soldier was returned to Cda in custody under sentence in May 45 with the recommendation of CMHQ that, in view of the serious nature of the offence upon which he had been convicted, it was considered that he should serve the sentence in full and be discharged for misconduct under CARO 1029(8).

6. He was so discharged 11 Jul 45 and committed to Dorchester Penitentiary.

7. Circumstances have recently been reviewed by the Board of Review under the WSGA and it was determined that he was not intitled to gratuity.

MINISTERS OFFICE
DEC 11 1945
DEPT. N.D. OTTAWA

COPY ON HQ 405-M-7466

(A E Walford)
Major-General
Adjutant-General

FINAL
WSPrida

U R G E N T
SPECIAL ENQUIRY

Date DEC 3 1945

No. 1069C/622C/6159B/3337B

To: D Admin

Reply addressed to M.S will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY M.A.D at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 354 Aylmer Annex) immediately. Replies will be signed in the Directorate concerned, for the A.G.

E. Atkinson Capt
A.G. Co-ord 3
(S.E. Section)

OFFICE OF THE MINISTER OF NATIONAL DEFENCE

MEMORANDUM

MIN. FILE 999-38

H. Q. FILE 55-M-1663

30 Nov 45

A.G.(Co-ord 3)

F.55412, Pte. H.J. McNeil

With reference to previous memoranda of 3 and 30 October and 20 November, it would now appear that Private McNeil has been discharged recently.

2. May a report please be furnished for the Minister's information regarding the circumstances of this discharge and any recommendations made at the time.

Colonel,
Military Secretary.

RECEIVED
DEC 4 1945
ADMIN.

RCO 85-M-1665
Adm 5(a)5

MINISTERS OFFICE
NOV 28 1945
DEPT. N. D. OTTAWA

26 Nov 45

SE 6220/6159B/3559B
dated 23 Nov 45

TO: MS

F.55412 Pte MacNEIL, H J

The m/n soldier's case was reviewed by CMER and a recommendation for immediate release was made. On 31 Oct 45 DOC MD 6 accordingly remitted one year and eight months of this man's sentence effective 4 Nov 45.

DW.

(A E Walford)
Major-General
Adjutant-General

GDB:6293:sp

FINAL

MILITARY SECRETARY
NOV 29 1945
RECEIVED

MILITARY SECRETARY
DEC 3 1945
RECEIVED

A.G. ENQUIRY
No. 422
Date NOV 27 1945
Passed

URGENT
SPECIAL ENQUIRY

C.55 M 1663

NOV 28 1945

Date _____

No. 622C/6159B/3339B

To: D Admin

Reply addressed to M.S will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 334 Aylmer Annex) immediately. Replies will be signed in the Directorate concerned, for the A.G.

A.G. Co-ord 3
(S.E.Section)

20 November, 1945.

James McNeil, Esq.,
39 Reservoir Avenue,
Glace Bay, N.S.

Dear Mr. McNeil,

Re: F.55412. Pte. H.J. McNeil

Mr. Abbott has asked me to acknowledge receipt of your letter of November 8th, dealing further with your son's case, and asking that the matter of his Gratuities and terms of discharge be reconsidered.

The matter of your son's sentence will be reviewed from time to time by the responsible authorities and considered on its merits in accordance with the regulations, in addition to which it will come, in its turn, before the special Court Martial Board of Review. I have asked the officers having jurisdiction over these matters to inform me as to the present status of your son's case, and when I receive this information I will pass it on to you.

Yours very truly,

405-M-7466

(H.L. Cameron) Colonel,
Military Secretary.

RECEIVED
NOV 23 1945
ADMIN.
3(b)2

ASC/JG

Min. File. 999-38

A.C. (Co-ord 3)

Further to my memoranda of October 3rd, and October 30th, may I be informed, please, whether a report on this case is yet available for the Ministers information.

Colonel
M.S.

New Aberdeen
Nov 8. 45

MINISTERS OFFICE
NOV 12 1945
DEPT. ...

999-38

Dear Sir
while the question of gratuity and dishonorabl discharge is up about these men in prison for military crimes my son is one of the victims of injustice.
His nerve cracked up on him three and he was given two years imprisonment and his gratuity cut off and he got a dishonorable discharge. Pte W.J. McNeil J55412 R Cay. Cape Breton Highlanders. as you know many a mans nerve cracked up under less trying conditions but they were not put in prison for it, or it is not a crime. the crime is in the inhuman element that sentenced

MINISTRY SECRETARY
12 1945
RECEIVED

Him and any one else that
had the same misfortune
I heard all about the case my
self from those that went
with Him and it is a
Slap in the Face to Freedom
Domocracy Liberty and Jurlie
that is preached to us every
Days and a Slap in the Face
to what the Boys fought and
died for over there. of course
when there is no Human feeling
or Human understanding we
cant expect any a lot of that
men were forced to join the
army in order to get a living
they had no work and they
joined in good Faith my Son
was one of them. and that is

what He got for His trouble
the people think more of
military Rule and discipline
than they do of the human being
a lot of that men have
Dependent, and in the name
of Democracy Freedom Liberty
and Justice should be set free and
their good name restored and
their gratuity restored. if this
is not done Democracy Freedom
Liberty and Justice is a dead Horse
and a Farce, and it is only
for the selected few and not
for the masses I know there will
never be another one of mine
enter the armed forces. the
trouble is when men get a
position of authority over their
fellow man they use it to the
limit and some times beyond

and they lost their Human
touch and feeling. it is a
scandal a disgrace and a shame
against the name of Democracy
Freedom Liberty and Justice. the
way some of these men have
been treated and those that
Preach Democracy Freedom
Liberty and Justice should
hang their Head in shame
in the Face of the Injustice
and Inhuman concentration given
these men. this is lots of things
to be brought to light that
weren't commited by the priveat
or the common propel as we are
known, rich without you know
like murders, we find out a lot

about what goes on from the
Boys returning Home and
some of the things wouldn't
look in print for some people
let that be for the present
give them a square deal
and see that Justice is done
to them and their good name
and Honor restored. this
human being and entitled
to all the consideration of
a human being. you know
you can't think the people of
to day around like those
in power and authority could
seventy five years ago. and
you going to find that out in
the near future all this is going
to be put in the Public Press

4

and a lot more are not all
as you know

Yours for Freedom
Liberty Justice and true
Democracy; the Faith of our
of that victims of Injustice

James McNeil
39 Reservoir ave
Glen Bay
N.S.

44

IN REPLY PLEASE QUOTE
No. N. Mo-2844 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, M. D. No. 6,
Halifax, N.S., 5th Nov 45. 194

NATIONAL DEFENCE Army
NOV 8 1945
C.55-M-1663
Sent to Ottawa
Referred to

CONFIDENTIAL

Secretary,
Department of National Defence,
Ottawa, Ontario.

91. D.R.
7-11-45

F-55412 Pte. MacNEIL, H.J.
Dorchester Penitentiary

Ref RANKS 1030 RESTRICTED relayed to this HQs by M.D.7 under their A7785 UNCLASSIFIED.

2. Forwarded herewith duly completed Form of Remission of Sentence, remitting 1 yr and 8 mons of the m/n soldiers' sentence, effective 4th Nov 45.

3. Also forwarded herewith Army Form A3104 re the m/n man, duly completed in Part VI.

(J.C. Stewart) Brigadier,
D. O. C., M. D. No. 6.

42

N.D. 23
3000M—10-44 (3769)
H.Q. 1772-101-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF
SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No:
District File No: N.M.-2844

PART I

No. F-55412 Rank PRIVATE NAME N.J. McNEIL
Unit Discharged from No. 6 District Depot,C.A. Admitted to Dorchester Penitentiary.

PART II

Date of Trial 4th July, 1944
Charge(s) Sec.15(1) A.A., When On Active Service, Absenting Himself Without Leave
Sec.12(1)(a)A.A.,When On Active Service, Deserting His Majesty's Service.
Sentence Three (3) years penal servitude
Confirmation -(a) Authority:
(b) Date :

PART III
REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit ~~xxxxxxxxxxxxxxxxxx~~ one (1) year and eight (8) months of his sentence, effective 4th November, 1945.

Signed at Halifax, N. S., this 31st day of October, 1945.

(J. C. STEWART) Brigadier,
D. O. C., M. D. No. 6.

PART IV
PROMULGATION

Remission (~~xxxxxxxxxxxxxxxxxxxxxxxx~~ promulgated and extracts taken at Halifax, N.S. this 5th day of November, 1945

Sgd. G.A. Braine Capt.
Officer i/c Documents.
(G.A. BRAINE) Captain,
Records Officer No. 6 District Depot,C.A.

(Unit, attachment and appointment to be stated)

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. F-55412 Rank Private Name J.H. McNEIL
The sentence of three (3) years penal servitude
awarded by FGCM Court-Martial on the 194
has been remitted 1 yr and 8 mons
on the 4 Nov 45. 194, by D.O.C.,
Unit M.D.No.6.

Certified True Extract of Daily Orders Part II of No. 6 District Depot,C.A.
No. 264 Place Halifax,N.S. Date 6 November, 1945.

Sgd. L.H.LeBlanc Captain,
Adjutant (L.H.LeBlanc) Captain,
No. 6 DistrictDepot,C.A.

41

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. F-55412 Pte McNeil HJ Unit Cape Breton Highrs,

Sentenced to three years penal servitude on 4 Jul 44.

Age on, and date of enlistment 21 yrs 11 Jul 40 Term of service 4 yrs 30 days.

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(13712) Wt.24568/175 7,000 8/40 A.& E.W.Ltd. Gp.698 Forms A.3104/31
(16811) Wt.26642/1217 15,000 12/40

640

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	No remission. B/F 4 Jul ~~45~~ 45 Ew	Ernest Fuller 13 SEP 1944	
	No remission. Returning to Canada in custody under sentence	C S Booth (C. S. BOOTH) Brigadier, D.A.G., Canadian Military Headquarters. 4 APR 1945	
2 Aug 45	To be reviewed 1st Nov 45.	A R Walsh maj (D.A. White) Brigadier, D. O. C., M. D. No. 6.	
31 Oct 45	Remit one year and eight months of his sentence, effective 4th November, 1945	J C Stewart (J.C. Stewart) Brigadier, D. O. C., M. D. No. 6.	

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.		
AA Sec 15(1) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE, in that he, in the field, absented himself without leave from 0815 hrs 14 Apr 44 and remained absent until he surrendered himself to Lt WNS Watts at #1 CBRD at 0800 hrs 5 May 44. (Absent 20 dys 23 hrs 45 mins.)	14 Apr 44	4 Jul 44
AA Sec 12(1)(A) WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTYS SERVICE, in that he, in the Field, at or near the River Melfa, in Italy, at about 1630 hrs 25 May 44, while in the vicinity of the enemy absented himself without leave with intent to avoid battle, and remained absent until he reported to Bn Guard-Room at ~~1910 hrs 16 Jun 44.~~	25 May 44	4 Jul 44.
Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
18 Aug 44	Committed to No. 2 Cdn Fd Punishment camp. I recommend that this sentence be NOT reduced.	R B Thomson Lt Col

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
18 Aug 44	I recommend that the sentence be NOT reduced	Lord S. Johnston Brig.

COUNTER NUMBER 13911

HOUR 10:05

OPERATOR'S INITIALS J.R

RELIEVING OPERATOR G.G.

IN REPLY PLEASE QUOTE No. J/12-2-5 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

405-M- 7466

Directorate of Records A.G. OCT 25 1945 Nat. Defence HQ Ottawa

SAINT JOHN, N.B. 23 Oct 45

The District Officer Commanding,
Military District No. 6,
HALIFAX, N.S.

Adjutant General,
Department of National Defence,
OTTAWA, ONTARIO

For information

P-55412 Pte. MacNeil, H.J.

Reference N.D.H.Q. telegram Ranks 1030 dated 19 Oct 45 and this Headquarters telegram A-7785 dated 20 Oct 45.

2. Enclosed herewith AF A3104 for the marginally-noted soldier.

W.S.G. - 20/10/45

for (D.R. Agnew) Brigadier
District Officer Commanding
Military District No. 7

FFC/wmp

38

NAT. DEF. H. 440
250M-4-44 (4320)
H.Q. 1772-39-767

Cat 26 Pts
Loc
Off

RECEIVED
OCT 25 1945
3A

C. SIGS
1945
OFFICE

VER V AC NR 152

FROM COMMANDING SIX HFX 24 1605Q

TO DEFENSOR OTTAWA

GR 29 BT

C-55-M-1663

JAG 8128 UNCLASSIFIED RECEIPT OF RANKS 1030 RESTRICTED REVIEW RELAYED BY HD 7 UNDER THEIR A7785 UNCLASSIFIED IS ACKNOWLEDGED

1130 31/10/45
Loc

BT 24 1618Q EC B

247219

THIS IS AN ACCOUNTABLE COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO [illegible] WOODS

[illegible]	TIME	SIGNATURE

82039

37

VER V AC NR 59

FROM CMDG 7 ST JOHN NB 2010500

TO ADJ GEN OTT

GRS 71 BT

THIS IS AN ORIGINAL COPY
IF INCORRECT OR INCOMPLETE
BELOW AND RETURN
BRANCH
RECEIVED
OCT 1945
3A
R.C.SIGS
OCT 20 1945
ARMY BRANCH

A7785 UNCLASSIFIED FOLLOWING TELEGRAM RECEIVED FROM ADJUTANT GENERAL OTTAWA RANKS 1030 RESTRICTED QUOTE REVIEW REFERENCE AG 0267 DATED 18 OCT 45 REFERS F-55412 PTE MACNEIL H J STOP CMDC RECOMMENDS IMMEDIATE RELEASE STOP AG CONCURS STOP ACK UNQUOTE STOP SOLDIER ON STRENGTH MD SIX STOP FOR ACTION PLEASE ADDSD CMDG SIX RPTD DEFENSOR

360

HQS 55-M-1663, Adm 3(a)

AIR MAIL

OTTAWA, Ont, 19 Oct 45.

District Officer Commanding,
Military District No 7,
ST JOHN, N.B.

F-55412 - Pte MacNEIL H J

1. Ref Ranks 1030 d/19 Oct 45:-

2. Enclosed herewith AF A3104 for the m/n soldier.

(A E Walford)
Major-General,
Adjutant-General.

(Encl 1)

GDB:mw

35

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

M.F.H. 8-M (NHQ) R.F. 1749 H.Q. 1775-M-2000

HQC 55-M-1663,
Adm 3(a)

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE

PLACE: OTTAWA, Ont

DATE: 19 Oct 45.

This message to be sent in cipher

District Officer Commanding,
Military District No 7,
ST JOHN, N.B.

RANKS: 1030 (RESTRICTED)

REVIEW REF AG 0267 D/18 OCT 45 REFERS

F-55412 PTE MACNEIL H J (.) CMBR RECOMMENDS

IMMEDIATE RELEASE (.) AG CONCURS (.) ACK

ADJUTANT GENERAL

Infm copy to: AG
CMBR
JAG

GDB:mw

G D B

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
(Signed) Maj Adjutant-General		IMMEDIATE	10 50

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

34

HQC 55-M-1663 (CMHR) - 1 /ecb

Case No----------
0007

REVIEW OF SENTENCE

1. No, Rank and Name: V.55412, Pte. McNeil, H.J.

2. Unit at date of offence: Cape Breton Highlanders, CMF, Italy

3. Charge: AA Sec 15(1) - While in the field absented himself without leave from 0815 hrs 14 Apr 44 until surrendering 0800 hrs 5 May 44.

AA Sec 12(1)(a) - While in the vicinity of the enemy at the Melfa River, did absent himself without leave in order to avoid battle (1630 hrs 25 May 44 to 1910 hrs 16 Jun 44)

4. Place and Date of Trial: In the Field, Italy - 4 Jul 44

5. Finding: Guilty of both charges

6. (a) Sentence: Three years' penal servitude

(b) Date of Sentence: 4 Jul 44

7. Date of Confirmation: 27 Jul 44

8. Date of Promulgation: 8 Aug 44

9. Being served at Dorchester Penitentiary in MD ~~5~~ 7

(N.B. - Discharged under RO 1029 ( ) for
wef).

 Case No _____

(In simple cases this sheet need NOT be used - See ITEM 12).

PRECIS OF PROCEEDINGS

10. (a) Prosecution:

Evidence offered to prove accused had been warned of impending attack on night of 25 May 44 - was last seen at 1630 hrs on said date and not seen again until 16 Jun 44 when he surrendered to guard cond.

Evidence on first charge proves that accused was A.W.L. but he was L.O.B. at the time.

(b) Defence: N.A. Accused testified? ~~XXX~~ No

Under oath? ~~XXX~~ No

(c) Closing address by Defence in mitigation of punishment, etc. ~~XXXXXXXXXX~~ By Defending Offr

Four years in Army with no serious crimes

32

Case No_____

CONDUCT

11. (a) Prior to conviction: **Fair**

Date of enlistment: **11 Jul 40**

Date of enrolment: Age: **24**

(b) After conviction: **Has earned full remission to date. Earliest date of release 3 Jul 46.**

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances).

Letter from M.P. to Minister, and from N.S. to us.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc).

CMHQ: Full sentence to be served and to be discharged for misconduct inthat he probably misconducted himself for the purpose of obtaining a discharge.

RO: Recommend release 1 Dec 45--will have served 16 months.

Reviewed by ARBOTTS/S. Capt.

---

14. Recommendation of the Board

Immediate Release.

Date OCT 10 1945

Major
Secretary
Courts-Martial Board of Review

DOC 6 reports on H.121-1-7 d/14/9/45

F-55412 Pte. McNEIL, A.J.: A.F.A3104 was forwarded to you under cover our A.121-1-7 (JAG) d/4 Sept 45 report in answer to your RANKS 6087 d/3 Sept 45. Conduct whilst in detention o/s was good. Discharged and admitted to Dorchester Penitentiary, 12 July 1945. This case is to be reviewed at half of sentence, i.e. 4 Jan 46. Report previously forwarded as above mentioned. (Mc-2844)

Headquarters, M. D. No. 6,
Halifax, N. S., 4 Sept 45.

AIR MAIL - SPECIAL DELIVERY

CONFIDENTIAL

Secretary,
Department of National Defence,
Ottawa, Ontario.

REVIEW OF SENTENCES - CASE NOS

P-51188 Pte. ERICKSEN, F.H.
(P-57506 Cpl. BURTON, W.A.)
P-55550 Pte. BURTON, J.C.
P-56412 Pte. MacNEIL, A.J.

Reference telegram Ramo 6037 4/9 Sept 45.

2. Report and documents of a/m soldiers are forwarded as follows:

P-51188 Pte. ERICKSEN, F.H.: Army Form A2104 was returned to your Hqs under cover of this Hqs letter A.G.-190 (JAG) 4/8 Aug 45 with reference to your AHQ 8086-6 Vol.2 Admin 8(b)2 4/28 Aug 45. No record of Report on Conduct Form on file. Authority has been granted by this Hqs to discharge this soldier under R.O. 1020(2) when he is released on 8th Oct 45 by earned remission for good conduct.

(P-57506 Cpl. Burton, W.A.: This man was released from our penal detention on 20th Mar 45 with earned remission for good conduct. It is presumed that P-57506 Burton, W.A. was mentioned in error and that P-55550 Pte. [illegible], J.C. is meant.)

P-55550 Pte. BURTON, J.C.: Army Form A2104 was returned to your Hqs under cover of this Hqs letter A.G.-3711 (JAG) 4/8 Aug 45 with reference to your letter A.G.C. 55-8-1020 dated 25 Jul 45. No record of Report on Conduct Form on file. This case will be brought forward for review on the 1st February, 1946.

P-56412 Pte. MacNEIL, A.J.: Army Form A2104 is forwarded herewith. No record on file of Report on Conduct. Information was obtained from Army this District that the a/m soldier was admitted to Dorchester Penitentiary on 12 July 45. This case is to be brought forward for review on 1st December, 1946.

3. Kindly acknowledge receipt of Army Form A2104 in respect to Pte. MacNeil, A.J. on duplicate letter attached hereto.

(J.C. Stewart) Brigadier,
D. C. G., M. D. No. 6.

m/mm

INCLUDE ORIGINATOR'S NO. AS INTRODUCTION IN TEXT OF MESSAGE.

CLEAR

ARMY MESSAGE

OUTGOING

FILE: 55-1-49, F D 2
Adm 3(b)

PLACE: OTTAWA, Ont

DATE: 3 Sep 45

TO:

District Officer Commanding,
Military District No. 6,
HALIFAX, Nova Scotia.

RANES 6087 (UNCLASSIFIED) URGENT ACTION (.) SUPERIOR MILITARY AUTHORITY AT NDHQ WILL SPECIALLY REVIEW CASES OF UNDERMENTIONED SUS (.) SEND IMMEDIATELY CONFIDENTIAL AIRMAIL SPECIAL DELIVERY MARKED quote IMMEDIATE ATTENTION CMBR unquote MFW 288 OR ARMY FORM A3104 AND LATEST REPORT ON CONDUCT AND REPORT ANY ACTION TAKEN BY YOU UNDER RO 5913 FOR:

F-51132 ZWICKER K W
F-57304 BURTON W A
F-55412 MACNEIL R J

ADJUTANT GENERAL

WAS:mw

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT INCLUDING WIRELESS	DEGREE OF PRIORITY	TIME OF ORIGIN
(A E Walford) Major-General, Adjutant-General	IMPORTANT	1241

SIGNED

SINGLE FORM FOR CLEAR MESSAGE

USE FOR ADDITIONAL DISTRIBUTION

29

IN REPLY PLEASE QUOTE
No. H. Mac-2866 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, M. D. No. 6,
Halifax, N. S., 25 Aug 45. 194

CONFIDENTIAL

Secretary,
Department of National Defence,
Ottawa, Ontario.

F-55412 Pte. McNEIL, A.J.
CARO 5913

Ref QC. 55-M-1663 (ICM) d/17 Aug 45.

2. Receipt of AFA 3104 in respect of the m/n soldier is hereby acknowledged.

(D.A. White) Brigadier,
D. O. C., M. D. No. 6.

28

N.D. 23
3000M—10-44 (5766)
H.Q. 1773-101-23

HQC 55-M-1663 (ICM)

CONFIDENTIAL

17 Aug 45

District Officer Commanding
Military District No 6
Halifax, N.S.

P.55412 - Pte McNEIL, H J
Review of Sentences
CARO 5913

Ref H.Mac-3866 (JAG) dated 2 Aug 45:-

2. Returned herewith is AFA 3104.

3. The same should be retained by you as Superior Military Authority for purposes of review and only when circumstances arise as set out in para 23 of CARO 5913 or in other special circumstances when requested by this HQ is it necessary that the AFA 3104 and/or AFM 2 8 and accompanying documents be returned to this HQ.

4. Please acknowledge receipt of enclosure.

for (A.E. Walford)
Major-General
Adjutant-General

WHG:LT

27

IN REPLY PLEASE QUOTE
No. H. Mac-2866 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

333737

Headquarters, M. D. No. 6,
Halifax, N.S., 2nd Aug 45. 194

CONF. SEC.
AUG 5 1945
File 55-M-1663
Chgs. to
Referred to

Secretary,
Department of National Defence,
Ottawa, Ontario.

F-55412 Pte. McNEIL, A.J.

Ref HQC.55-M-1663 (ICM) dated 26 Jul 45.

2. Due to the seriousness of this offence and to the fact that the soldier is not known here this case will be brought forward for review on the 1st Nov 45.

3. Army Form A3104 is herewith returned.

(D.A. White) Brigadier,
D.O.C., M. D. No. 6.

26

N.D. 23
3000M—10.44 (5769)
H.Q. 1772-101-23

MEMORANDUM

TO:

MILITARY SECRETARY

Department of National Defence,
HQS 55-M-1663, Adm 3(b)4,
Ottawa, Ont, 7 Aug 45.

B E No 25395 d/1 Aug 45

RECEIVED
A. G. CONTROL

F-55412 - Pte MacNEIL H J

1. This soldier was tried by FGCM in Italy on 4 Jul 44 on two charges -

(1) absence without leave (over 20 days);

(2) desertion (absenting himself without leave with intent to avoid battle - absent over 22 days).

He pleaded guilty to the 1st charge and not guilty to the 2nd and was found guilty of both. He was returned to Canada with the recommendation that sentence be served in full. He was recently taken on strength No 5 District Depot with a view to discharge from the Army and committal to Dorchester Penitentiary.

2. With respect to sentencing this soldier to the penitentiary, sentences of penal servitude awarded by Court-Martial are normally served in a penitentiary.

3. Correspondence is returned herewith.

for (A E Walford)
Major-General,
Adjutant-General.

FINAL

REF:5293:mm

AUG 12 45 AM

MINISTERS OFFICE
AUG 8 1945
DEPT. N.D. OTTAWA

RECEIVED
A. G. CONTROL

AR

25

C 9M 1663 ~~41 M 7466~~

SPECIAL ENQUIRY

Date AUG 1 1945

No. 3339 B

To: D Admin

Reply addressed to MS will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

24

999-38

A.G.

May a report be submitted for the Minister's information, please, with the return of the attached correspondence.

July 31, 1945. Col. M.S.

C.Gillis, Esq.,
25 Union Street,
GLACE BAY, N.S.

Dear Mr. Gillis,

Re: F-55412, H. J. McNeil.

I have your letter of 26 July 1945, with reference to Private McNeil.

I am asking that enquiries be made with regard to his case and as soon as a report is received, I will be pleased to write to you again.

Yours very truly,

RECEIVED
AUG 1 1945
ADMIN.

Private Secretary to
Minister of National Defence.

MD/

23

COPY

HOUSE OF COMMONS
CANADA

July 26th, 1945

Private Secretary,
Min of Nat Defence
Ottawa.

Dear Sir:

The father of H J McNeil, F-55412, presently undergoing detention in Canada, requests that I write you to determine what particular charge the boy was sentenced on. He is anxious to know if there is anything he can do to help.

He has not heard from the boy and is considerably worried. We understand that he is now at military district No 6, awaiting discharge to be sent to Dorchester Penitentiary.

In writing you previously on this matter I made the observation that I did not think that a soldier could be discharged from the services and sent to a Civil Prison for an infraction of military law, as would appear to be this boy's case.

I have written the Minister of Justice and others concerned in the matter. I would appreciate what information you could give me on this particular for the benefit of the father.

Thanking you for your co-operation in the past,

I am,

Yours truly,
" C Gillis"
CLARENCE GILLIS, MP, CB SOUTH

7
22

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55-M-1663 (ICM)

NDHQ Ottawa, Ont.

26 Jul 1945

CONFIDENTIAL
F.G.C.M.

District Officer Commanding

Military District No 6

HALIFAX, N.S.

F.55412 Pte MacNEIL, H.J.

Ref

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

(A E Walford)
Major-General
Adjutant-General

6

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Copy

6

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

K.S.674(A) K-55-Mo-3923-C;K-55-Mo-3942-C;K-55-N-1193-C;K-55-P-4384-C;K-55-P-4384-C

KINGSTON, Ont. 1 July, 1945.

The Commandant, No 89 Military Detention Barracks, Barriefield, Ont.
AJAG Military District No 3, Kingston, Ont.
Officer Commanding, No 3 District Depot, Kingston, Ont.
District Paymaster, Military District No 3, Kingston, Ont.
District Medical Officer, Military District No 3, Kingston, Ont.
DAPM Military District No 3, Kingston, Ont.
Officer Commanding, No 3 Ord Depot Coy, RCOC, Kingston, Ont.
DS & TO Military District No 3, Kingston, Ont.
DA & QMG Military District No 3, Kingston, Ont.
Officer Commanding, No 33 Coy, C Pro C, Porters Island, Ottawa, Ont.

SUS Ex-Italy GO 131/44
No 89 MDB, Fort Henry, Barriefield, Ontario

Further reference to this Headquarters Letter file, numbered as above and dated the 26th and 28th days of June, 1945, and HQS 8536-6 Vol 2 Adm 3(b)2 dated the 25th June, 1945 from National Defence Headquarters, Ottawa, Ontario.

2. The undermentioned SUS now presently held at No 89 Military Detention Barracks, Fort Henry, Barriefield, Ontario, who were sentenced in Italy by General Court-Martial to serve Penal Servitude will be despatched under escort from Kingston, Ontario, at 1332 hours on the 5th day of July, 1945 via CNR and will arrive in Halifax, NS, at 2230 hrs on the 6th day of July, 1945;

F.55412 Pte Macneil, H J	3 yrs Penal Servitude	1029(8)
F.89027 Pte Macneil, R L	3 yrs Penal Servitude	1029(8)
F.55365 Pte Newman, J E	4 yrs Penal Servitude	1029(8)
F.30979 Pte Paul, J P	3 yrs Penal Servitude	1029(8)
F.54802 Pte Poirier, E F	3 yrs Penal Servitude	1029(8)

3. The AJAG, MD No 3, will prepare the necessary release form "D" referred to in HQS 8536-6 Vol 2 d/20/4/45 for all of the above mentioned SUS.

4. The District Officer Commanding, Military District No 6 will prepare the necessary re-committal warrants for these soldiers when they are discharged in his District.

5. The DA & QMG, MD No 3, will issue the necessary movement instructions for the 6 escorts and the above mentioned soldiers under sentence.

6. The DAPM, MD No 3 will arrange for sufficient escort to guard the movement of these SUS from Kingston to Halifax, N S, said escort personnel to be detailed from the Staff of No 89 MDB and No 33 Coy, C Pro C.

7. All SUS will be SOS No 3 District Depot, Kingston, and will cease to be attached to No 89 MDB, Fort Henry, Barriefield, Ontario, on the 5th day of July, 1945. The Commandant No 89 MDB will advise this Headquarters if these SUS are ready for despatch immediately, in order that the DOC MD 6 may be advised as to the number being despatched.

8. The Officer in charge of 2nd Echelon (CENTRAL) has been advised by this Headquarters, that the above mentioned SUS are to be SOS of No 3 District Depot, Kingston on the 5th day of July, 1945, and he was requested to forward all documents of each soldier direct to the Officer Commanding No 6 DD, Halifax, N.S.

(Sgd) R M Merritt, Major
for (W K MacGregor) Major,
DAAG, MD No 3

Copies to:
The Secretary,
National Defence Headquarters,
OTTAWA, Ont.

The Warden,
Dorchester Penitentiary, Dorchester,

Quote No. HQC.55-M-1663 (JAG/D-9)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada
16 May 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial
~~F.55412, Pte. MacNeil, H.J.~~

1. Receipt is acknowledged of your 5 dated 4th April, 194 , under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

10/MacNeil, H.J./1

Receipt is also acknowledged of A.F. A.5104 in respect of the m/n F.G.C.M.

/AB

E.L.M.
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

4
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THIS COPY FOR H.Q. C.55-M-1663
M.D. 10/MacNeil HJ/1

GS

FIELD GENERAL
MEMORANDUM - DISTRICT COURT-MARTIAL

No. F.55412 Name MacNEIL, Hugh Joseph

Rank Pte Unit "C" Coy, Cape Breton Highlanders CMF

Charge (1) A.A. 15(1) A.W.L.

(2) A.A. 12(1)(a) Desertion

Date of Crime (1) 14-4-44; (2) 25-5-44

Date of Arrest (1) 5-5-44; (2) 16-6-44 Charge Signed 29-6-44

Orders for FGCM. 9 Brig Comd 11 Cdn Inf Bde

Place and Date of Trial On the field; 4-7-44

Sentence Penal servitude 3 yrs

Date of Confirmation 27-7-44

Date of Promulgation 8-8-44

Entered in Records of J.A.G. as No. 3542

Date 3-5-45

MEMO Conf Auth directs that a part of the sentence not exceeding 2years shall be served in a military prison.

3

18

for Judge Advocate-General

10M-1-45(M-4629)

Received 11 May 46
Rauch

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

1 May 45

District Officer Commanding,
Military District No 2,
KINGSTON, Ontario

F.55412 Pte MACNEIL, H J

SUS EX ITALY

This SUS is being returned from C/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of **penal servitude.**

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

W a Stilwell
for (A E Walford) Major
Major-General
Adjutant-General

Encl. 3

3582

17

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/MacNeil,HJ./1

CANADIAN MILITARY HEADQUARTERS

LONDON 4 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C.55-M-1663

F-55412 Pte MacNeil, H.J.

1. The m/n soldier is now serving a sentence of 3 years penal servitude awarded by FGCM 4 Jul 44 for an offence under AA Sec 12(1)(a) and an absence without leave of 20 days. He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released if he continues so to do is 3 Jul 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein, their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the serious nature of one of the offences of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 4 Jul 44, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E. G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters

Enc. 4.

16

1/39a CMHQ 1000-76
40/P & S/BOS (6739)

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS F-55412 Pte MacNeil, H.J. of Cape Breton Highlanders was by Field General Court-Martial held in the field convicted of the offence(s) of Desertion and Absence without leave

and by a sentence signed on the 4th day of July, 1944 sentenced to undergo Penal servitude for 3 years

said sentence of penal servitude commencing on the aforesaid day, and such sentence has been confirmed by P.J. Montague, Major-General i/c Adm., CMHQ as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 4th day of April, 1945

(C.S. Booth) Brigadier
Deputy Adjutant General
Canadian Military Headquarters.

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RECEIVED 25 JUL 1944 JAG BRANCH

RECORDED AT CMHQ IN AB 160 555 50 I-57

FIELD GENERAL COURT-MARTIAL

(Pro forma in lieu of AFA3) 40/P.E. 2/1608 (2664)

Convened by Order of Brigadier I.S. Johnston Comd 11 Cdn Inf Bde dated 1 JUL 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.55412	Pte		Hugh Joseph	MacNEIL	C B Highrs

PROCEEDINGS REVIEWED 24 Aug 1944

J. Rutherford Capt.

31 Aug 44

REVIEWING OFFICER JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd (Military) Prmnt R. C.M.H.Q. on (date(s)) 4 Jul 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order," CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1050 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ WMOS

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused~~: Do you object to ~~an interpreter?~~ Ans ~~Interpreter is sworn.(1)~~ Do you object to ~~a shorthand writer?~~ Ans ~~Shorthand writer is sworn.(1)~~ WMOS

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No, Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.A. Snelgrove	Perth R
Member	Capt	P.L. Simmonds	P.L. Fus
Member	Capt	S.E. Cameron	2 RC
Judge-Advocate	Capt	W.M.W. Shaw	HQ 5 Armd Div
Prosecutor	Capt	A.C. Sim	C.B. Highrs
Defending Offr	Capt	J.F. Lockman	C.B. Highrs

Questions by President: Is the Prosecutor a lawyer? Ans. No Is the Defending Offr a lawyer? Ans. No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea WMOS

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

WMOS A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

WMOS A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No, Sir .....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, F55412 Pte Hugh Joseph MacNEIL, "C" Coy, Cape Breton Highlanders, C.M.F., is charged with:

First Charge
A.A.Sec 15(1) WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from 0815 hrs 14 Apr 44 and remained absent until he surrendered himself to Lieut. W.E.S. Watts at #1 CBRD at 0800 hrs 5 May 44.

(Absent 20 days 23 hrs 45 mins)

Second Charge
A.A.Sec 12(1)(a) WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he,

in the Field, at or near the River MELFA, in ITALY, at about 1630 hrs 25 May 44, while in the vicinity of the enemy, absented himself without leave with intent to avoid battle, and remained absent until he reported to Bn Guard Room at 1910 hrs 16 Jun 44.

~~Third Charge~~
~~A.A.Sec 15(1) WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE~~

~~in that he,~~

~~in the Field, absented himself without leave from 1630 hrs (approx) on 25 May 44 and remained absent until he reported to Bn Guard Room at 1910 hrs 16 Jun 44.~~

~~(Absent 22 days 2 hrs 40 mins)~~

In the Field
29 Jun 44

.....(J.B.Weir) Lt.Col.,
Officer Commanding,
Cape Breton Highlanders

To be tried by Field General Court-Martial

In the Field
1 JUL 44

(I.S. Johnston) Brig.
Comd 11 Cdn Inf Bde.

13

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA8)
40/Pam/1607 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.55412	Pte		Hugh Joseph	MacNEIL	C B Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 2 JUL 44 endorsed by me, (~~or by an officer by me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I also order to appoint (a) three Offrs to form the Court, (b) a Judge-Advocate, and (c) a Prosecutor, as detailed, or as follows, and attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	H.A. Snelgrove	Perth R.
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt	A.C. Sim	C B Highrs
Capt	S.E. Cameron	Ir R.C.
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt	R.L. Simmonds	P.L. Fus.R.
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

Capt	W.M.W. Shaw	HQ 5 Cdn Armd Div
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

I.S. Johnston
(I.S. Johnston)
(Signed personally. RP 105 fn 2.)

Brig. (Rank.)

Date 2 JUL 44

Commanding 11 Cdn Inf Bde.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

12

CAPE BRETON HIGHLANDERS

Field,
4 Jul 44

I certify, t hat F/85412 Pte H.J. MacNeil
of the Cape Breton Highlanders is Unfit to undergo
trial by Field General Court-Martial.

R. A. Boyden
(Signature of Medical Officer) Major

WMcL

11

I

Capt AC Sim, not available because prosecuting case to be heard by court, Capt RL Simmonds takes his place.

1st Wit Pros:] G 27701 Sgt Thompson, RJH., CB Hughes. duly sworn, states:- Pl Sgt 14 Pl.—

at approx 0500 hrs 25 May we moved from area near sgn of tanks to Coy HQ where had breakfast. Mr McKean got story for day & gave it out to sec leaders to give to secs. Acsd's sec ldr was Cpl Macdonald, DR who was killed the following day. ~~was~~ To go thru Insh on north side of Melfa that day. Pushed off 0400 hrs, under shell fire, stopped at different intervals & dug in 3 times. On last stop were to have supper, which had at 1630 hrs. Before supper noticed MacNeil in sec. area. After supper Mr McKean gave out dope & Cpl Macdonald later reported. We then checked Pl area & kitchen area looking for acsd. 2 went to 15 Pl to check buddies. Could not find acsd or trace him.

After retd from 15 Pl 2 reported acsd 'missing'. We moved over river that night & went thru Insh but acsd not with us.

Not with us again, next saw on 16 June when as acting C&MS he asked for set of mess tins. Had been lot of shelling so classified him as 'missing'. At time were south of Melfas river a mile or so, close enough that he could shell us from bank of river.

Had been fully prepared since the day before & Pl was told by Mr McKean then. Acsd in 5 sec— Had been in close arrest but released from escort the day before this. Acsd was rflmn & carrying a case of PIAT bombs that afternoon.

Had been under heavy shell fire before HITLER line broken & lost several men then.

Definitely understood & well known that going into action that night.

XXm:- Acsd not present when Mr McKean had 'O' gp in morning. Acsd was around until 4 o'clock.

Re-exam:- nil

Court:- Was definitely understood that we were going. Before GUSTAV line GOC told rgt that we were going in as armd Div & fighting as a corps.

RP 83(B) complied with.

WMWS

10

2nd Wit Pros] F55125 Sgt Erickson, C.F., CB Hughes, duly sworn, states:-

On 16 June was gd comd - at 1910 his acsd reported to gd rm. Told me had been awd 2 turned him over to Qrd Sgt. Acsd is Pte MacNeil.

XX m:- nil

Court:- nil

RP 73(B) complied with

3rd Wit Pros] F54869 CSM MacIntyre, J.G., CB Hughes, duly sworn, states:-

On 25 may about to cross Melfa river about 1630 hrs - started to cross & ~~[illegible]~~ on objective. Next morning Sgt Thompson reported to me. 2 checked Pl & coy area but did not find him. Pushed on & he was posted as missing. Our orders if man not seen to be hit was to be posted as missing.

Contacted enemy on 25. Had been shelled previously. On 23 & 24 may were in concentration area getting ready to make crossing.

Col had bn parade & told them the role the armd & Inf Div would be playing - a bn muster parade on 16 may - coy all present.

GOC & Bde Comd talked to bn also as to ops. Had been shelled in concentration & forming up areas also. Had casualties all the way thru. Cpl MacDonald killed 26 may.

XX m: nil

Court:- Can't say found acsd's arms. Acsd is Pte MacNeil.

RP 83(B) complied with

Pros in closing:- Evidences shows time & place when acsd went absent; role of coy; knowledge of ops; return also shown. Acsd memb of fighting sec armed & ready & evidence conclusive that all knew what impending - shell fire several days. Obvious that was coming up.

Def offr in closing:- Possible that while under close arrest was not on parades of GOC & Bde Comd. Possible that acsd would not know going to make actual contact with enemy.

JA sums up - function of court; duty on pros:, reasonable doubt; desertion; 19A56

III

Def offr in mitigation:

Joined army '40 – 4 yrs with no serious crime – minor charges. MFM speaks for itself.

W M W Shaw
Capt

9

SUMMARY OF EVIDENCE

Summary of Evidence in the case of F55412 Pte.MacNeil,H.J.,Cape Breton Highlanders,charged with one (1) charge under Army Act Sec 15(1).

The Commanding Officer directs that the evidence be taken upon oath.

FIRST WITNESS: Capt.R.T.Bonnell,Cape Breton Highlanders,having been duly sworn states;

I am Capt R.T.Bonnell,Adjutant of the Cape Breton Highlanders,I submit herewith in evidence certificate of Surrender under A.A.163 (1) (j) received from the T/Commanding Officer 1 Bn #1 C.B.R.D. in the case of the accused.

R.T.Bonnell Capt.

The accused declines to cross examine the witness.

SECOND WITNESS: F54828 Cpl.Bowne,B.A.,Cape Breton Highlanders duly sworn states;

I am F54828 Cpl.Bowne,B.A.,"C" Coy. Cape Breton Highlanders. On the 14 Apr 44 I was senior N.C.O. among L.O.B.personnel of"C"Coy. at "B" Echelon,C.B.H.,at approximately 0815 hrs 14 Apr 44 I looked for the accused Pte.MacNeil,H.J. but he was not to be found. We were moving that day to a new area and he still had not reported when we left the old area. He was therefore reported absent without leave. The accused has not appeared on any parade from that date until he was returned to the coy under escort.

B.A.Bowne

The accused declines to cross examine the witness.

The accused was warned as follows;

Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so but what ever you say or any evidence you may give will be taken down in writing and may be given in evidence.

The Accused: I have nothing to say at this time.

Pte H.J. McNeil

I certify that R.P.4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 10th day of May 1944.

D.B.MacLeod
Officer taking summary.

Witness

Exhibit A
D.B.R. Regt Court

CERTIFICATE OF SURRENDER UNDER AA 163 (1)(A)

I certify that #55412 Pte. McNEIL, H.J., of the Cape Breton Highrs. surrendered himself to Lieut. W.N.S. Watts, 1 C.B.R.Bn., 1 C.B.R.D. at 0800 hrs, 5 May 44, as an absentee without leave,

In the Field,
5 May 44.

(R.) [illegible] Major,
T/Commanding Officer,
1 C.B.R.Bn., 1 C.B.R.D.

7

I des re the convening officer to detail an officer to represent me at my forthcoming trial by court martial.

I desire the services of Capt. G.Mac.L Logan C.B.H'ghrs if he is available.

Pte. H. J. McNeil

W.M.L.S.

6

SUMMARY OF EVIDENCE

Additional Summary of Evidence in the case of F 55412 Pte. MacNeil, Hugh Joseph, charged with ~~[illegible]~~ two (2) charges under Army Act Sec 15 (1) and one char ge under Army Act Sec 12 (1)a.

The Commanding Officer directs that the evidence be taken upon oath.

THIRD WITNESS :- G 27701 Sgt. Thompson, R.J.H., Cape Breton Highlanders, having been duly sworn states:-

I am G 27701 Sgt. Thompson, R.J.H., Pln Sgt, No. 14 Pln, "C" Coy, Cape Breton Highlanders. On the afternoon of 25th or 26th May 44, I am not sure of the exact date, before we crossed the River Melfa, just before supper parade, I noticed the accused, F 55412 Pte. MacNeil , H.J. with his section in the Pln. After supper parade, at approximately 1630 hrs. the Coy. formed up to move to make a bridgehead across and on the north bank of the River Melfa, when F 60129 Cpl. MacDonald, G.R., No. 5 Section Leader r eported to me that he could no t find F 55412 Pte. MacNeil , H.J. Both Cpl. MacDonald, G.R. and myself chec ked the platoon area and kitchen area. F 55412 Pte. MacNeil, H.J. was not to be found.

I then went to No. 15 Pln to check with his buddy, Pte. Morrison, J. and F 78520 Pte. Morrison stated that he had not seen him.

I then r eported to my Pln. Commander, Lieut. D.B. MacKean that F 55412 Pte. MacNei l, H.J. was missing.

There had been shellin land around the area and I thought he might have been hit which is why I classified F 55412 Pte. MacNeil, H.J. as missing and the Compan y subsequently moved off without F 55412 Pte. MacNeil, H.J.

The next time I saw, F 55412 Pte. MacNeil, H.J. was approximately on or about 1900 hrs. 16 June 44 in the Company lines at which time I was acting C.Q.M.S.

.....R.J.H. Thompson.....

The accused declines to cross-examine the witness.

Fourth Witness: F55125 Sgt Erickson,C.F.,Cape Breton Highlanders, duly sworn states:

I am F55125 Sgt Erickson,C.F., Cape Breton Highlanders. On the evening of 16 Jun 44, I was in charge of Bn Guard at BCN. At approx 1910 hrs 16 Jun 44, F55412 Pte MacNeil,H.J.,whom I know well and recognize here as the accused, reported in to me as returning from absent without leave from "C" Coy, Cape Breton Highlanders. I then turned Pte MacNeil H.J. over to the "C" Coy orderly sgt.

Signed. C.F. Erickson

The accused declines to cross examine the witness.

Fifth Witness: F54869 CSM MacIntyre,J.G.,"C"Coy, Cape Breton Highlanders duly sworn, states:

I am F54869 CSM MacIntyre,J.G.,"C"Coy,Cape Breton Highlanders. At approx 1630 hrs 25 May 44, "C" Coy started to advance from the Southern bank of the River MELFA to take up a defensive position on the North bank of the same river. At approx 1900 hrs 25 May 44, G27701 Sgt Thompson, R.J.H. reported to me that F55412 Pte MacNeil,H.J., whom I know well and recognize here as the accused, had not moved across the River MELFA with his platoon. I then checked to see if Sgt Thompson,R.J.H. and his section leader F60129 Cpl MacDonald,G.R.(since KIA 26 May 44), had checked the area to see if Pte MacNeil had been in the area where had been shelling. Sgt Thompson replied that they had made the check before the coy had moved across from the South bank of the River MELFA and that Pte MacNeil was still missing. I then listed Pte MacNeil as missing. I did not see F55412 Pte MacNeil,H.J. from that time until he returned to coy lines on 16 Jun 44.

Signed. J.G. MacIntyre

The accused declines to cross examine the witness.

The accused was warned as follows:

Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused: I have nothing to say at this time.

Signed. H.J. McNeil.....

I certify that R.P.4 has been complied with.

Taken by me in the Field in the presence and hearing of the accused, this 29th day of June 1944.

.....(A.C.Sim)Capt.,
Officer taking summary.

Substitute for AFB 296
or AFB 396.

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED.

No. F55412 Rank Pte Name MacNeil, H.J. Unit Cape Breton Highlanders

Age 23 Married or Single Single No of Dependents Nil

Date of Attestation 11 July 40

Number of days in Close Arrest awaiting trial

Civil ..... Military 37 days Hospital ..... Total 37 days

Dates of appointments, promotions etc (if any)

Decorations CVSM & Clasp

In the Field
~~10 Aug 44~~ 10 July
Date

H. D. Bauman Capt.
Officer i/c Regtl Books
Cape Breton Highlanders
Unit

Note: Certified true copy of AFM 6 must accompany this form.

"B"
WMWS

M.F.M. 6
(A.F. B.122)
40/P & /B138 (2965)

No. F 53412 Name MacNeil, W. - Sqn., Battery, or Company "C" Corps CBH (E.C.) Date of enlistment 11/7/40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 14/9/40 No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barrack Guard	1/3/41	Pte		AWL 2200 hrs 1-3-41 to 0630 hrs 2-3-41 (9 hrs 30 mins)	L/Cpl Maclean	forf. 1 day Pay	2-3-41	A.O. Guard Capt	
	1/4/41	"		AWL 0700 hrs 1-6-41 to 0600 hrs 2-6-41 (23 hrs)	L/Sgt Campbell	10 days CB 7 days Pay	4-6-41	A.O. Guard Capt	
	14/4/41	"		AA 40 - Equipt not laid out properly	Cpl Brown	3 days CB	9-7-41	Maj Arnold	
Camp Borden Detachment	27-7-41	"		AWL 0900 hrs 6-10-41 to 1840 hrs 6-10-41 (9 hrs 4 mins)		14 days CB. forf. 4 days Pay	7-10-41	Lt-Col Hall	
	6-10-41	"		AG Sec 48 Dirty Rifle.	Cpl McCullough	30 hrs CB	25-4-42	J.A. Cranell	
Maida Bde Field	25-4-42	"		AA Sec 40 Neglected out of good order & military discipline in that he failed to have his gas mask available when on duty as a fireman	Cpl McMullen	3 days CB	5-12-42	J.A. Cranell	
	5-12-42	"							
Field	27-2-43			AA Sec 10 WO 45 Breaking out of Camp in that he after 1700 27-2-43 did leave the Camp area					

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27-2-43	Pt		AA Sec 9 WOAS Disobeying garrison orders in that he was found in a Public House on night of 27-2-43 (2nd Charge)					
Field	27-2-43	"		AA Sec 15 (1) WOAS. AWL in that he was absent from his camp area at 2030 hrs 27-2-43 and remained absent until 2130 hrs 27-2-43. (absent 1 hr) (3rd Charge)	Documentary	10 days F.P. No 1 Deduct 1 pay	1-3-43	A.C. Gunn Capt	

Certified True Copy.
D.B. MacKeen Lt
10 May 44

2

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No, sir (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~disallowed on the~~ ..... charge(s), and ~~allowed on the~~ ..... ~~charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Do neither Do you intend to call witnesses on your behalf? Ans No, sir ~~Are they witnesses as to character only? Ans~~

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the second charge(s), being subject to confirmation, will be promulgated later.(1) ~~(or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)

(1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans No, Sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes this Def Offr (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 2(D)

(1. When several accused tried separately see RP 2(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 3592 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 11 day of May 1945

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F 55412 Pte Hugh Joseph MacNeil, C B Highrs

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	guilty	guilty	
2nd	Not guilty	guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Judgment under sentences for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 37 days, of which nil days were spent in hospital. (2)

(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for a term of three years.

(Sgd) W M Shaw Capt — Judge-Advocate, if any.
4 Jul 44 — Date awarded.
(Sgd) F H Culpan Maj — President (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve confirmation of the finding and the sentence for Superior Authority.

Date 4 Jul 44 (Sgd) Jas J Smith Brig Commanding 11 Can Inf Bde.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence and I direct that a part of the sentence not exceeding 2 years shall be served in a military prison.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1) MA

(1. AA 57A. Delete if not used.)

(Sgd) P Montague Major General

Date .....

Commanding ..... Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Promulgated and extracts taken in the case of F55412 Pte MacNEIL HJ CB Highrs

(Dated) 8 Aug 44 (Signed) P Robertson Colonel

Commandant, 1 Can Base Reinforcement Depot

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Illegalities or irregularities such as I warrant withholding confirmation. (K. G. Borden) Lt-Col. A.J.A.G. C.M.E.F.

Confirmed subject to the above remarks. (Sgd) P Montague Major General Commanding Administration Headquarters 21 Jul 1944

H.Q.C.55-M-1664

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MANDARO. NORWOOD JOHN B.39536 PTE.

CONFIDENTIAL
H.Q.C.55-M-1664

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "See Minute")		
APR 20 1945				J. A. G.	NEW FILE C.R.		APR 18 1945
OCT 26 1945	5-45	P.A.	E.L.M.				5-5-45
JUL 26 1945				L.C.M.	For Disposition C.R. JUL 18 1945		
AUG 11 1945							
				Admin			
AUG 23 1945	29.8.45			Admin			
NOV 1 1945	31/10/45				AUG 28 1945		
SEP 25 1946	24/9/46				For Disposition C.R. OCT 29 1945		
				JARB	For Disposition C.R. AUG 23 1946		
AUG 18 1947	16.6.47				PER REQUEST CR JUL 3 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days then keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. T-20-M-2030 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

838184

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
25th August, 1945.

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

The District Officer Commanding, (FOR INFORMATION)
Military District No. 3,
KINGSTON, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
AUG 28 1945
File 55-M-1664
Chgd. to
Referred to Admin.

Remission of Sentence
B-39536, Pte. Norwood John MANDARO,
No. 2 District Depot, C.A.

Reference K.S. 674 (A) dated 27th July, 1945 and HQC 55-M-1664 Adm 3(b)2 dated 10th August 1945.

2. The District Officer Commanding, M.D. 2, has remitted the balance of the sentence of Imprisonment without hard labour awarded the marginally-named soldier effective the Date of Discharge, namely 21st August, 1945.

3. Enclosed herewith Appendix "G" to C.A.R.O. 5913 showing Remission of Sentence, Promulgation and Extract of Daily Order Part II.

4. Also enclosed herewith is Army Form A3104, Review of Sentence sheet and proceedings of Field General Court-Martial, for disposal.

(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

noted on cards

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM.

NDHQ File No. HQC 55-M-1664
District File No. T-20-M-2030

PART I

No. B-39536 Rank Private Name Norwood John MANDARO
Unit No. 2 District Depot, C.A.

PART II

Date of Trial 29th January, 1945 F.G.C.M.
Charge(s) (1) Disobeying a Lawful Command - AA Sec. 9(2) (2) Using Threatening Language - AA Sec 8(2) (3) A.W.L. - AA Sec 15(1)
Sentence 3 years' Penal Servitude - commutted to 1 year's imprisonment without hard labour - 25 Feb 45
Date of Sentence 29 Jan 45
Confirmation - (a) Authority : E.C. Weeks, Maj-Gen. i/c Admin. CMHQ
(b) Date : 25th February, 1945

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act ~~[illegible]~~ do hereby remit ~~[illegible]~~ the balance of the sentence of imprisonment without hard labour awarded the above-named soldier, such remission to be effective the date of discharge, namely, 21 Aug.45.

SIGNED at TORONTO, Ontario, this 16th day of AUGUST, 1945.

Promulgated by me
0845 hrs.
21 aug - 1945

Arthur E Potts
(A.E. Potts)
Major-General
D.O.C. M.D. 2.

PART IV
PROMULGATION

Remission (commutation) (~~[illegible]~~[x]) ~~[illegible]~~ promulgated and extracts taken at No. 2 District Depot, C.A. this 21st day of August 1945.

Capt. Adj.,
Officer i/c Documents
(J.J.Eyles)

(1) Unit, attachment and appointment to be stated.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. B.39536 Rank Pte. Name MANDARO, N.J.
The sentence of 3 yrs. Penal Servitude; commutted to 1 yr. imprisonment awarded by Fld. Gen. Court-Martial on the 29th day of Jan. 45 194 has been Remitted by 160 days on the 21st day of August 1945 by Major-General A.E. Potts
Unit No. 2 District Depot, C.A.
Certified true Extract of Daily Orders Part II of 217 Place Toronto, Ontario Date 22 Aug. 45
Auth: T-20-M-2030 (AJAG), d/17 Aug 45

Capt.,
Adjutant (J.J.Eyles)
No. 2 District Depot, C.A.

[x] Strike out and initial words not applicable.

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B39536 Pte Mandaro N. J. Unit 5 Cdn Armd Div Tps Coy RCASC

Sentenced to Three years penal servitude. on 29 Jan 45.

Age on, and date of, enlistment 20 yrs 21 Nov 40 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII.
For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude

(*22948) Wt.36936/511 60,000 11/42 A.& E.W.Ltd. Gp.698 Forms/A.310./11.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	No remission. Returning to Canada in custody under sentence	(G. B. BOOTH) Brigadier, D.A.G. Canadian Military Headquarters, 4 APR 1945	

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. A.A.Sec 9(2) - WOAS - Disobeying a lawful command given by his superior offr - did not leave his platoon kitchen when ordered to do so.	31 Dec 44	29 Jan 45
A.A.Sec 8(2) - WOAS - Using threatening language to his superior offr.	31 Dec 44	
A.A.Sec 15(1) - WOAS - AWL - when under open arrest apprehended after 7 days 8 hours.	2 Jan 45	
Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature

REVIEW OF SENTENCE

SPECIAL REVIEW:

DATE :

FILE : 10/Mandaro N J/1

1. NO., RANK AND NAME: B.39536 Pte Mandaro, N. J.

2. UNIT AT DATE OF OFFENCE: 5 Cdn Armd Div Tps Coy RCASC.

3. AT PRESENT ON STRENGTH OF: "X2" List 5 Cdn Armd Div Tps Coy RCASC.

4. DATE OF SENTENCE: 29 Jan 45.

5. AWARD: Three years penal servitude.

6. CONFIRMED SENTENCE: One year imprisonment without hard labour.

7. BEING SERVED AT: Italy.

8. OFFENCES: A.A.Sec 9(2) - WOAS - Disobeying a lawful command given by his superior offr - did not leave his platoon kitchen when ordered to do so.
A.A.Sec 8(2) - WOAS - Using threathening language to his superior offr.
A.A.Sec 15(1) - WOAS - AWL - Apprehended after 7 days 8 hours.

8 (a) PRESENT AGE: - 20 years.
Enlisted- 21 Nov 40.

9. PREVIOUS CONDUCT: -
Charged under A.A.Sec 15 - 22 offences. A.A.Sec 40 - 3 offences.
A.A.Sec 22 - 3 offences. A.A.Sec 19 - 4 offences.
A.A.Sec 24(2) - 2 offences. A.A.Sec 11 - 1 offence.
A.A.Sec 8 (2) - 1 offence. A.A.Sec 9(2)- 1 offence.
D.C.M. 23 Jun 42 - Awarded 111 dys detn - AWL 87 dys 2 hrs.
F.G.C.M. 10 Jun 43 - Awarded 160 dys detn - AWL 19 dys 22 hrs & 2 charges under A.A.Sec 40. (From M.F.M.6.)

.CONDUCT WHILE UNDER SENTENCE: -

.EARLIEST DATE OF RELEASE: - 28 Sep 45.

15 FEB 1945
C.M.H.Q.

4/1-63

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA31) G.R.P.S. (1898 (3964))

Convened by Order of Lt-col J L Sparling OBE Comd RCASC 5 CAD dated 28 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
B39536	Pte		Norwood John	MANDARO	5 Cdn Armd Div Tps Coy RCASC

PROCEEDINGS REVIEWED

Richard Meyfat

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date(s)*) 29 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

2H-119

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed. COMS

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnnn RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ COMS

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans ..... The interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans ..... The shorthand writer is sworn.(1)~~ WDS

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No, Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C B Anell	Perth
Member	Capt	W A Standing	CBH
Member	Capt	H L J Hendrie	2 RC
Judge-Advocate	Capt	W M W Shaw	HQ 5 Cdn Armd Div
Prosecutor	Lt	D H Dougans	5 CAD Tps Coy RCASC
Defending Offr	Lt	O R Simons	5 CAD Tps Coy RCASC

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea COMS

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. COMS

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

123/126

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p[redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No, Sir (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked E. A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

~~B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.~~

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, [illegible], Private Norwood John [illegible] of 5 Canadian Armoured Divisional Troops Company, R.C.A.S.C. a soldier of the Canadian Army Overseas, is charged with:

First Charge
Sec. 9(2)
Army Act

MEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

In the Field at approx. 1630 hrs on the 21 Dec 44, did in that he not leave his platoon kitchen when ordered to do so by H.55458, A/Sgt. Strecker, G.P. of 5 Cdn Armd Div Tps Coy R.C.A.S.C., saying "You won't tell me when to get out, I will get out when I am good and ready", or words to that effect.

Second Charge
Sec. 9(2)
Army Act

MEN ON ACTIVE SERVICE USING THREATENING LANGUAGE TO HIS SUPERIOR OFFICER

In the Field on the 21 Dec 44 after having been ordered by H.55458, A/Sgt. Strecker, G.P. of 5 Cdn Armd Div Tps Coy, R.C.A.S.C., to leave the platoon kitchen, said to A/Sgt. Strecker, "Fuck off"; "I'll bop you one".

Third Charge
Sec 15(1)
Army Act

MEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In the Field when under open arrest absented himself in that he without leave from 0745 hrs, 2 Jan 45 until apprehended in Florence at 1410 hrs, 9 Jan 45.
Absent - 7 days, 6 hrs., 30 minutes.

J. J. Sibbald major
(J.J. Sibbald) Major,
Officer Commanding,
5 Cdn Armd Div Tps Coy,
R.C.A.S.C.

In the Field
25 Jan 45.

To be tried by Field General Court Martial.

(J L Sparling) Lt-col
CRASC 5 Cdn Armd Div

Witness
C.B.a.

In the Field,
28 Jan 45

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
60(F&R)1097 (10/43)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B39536	Pte		Norwood John	MANDARO	5 Cdn Armd Div Tps Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 28 Jan 45 endorsed by me, [redacted], "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [redacted]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C B Arrell	Perth R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lt	To be detailed by	C B Highrs
Capt or Lt	To be detailed by	Ir R C

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lt	To be detailed by	11 Cdn Indep MMG Coy (P L F)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	W M W Shaw	HQ 5 Cdn Armd Div

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.) J. Sparling (Rank.)

(J L Sparling) Lt-col
Commanding RCASC 5 Cdn Armd Div
Convening Officer.

Date 28 Jan 45

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

C.B.A.

MEDICAL CERTIFICATE

Certified that S.39936 Pte. Mendaro, N.J. has been medically examined and is fit to stand trial.

Signed this 29th day of January 1945

K. N. Edwards Capt B

K. N. Edwards, Capt
Medical Officer
R.A.A.M.C.
3 Aus Armd Div.

WMWS

1st Wit Pros. H45452 A/Sgt Stricher, G.F., 5 CAD Spo Coy RCASC duly sworn states:-

Pl Sgt of Comp Pl.

On 31 Dec 44 at 1630 entered kitchen & overheard conversation between cook & Pte Mordaro asking Mordaro to leave kitchen. I had warned him previously that they would leave kitchen when they got their meals. He did not leave & I gave him an order to leave - I sd "Pte M you will leave the kitchen, you know you are not supposed to be here". He replied "Fuck you I will leave when I am ready & you won't tell me when to leave". I repeated order & he did not leave. L/Cpl Grassy just came in so I ordered him to get two men to put M under arrest. When L/Cpl left Pte M sd "Fuck off or else I'll beat you" or words to that effect. I sd would be enough & Pte M started for the door as L/Cpl arrived with the 2 men. I told L/Cpl would not need the men & warned Pte M that under open arrest.

Order required compliance at once.

S/Sgt Sproule with me at the time. Pte Mardio is the accsd.

XX m:- I told Pl verbally about leaving the kitchen - I told men just then I told sec Cpls to make sure no men ate in kitchen. They had been told previously that no one to eat in kitchen. Men had been outside under shelter to eat. Way he spoke & acted he might have been drinking. Think he was fit for duty. Could not smell. He always obeyed orders before. Figured drinking or in cantankerous mood.

Re-exam:- He was in kitchen behind counter. 2 days previous I had asked him to leave kitchen.

Court:- 5 mins after gave order that he started to leave. Speak plain & not staggering. He seemed in fighting mood - he was in serious mood when sd would hop me. 2 days previous he left immediately. Mood was ugly. Have had words with him before but nothing serious. He understood perfectly well what I told him to do. 3 or 4 days previously several had always eaten in kitchen.

RP 83(6) complied with.

2nd Wit Pros. H51748 S/Sgt Sproule, E.W., 5 CAD Spo Coy RCASC duly sworn. states:-

In Comp Pl. - Recognize accsd, Pte Mordaro, he was attd comp Pl.

On 31 Dec 44 approx 1630 hrs I entered Pl kitchen - was at end of serving table when heard Sgt Stricher order accsd to leave kitchen. Accsd sitting behind serving table. ~~He~~ Accsd replied Fuck you you are not going to order me around I'll leave when I'm ready.

Sgt S repeated order + accd continued to use abusive language - don't remember words. Sgt S order Cpl Sassy to get two men. Accd sd "Don't fuck around with me 2 wont hesitate to kick you out." Accd then left kitchen + Sgt S told him under arrest. 4 to 5 mins elapsed after order before he left. Accd in a pugnacious mood.

XX m:- Men had been eating at a trellis under a shed. ~~Cons~~ Instns that no eating in kitchen had been given several days previously. Accd was ~~eating~~ sitting with mess tins on knees, had food in tins, didn't see him eating. After getting food would have to return to front of line to get around the table where he was sitting.

Had been in Pl approx 3 weeks. Have not had occasion to give him orders before.

Special point had been made to issue eating instns to men.

No visible appearance of drinking - believe he might have been drinking but only because of attitude. Certainly wasn't staggering. Was a party New year's Eve + was quite a bit of drinking.

Re-exam:- 5 yrs a S/Sgt.

Court:- Sgt Stretcher is a Sgt butcher + is i/c personnel + discip of camp. Pl. - Were a no. of men who had been drinking but none were drunk. Supper at 1620 hrs. Accd was on duty in afternoon.

RP 83(8) complied with.

Pros closed.

1st Wit Def] The accused, duly sworn, states:-

On 31 Jan last year were working afm + morning + pm was off. Some boys going back to Sack Lt so had a party + quite a bit of drinking. Then went over to supper about 4 o'clock. Went in line-up. Remember cook saying something about leaving kitchen - was quite a big line up - did see Sgt Stretcher, got my supper + went to my billets + ate. Then went back to where boys were having party + carried on with them. Next remember walking up past Forli in a truck. Dats all I remember happening. I went into Florence.

Every 3 days get an afternoon off - this was my 3rd pm off. Believe took my meal to billets - don't know if ate it.

XX m:- Have vague idea of what went on - don't know who sd to clean kitchen, presume it was ~~cook~~ cook. Don't remember saying anything

To Sgt Stricker. Don't know what happened after supper until I woke up.
Remember getting meal but don't remember eating it.
Didn't realize under open arrest.

Re-exam:- nil

Court:- Was not at Al party. I was at Bll party.
Could remember where party was.
Was not warned officially that kitchen out of bounds. Heard boys say were not supposed to eat in kitchen.

RP 83(B) complied with.

Def. closed.

Pros in closing:- Evidence proves charges.
Comd was legal - was given by sup offr - did not comply. Def claims drunk + did not understand order - Accd knows actions up to + after the occurrence
Language used is shown + not challenged by def.
Ask conviction on both.

Def offr in closing:- Seems that insts re eating in kitchen were slack - not given in orders, on parade or posted on notices ∴ nothing definite + accd could innocently be in kitchen + not know was not supposed to be there. Accd had pm off + did lot of drinking. In such state of drunkenness he should have been charged under AA 19 + not under 9(a) or 8(a). Since Sgt put him under open arrest it shows considered man drunk + charges might have been dropped.

JA sums up:- Functions of court, credibility of witnesses, presumption of innocence, burden of proof, reasonable doubt, disobeying lawful lawful command, threatening language, drunkenness + effect on crime.

W.M.W. Shaw
Capt

SUMMARY OF EVIDENCE
In the case of

B-39536, Private Norwood John MANDARO, 5 Cdn Armd Div Troops Coy, RCASC, a soldier of the Cdn Army Overseas, charged with:

1. Disobeying a lawful command given by his superior officer.
2. Using threatening ~~xxxxxxxxxxxxxxxx~~ language to his superior officer.
~~xxxxxxxxxxxxxxxxxxxx~~
3. Absenting himself without leave.

The Commanding Officer directs that the evidence be taken upon oath.

First Witness H-65452, A/Sgt. Strecker, G.F. of 5 Cdn Armd Div Troops Coy, R.C.A.S.C., having been duly sworn states:

I was on the 31st Dec 1944 and still am an Acting Sgt. in Composite Platoon of 5 Cdn Armd Div Tps Coy, R.C.A.S.C. On 31st Dec 1944 at approx. 1630 hrs I heard a conversation in our platoon kitchen between Pte. Mandaro, whom I now recognize, and Pte Nedeljak, F., platoon cook, in which Pte Nedeljak asked Pte Mandaro to leave the kitchen as he was not supposed to be eating his evening meal there. As instructions had been issued previously that all men would leave the kitchen as soon as they had been served, I interrupted the conversation and ordered Pte Mandaro to leave the kitchen. Pte. Mandaro's reply was "I will leave the kitchen when I feel like it and you will not tell me when to leave". He also told me to "fuck off". On Pte Mandaro refusing to obey my order, I instructed L/Cpl. Grassie, who was the first junior NCO I saw in the kitchen, to fall in two men for the purpose of removing Pte Mandaro from the kitchen. While L/Cpl. Grassie was getting the two men Pte Mandaro threatened me with the remark "If you are not careful I will bop you". Before L/Cpl Grassie had arrived back with the two men Pte Mandaro left the kitchen and I then warned him that he was under open arrest.

At approx. 0745 hrs. 2 Jan 45 L/Cpl. Grassie reported to me ~~that Pte Mandaro was not in his quarters when he had checked his section for an ammunition detail.~~ We then made a check of the platoon area and Pte Mandaro was not to be found. Pte Mandaro's absence was reported immediately to Company HQ.

Hearsay

The accused declines to cross-examine the witness.

G.F. Strecker
H65452, A/Sgt.Strecker,G.F.

"A" Witness

Q.1 What was the condition of Pte Mandaro when you ordered him out of the kitchen.

A.1 I had not seen Pte Mandaro drinking at any time during the day, but I assumed he may have been due to the remarks he made.

Second Witness

H-51748, S/Sgt. Sproule, E.W., 5 Cdn Armd Div Troops Coy, R.C.A.S.C. having been duly sworn, states:

I was on the 31st Dec. 1944 and still am S/Sgt of the Composite Platoon, 5 Cdn Armd Div Tps Coy, R.C.A.S.C. On 31st Dec 1944 at approx. 1630 hrs I was in the kitchen of Composite platoon to procure my evening meal. I was aware of and saw Pte Mandaro, whom I now recognize, seated behind the serving table, eating. ~~(I had on the previous day instructed Sgt. Strecker who was in charge of personnel of the Composite Platoon to warn all personnel of said platoon that there would be no eating anyone within the kitchen)~~ At the time in question Sgt. Strecker had just preceded me into the kitchen and on entering the room I heard Sgt. Strecker order Pte Mandaro to leave the kitchen. Pte Mandaro's reply was "Fuck off" and other words which I can't now recall. Sgt Strecker repeated his order and Pte Mandaro refused to leave and made the statement "That he would leave when he felt like it". Sgt. Strecker then ordered L/Cpl Grassie to fall in two men to remove Pte Mandaro from the kitchen. While L/Cpl Grassie was procuring the men Pte Mandaro became abusive and in my hearing uttered threatening statements to Sgt Strecker; one phrase I recall was "Don't fuck around with me or I won't hesitate to bop you one". Pte Mandaro then left the kitchen of his own accord and Sgt. Strecker warned him that he was under open arrest.

Hearsay

The accused declines to cross-examine the witness.

H-51748, S/Sgt. Sproule, E.W.

Third Witness

H-51910, L/Cpl. Grassie, D.C. of 5 Cdn Armd Div Troops Coy, R.C.A.S.C. having been duly sworn states:

I was on the 31st Dec. 1944 and still am L/Cpl in Composite Platoon of 5 Cdn Armd Div Tps Coy, R.C.A.S.C. On the evening of 31st Dec 1944 at approx. 1630 hrs I entered the Composite platoon kitchen for the evening meal, and proceeded to section set aside for washing mess tins. On returning to line up for meal Sgt. Strecker who was in the kitchen when I entered, instructed me to fall in two men to remove Pte Mandaro from the kitchen. I had not previously heard any part of his conversation with Pte Mandaro. I left the kitchen to get two men from my section, but when I returned with same, Pte Mandaro had already left the kitchen. ~~On talking with Sgt Strecker he informed me that Pte Mandaro had been ordered out of the mess.~~

A witness

Hearsay

On the morning of 2 Jan 1945 at approx. 0745 hrs, my

Third Witness (Continued)

section was called out for an ammunition detail. It was then that I first noticed that Pte Mandaro was missing and I immediately reported same to Sgt. Strocker. We then made a thorough check of platoon lines and there was no sign of Pte Mandaro.

The accused declines to cross-examine the witness.

D le Grassie
H-51Pte,1/Cpl. Grassie, D.C.

Certificate of apprehension read to accused & filed as Exh 13

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused:

"I have nothing to say at this time".

The accused declined to call witnesses in his own behalf.

I certify that RP 4 has been complied with.

Taken by me In the Field in the presence and hearing of the accused this 23rd day of January, 1943.

A.V. Loftus Capt.
(A.V. Loftus) Capt.
Officer Taking Summary
5 Cdn Armd Div Tps Coy,
R.C.A.S.C.

"A" Woman's

LIST OF WITNESSES
FOR THE PROSECUTION

First Witness - H-65452, A/Sgt. Strecker, G.W.
5 Cdn Armd Div Tps Coy, R.C.A.S.C.

Second Witness- H51748, S/Sgt. Sproule, E.W.
5 Cdn Armd Div Tps Coy, R.C.A.S.C.

Third Witness - ~~Zxi~~H-51910, L/Cpl. Grassie, D.C.
5 Cdn Armd Div Tps Coy, R.C.A.S.C.

Fourth Witness- Cpl. E. Turrell
507 Provost Coy, C.M.P.

Fifth Witness - L/Cpl. J. Billings
507 Provost Coy, C.M.P.

Sixth Witness - Capt. H.S. Harper
Officer Commanding,
507 Provost Coy, C.M.P.

This Exhibit "B" referred to in the Summary of Evidence in the case of B-39536, Pte. Mandaro, N.J., taken before me this 23rd day of January, 1945.

(A.V. Fortune) Capt.
Officer Taking Summary
5 Cdn Armd Div Trps Coy,
R.C.A.S.C.

10 JAN 1945 521

Certificate in accordance with the Army Act Sec. 163 (1) (ii)

I certify that

No B 39536 Rank PTE Name MANDARO.N.J.

of the TROOPS COY. 5th.CDN.ARMD.DIV. R.C.A.S.C.

was arrested at FLORENCE. at 1615 hrs.

on the 9th day of Jan 1945

Signature of P.M., A.P.M., or other Officer into whose custody the above named person was taken on arrest. } H S Hayes

Rank Captain.

Appointment (if any)

Commanding 507 PROVOST COY. CMP

Date 10 Jan 45

A Woman

PSSA 1375 10M 11-44

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B-39536	Private	Norwood John WATMORE	5 Gdn Armd Div Tps Coy,R.O.A.S.C.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	Sec 15(1)	8 times	Sec 15(1)	16 times.
	Sec 9(2)	1	Sec 9(2)	1time
For	Sec 10(2)	1 times	Sec 10(2)	1 times.
	Sec 19	1	Sec 19	4 times
For	Sec 40	3 times	Sec 40	6 times.
	Sec 24(2)	1	Sec 24(2)	2 times
For	Sec 28 NIL	times	Sec 28	3 times.
	Sec 11 NIL		Sec 11	1time
For		times		times.

~~Number of instances of gallantry or distinguished conduct,~~

or

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ ~~[illegible] beginning on the [illegible] day of [illegible]~~

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and ~~[illegible]~~ 21 days in military custody, making a total of ~~[illegible]~~ 21 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 20 yrs, 7 months, 23 days.

6. The date of his ~~commission~~ attestation specified in his ~~attestation paper~~ record of service is 21 Nov 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon NIL service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (~~or is in possession of or entitled to (state any military decoration or reward).~~).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) ~~The accused holds in the army the rank of [illegible], dated [illegible] and in his regiment (or corps or department) the rank of [illegible] dated [illegible]~~

(*22647) Wt.31703/1977 10,000 10/42 A.& E.W.Ltd. Gp.698

"C"
WOMAS

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B-39656 Rank Private Name [illegible], Norwood John of 5 CAD Tps Coy, RASC Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		See LF E6 attached		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29 day of January, 1945

(Lt. Col. Mortimer, R. & Adjt.
5 Cdn Armd Div Tps Coy, RCASC

18. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of , years,

In the rank of N/A years

In the rank of years.

Date of Promotion.

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

No. 339536 Name Mendaro, N.J. Sqn. Battery or Company | Corps R.C.A.S.C. | Date of enlistment | 21-11-4[illegible] | QC Badges | Service or Proficiency Pay | N/A

MFM 6 (AFB 152) 40/Pdm/138 (9438)

Date of last entry in Company Conduct Sheet | N/A | No and date of last drunk | N/A | Period not reckoning towards freedom from extra fine | N/A | Sheet No 1 | Signature OC Company, etc | (?????) Lieut. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Old sheet destroyed. 21-5-41. Date of last entry 29-4-41. Nil cases of Drunkenness.								-	(H.A. Smith) Lieut.
Parsons Bridge	31May 41	Pte.	Nil	AWL from 1200 hrs, 31-5-41 to 1510 hrs, 6-6-41. Absent 6 days, 3 hrs and 10 mins. A.A. Sec 15(1)	Cpl. Emersland.	Stoppage of pay $59.58 R.A.I 172 (8) 10 dys C.B.	11-6-41	Maj. MacLennan	Forfs 7 dys pay R.A.I 149 (1)(a)
Parsons Bridge	13Jun 41	Pte.	Nil	1. Failing to appear at a place of parade, etc. 2. Failed to appear R.T. 1115 hrs. 13-6-41 3. Failed to appear Defaulters 1730 hrs. 13-6-41 4. Failed to appear at Tattoo 2130 hrs. 13-6-41 5. Failed to appear at Defaulters 0630 hrs. 14-6-41) A.A. 15(2)	WIT Cpl. Emersland L/Cpl. Cooley	14 dys Detn.	16-6-41	Lt. Col. A. Dalty	Forfs 14 dys pay R.A.I 149 (1)(b)

Remarks 8

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ranessee Bivouacs	17Jul 41	Pte.	Nil	AWL from 2200 hrs,17-7-41 to 0645 hrs,18-7-41. Absent 8 hrs 45 mins. A.A. Sec 15(1)	Sgt Jones Pte.Goodson	7 dys Detn	21-7-41	Lt.Col Depty	Forfs 1 dys pay FMAI 149(1)(a) Forfs 7 dys pay FMAI 149(1)(b)
Hamslme R.S.	29Jul 41	Pte.	Nil	1. Conduct to the prejudice etc A.A. Sec 40. 2. When in arrest,escaping,0600 hrs 29-7-41. A.A. Sec 22	Cpl Hodges Sgt Ambree Cpl Dunn L/Cpl Henny	14 dys Detn.	1-8-41	Lt.Col Depty	Forfs 14 dys pay FMAI 149(1)(b)
Prince Rupert R.S.	2 Aug 41	Pte.	Nil	1. When in confinement escaping between 1750 hrs and 1830 hrs, 2-8-41 A.A. Sec 22 2. AWL from 1830 hrs 2-8-41 to 1420 hrs 8-8-41. Absent 5 days 19 hrs and 50 mins. AA Sec 15(1) 3. Neglected to obey an.order No.69 A.A. Sec 11 Returned to unit at public expense	Sgt. Lawes Cpl Mearsland Sgt Angus Cpl Wallaby Sgt Simpson Docum.	28 dys detn placed under stoppage of pay covering cost of apprehension $40.40 FMAI 172(8)	16-8-41	Lt.Col W. Depty	Forfs 6 dys pay FMAI 149(1)(a) Forfs 28 dys pay

No 839536 Name Mandaro, H.J. Sqn, Battery or Company | Corps R.C.A.S.C. | Date of enlistment 21-11-40 | OC Badges | Service or Proficiency Pay | N/A | MFM 6 (AFB 122) 40/P&S/135 (3438)

Date of last entry in Company Conduct Sheet | N/A | No and date of last drunk | N/A | Period not reckoning towards freedom from extra fine | N/A | Sheet No 2 | Signature OC Company, etc | (Maj Alder) Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Prince Rupert BC	22Aug 41	Pte.	Nil	1. When in confinement, escaping at or about 1400 hrs, 22-8-41. A.A. Sec 22. 2. AWL from 1400 hrs, 22-8-41 to 0900 hrs, 23-8-41. Absent 19 hrs. A.A. Sec 15(1) 3. Losing by neglect, clothing to the amout of $6.76. AA Sec24 (2)	Pte. Livingstone Docum. Pte. Flamondon Docum.	14 dys pstn Stoppage of pay for cost for return $14.60. Stoppage of pay losing clothing $6.76	27-8-41	Lt. Col H. Duty	Forfs 1 dys pay Rule 149 (1)(a) Forfs 14 dys pay Rule 149 (1)(b) Forfs 5 dys pay Rule 149 (1)ii
Prince Rupert BC	12Oct 41	Pte.	1	1. Drunkenness, A.A. Sec 19 2. AWL from 0100 hrs, 12-10-41 to 0900 hrs, 12-10-41. Absent 8 hrs. A.A. Sec 15(1)	Sgt Simpson Cpl Norquay	7 dys CB	13-10-41	Capt. MacLennan	Leg offence No fine. Forfs 1 dys pay Rule 149 (1)(a)

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Prince Rupert,BC	13Oct 41	Pte.	2	Drunkenness,2nd offense AA 19.	Sgt Embree Cpl Emerslund	14 dys CB	14-1041	Lt.Col Beatty	
Frederick St.Pr.Rup B.C.	31Oct 41	Pte.		AWL from 0900 hrs,31-10-41 to 1600 hrs,31-10-41.Absent 7 hrs A.A. Sec 15(1)	Sgt Green	7 dys P.D.	3-11-41	Lt.A.W. Fisdall	Forfs 1 dys pay FAMI 149 (1)(a)
Pt.Frederick Pr.Rup BC	12Nov 41	Pte.		1. Neglect to the prejudice,when ordered to perform a duty by a superior offr. A.A. 40	L/C Riley Cpl.McFarland	7 dys Detn	13-11-41	2/Lt. A.A. Dukes	Forfs 7 dys pay FAMI 149 (1)(a)
Van,BC	14Feb 42	Pte.	3	Drunkenness. 3rd offense,AA 19(a)	Cpl Allna L/C Stranaghan	Fine $10.00	16-2-42	Lt.Col.Lock	Forfs 5 dys pay AA 46(2)(d)
Van,BC	17Feb 42	Pte.		AWL 0600 hrs,17-2-42 to 1030 hrs 15-5-42. A.A. 15(1)	Doccup.	DGR 111 dys Detn	23-6-42	Lt.Col.Lock	111 dys pay FAMI 149(1)(a) 38 dys pay under arrest.Forfs addi $14.25

No B39536 Name Mandaro, H.J. Sqn, Battery or Company | Corps R.C.A.S.C. | Date of enlistment | 21-11-4[illegible] | OC Badges | Service or Proficiency Pay | N/A

MFM 6 (AFB 15) 40/PMS/136 (3438)

Date of last entry in Company Conduct Sheet | N/A | No and date of last drunk | N/A | Period not reckoning towards freedom from extra fine | N/A | Sheet No 3 | Signature OC Company, etc | (?????) Lieut. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7Jan 43	Pte.		1.AA 15(1) AWL in that he was absent from Coy Assl Fde. 2.AA 40 Conduct to the prej. of Gd Order & Military Discipline	A/Cpl. Beguin A/Cpl Adger	7 dys CB	8-1-43	Maj A.J. Dufresne	
Field	6Feb 43	Pte.		Section 15(1) A.A. AWL in that he, WOAS, absented himself without permission from 2245 hrs, 6 Feb 43 until 2245 hrs 7 Feb 43. Absent 1 dday	Cpl. Flabrell Cpl. Cox, A.	7 dys F.F.	10Feb43	Captain A. Harries	Forfeits 1day pay RMA149(1)(a) For.7dys pay RMA149 (1)(b) Total forf 8days pa

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17 Apr 43	Pte.		AWL Sec.15(1)TFA,17 hrs and 50 mins.	Documentary	Forf 2 days pay Cost of apprehension £0-5-0	23-3-43	Lt.Col W.G. Fletcher	Forf 1 days pay FAMI 149 (1)(a) Forf 2 days pay FAMI 149(2) Cost of apprehension £0-5-0 FAMI 158(2)
Field	14 Apr 43	Pte.		A.A. 15(1) AWL from 2359 hrs 14 apr 43 until 0740 hrs 15 Apr 43.	Documentary	7 days C.B.	16 Apr43	Capt.J.J. Anderson	Auto forf.1 days pay FAMI 149(1)(a)
Field	19 Apr 43	Pte.		A.A. Sec 15(1) AWL TFA 2 days 14 hrs. A.A. Sec 40 SCMDUCT	Documentary L/C Lizzy	14 days detn with 14 days pay (cons) & cost of app £0-8-5	24 Apr43	Major R.J. Dufresne	Forfs 3 days pay FAMI 149(1)(a) 2 days pay F. 149(1)(c)(ii) 14 days pay FAMI. 149(1)(b) cost of app FAMI 172(c)

No. 939536 Name Mandaro, N.J. Sqn, Battery or Company | Corps R.C.A.S.C. | Date of enlistment 21-11-40 | GC Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/P&S/136 (8458)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 4 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of order dispensing with trial	By whom awarded	Remarks
Field	9-ay 43	Pte.		Sec.15(1) AWL 2200 hrs 9 May 43 until 2030 hrs 29 May 43. TTA 19 D 22 H 30 M Sec 40-2 charges.	TRIED BY F.G.C.M. Date of trial 10 June 43 Sentence 160 days detention Confirmed B Gp 11 June 43 Promulgated 14 June 43	Forf. 20 days pay 149(1)a 160 days pay 149(1)b 11 days pay 149(1)c			
Field	8Oct 43	Pte.		AWL Sec 15(1) Absent from 1600 hrs 8 Oct 43 until 2100 hrs 9 Oct 43.(TTA.1 day and 7 hours.)	Documentary	7 days C.B. awardded 6 days pay	11-10-43	Lt-Col. W.J. Fletcher	Forf 2 dayspa F.A.1149(1)(a) Awarded 6 day pay F.A.1149(2)
Field	28Nov 43	Pte.	1. 2.	1. A.A. Sec 9(2) N.D.A.A. disobeying a lawful command 2. A.A. Sec 10(2) N.D.A.A. using					

(PTO)

Place	Date of offence	Rank	Times of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26Nov 43	Pte.		insubordinate language to his superior officer.	Lt.JH Atwell Cpl Davis,CL Pte Purchill, CC	27 days detn	10Dec 43	Lt.Col. FB Conrad	Forf 27 days pay FAR 149(1)(b)
Field	24Apr 44	Pte.	4	1. AA 19 Drunkenness 4 offense 2. AA 40 driving a MD veh in a careless and negligent manner	Documentary Documentary	Fined $10.00 14 days Forf of pay	12Apr44 12Apr44	Major AH Black	
Field	4Jun 44	Pte.		AA 17(1) AWL from 2200 hrs 4 Jun 44 until apprehended at 0930 hrs 5 Jun 44. (Absent - 11 hrs. 30 mins.)	Sgt.Sampline Documentary	28 days Detn	14 Jun44	Capt.E.H. George	Forfs. 1 days pay FAR 149(1)(a) Forfs 28 days pay FAR 149(1)(b)

No. 339536 Name Sendaro, H.J. Sqn. Battery or Company } Corps A.U.A.S.C. Date of enlistment } 21-11-40 GC Badge } Service or Proficiency Pay } N/A MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet } N/A No and date of last drunk } N/A Period not reckoning towards freedom from extra fine } N/A Sheet No 5 Signature OC Company, etc } Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Dec 44	Pte.		AA Sec.15(1) AWL 0001 hrs 1 Dec 44 until 2120 hrs 2 Dec 44. (Absent 1 day 21 hrs 19 min)	Documentary	14 days forf	20 Dec44	(illegible) Major	14 days forf FMAI 149(2)
	18Dec 44	Pte		AA Sec 24(2) Losing by Neglect Losing 4 blankets while on leave	C[illegible] Morrison, D.	£12.28			2 days forf FMAI 149(1)(a) £12.28 stoppage FMAI 138 (2)

"CERTIFIED THAT THIS A TRUE AND EXACT COPY OF THE ORIGINAL TAKEN FROM THE REGIMENTAL BOOKS IN MY JURISDICTION.

(illegible) Lieut.
Adjutant
5 Gen Amd Div Troops Coy
A.U.A.S.C.

(PTO)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No sir .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ Withdrawn

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Give evidence ..... Do you intend to call witnesses on your behalf ?
Ans No sir ~~Are they witnesses as to character only ? Ans .....~~
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.) Omit

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 1st & 2nd charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~ Omit
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

~~D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Form E below.~~ Omit

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No, sir .....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans ~~Yes, I have [illegible]~~ No, sir .....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

Omit

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 3576 in the Field Ist Courts-Martial kept in the office of the Judge Advocate-General this 17 day of May 1945

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B39536 Norwood John MANDARO, 5 CAD Tps Coy RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	guilty	
2nd	Not guilty	guilty	
3rd	guilty	guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~Sentence under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which Nil days were spent in hospital. (2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for a term of three years.

(Sgd) W.M. Shaw Capt Judge-Advocate, if any. 29 Jan 45 Date awarded. (Sgd) P.B. Reilly Maj President. (RP 45, 46.)

[redacted]

FGCM: 29 Jan 45
B-39536 Pte Mandaro, N.J.
5 CAD Tps Coy RCASC.

CHARGES: 1. AA 9(2), 2. AA 8(2), 3. AA 15(1).

FINDINGS: Guilty of all three charges.

SENTENCE: To suffer penal servitude for a term of three years.

RESERVATION: Findings and sentence reserved for confirmation by Brigadier I.S. Johnston, ~~Comd~~ A/Comd 5 Cdn Armd Div, 1 Feb 45

CONFIRMATION: "I confirm the findings but I commute the sentence to read quote to be imprisoned without hard labour for one year unquote and I confirm the ~~fin~~ sentence as so commutted", Major-General E.G. Weeks, MGA, CMHQ - 25Feb45.

PROMULGATED AND EXTRACTS TAKEN
In the Field, ITALY.

28 Feb/45 (Dated)

S G Mullins (Name)
Lieut (Rank)
for Adjutant (Appt)
2 Cdn Reallocation Centre (Unit)

No illegalities or irregularities such as to invalidate confirmation.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Extracts entered as No. 3595 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 17 day of May 1945

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B39536 Norwood John MANDARO, SCAD for Cy RCASC

Charge.	Plea.	Finding.

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the findings and sentence for confirmation.

Date 1 Feb 45 (Sgd) I.S. JOHNSON (BRIG) A/ Commanding 5 Cdn Armd Div.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the findings but I commute the sentence to read "To be imprisoned without hard labour for one year" and I confirm the sentence as so commuted

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (+)
~~(+ AA 57A. Delete if not used.)~~

(Sgd) E.G. WEEKS
Major General
Vice Adjutant General
Canadian Military Headquarters

Date 25 FEB 1945

Commanding

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as would warrant withholding confirmation.

Major (J.M.E.L. Fortier) Lt Col.
A/JAG
MMBQ

FEB 16 1945

INCLUDE ORIGINATOR'S NO. AS INTRODUCTION IN TEXT OF MESSAGE.

HQS 55-8-1067
HQS 55-8-1664
HQS 55-8-673

CLEAR

ARMY MESSAGE

(OUTGOING)

FILE: Adm 3(b)2

OTTAWA ONTARIO 10 AUG 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario.

District Officer Commanding,
Military District No 2,
TORONTO, Ont.

RANKS 3128 UNCLASSIFIED

DESPATCH TO CMDG TWO AFA 3104 FOR FOLLOWING

SUS B133439 PTE DOLAN FR B39536 PTE MANDARO MJ

B335 PTE WALKER PB (.) ADMSD CMDG THREE HPTD

CMDG TWO

ADJUTANT/GENERAL

WOP:OAJ

CR(c) PA on file
C55-M-1664
Adm 3(b)2
Capt.

ORIGINATOR'S INSTRUCTIONS

MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS	DEGREE OF PRIORITY	TIME OF ORIGIN
ING { WIRELESS (A. E. Berkeley) Maj-Gen. Adjutant-General.		1615

SINGLE FORM FOR CLEAR MESSAGE

USE FOR ADDITIONAL DISTRIBUTION

DHS 55-8-1001
DND 55-8-673 Adm 3(b)2

CONFIDENTIAL

10 Aug 45

District Officer Commanding,
Military District No 2,
TORONTO, Ont.

HQS EX ITALY GO 131/44
B-133439 Pte DOLAN, F H
B-39536 Pte MANDARO, N J
B-335 Pte WALKER, P B

Ref T-36-10-282 (AJAG); T-20-0-10297 (AJAG); T-20-2-2030 (AJAG); T-20-2-11056 d/4 Aug 45:-

2. Enclosed herewith proceedings FGCM as requested for MANDARO and WALKER. DOLAN proceedings will follow.

3. DOG, No 3, has been requested (Banks 3128 dated 10 Aug 45) to forward to you AF A3104 in each instance.

4. May the proceedings be returned to this HQ, pls, when they have served their purpose.

(A E Walford),
Major-General,
Adjutant-General.

NOFtoAJ
Encls.

AR

53-M-1664 Parole

T-56-10-282 (AJAG)
T-20-D-10207 (AJAG)
T-20-M-2030 (AJAG)
T-20-W-11056 (AJAG)

COPY

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, Military District No.2,
189 Bay Street, Toronto Ontario
4th August 1945.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

SUS EX ITALY G.O.131/44
B.133439 Pte Dolan F.H.
B.39536 Pte Mandaro N.J.
B.335 Pte Walker P.B.

Reference K.S.674(A) dated 27th Jult, 1945, HQS 8536-6 Vol 2 Adm 3(b)2 dated 27th April, 1945 and HQS 8536-6 Vol.2 Adm 3(b)SCA dated 1st June 1945.

2. It is requested that for each of the marginally named SUS who have been despatched to this District for disch rge, that proceedings of Field General-Court-Martial and AFA 3104 be forwarded at the earliest possible date in order that Remiss on Form remitting the balance of the sentence may be prepared so as to effect the Remission effective date of discharge, as directed in para 5 of the first abovementioned reference please.

(I.M.R. Sinclair)
Lieutenant-Colonel
Officer Administering
M.D. No. 2.

COPY

DEPARTMENT OF NATIONAL DEFENCE
ARMY

FILE NOS: K.S.674 (A)
and Personnel Files

KINGSTON Ontario 27 JULY 45.

Commandant, 66 Military Detention Barracks, BARRIEFIELD,
A.F.A.G., MD 3 KINGSTON,
Officer Commanding, 3 District Depot, KINGSTON.
District Paymaster, MD 3, KINGSTON.
District Medical Officer, MD 3, KINGSTON.
D.A.P.M. MD 3, Kingston.
District Reserve Officer, MD 3 Cdn 2nd Echelon(Central)
BROCKVILLE, Ont.
R.S. & T.O., MD 3 KINGSTON.
D.A.O.M.G., MD 3, KINGSTON.
Officer Commanding, 3 Ordnance Depot Coy., RCOC, Kingston.
O I/C 2nd Echelon (Central) BROCKVILLE
Commandant, Ottawa Area Command, OTTAWA.
Officer Commanding, 55 Coy., C. Pro.,C., OTTAWA.

SUBJECT-FILE NO 131/44
66 Military Detention Barracks.

Under HQS 8520-6 Vol 2 Adm 3(b)3 dated 27 Apr 45 and HQS 8520-6 Vol 2 Adm 3(b)3(A) dated 1 June 45, National Defence Headquarters authorised the despatch of certain soldiers under sentence from Italy to No 66 Military Detention Barracks, Fort Henry, Barriefield, Ontario.

2. Under HQS 9025-1-1 Adm 2 dated 15 June 45, National Defence Headquarters laye down the policy to be followed in the remission and suspension of sentences of soldiers under sentence in order that the situation in regard to accommodation at No. 66 Military Detention Barracks at Fort Henry may be alleviated.

3. Consequently, it is considered that the under mentioned soldiers under sentence who have served half of their sentence should be sent to their home District Depots for discharge and granted a remission of the unexpired portion of their sentence.

			HOW TO BE DISCHARGED
MILITARY DISTRICT NO.1.			
A.4231	Pte Murray M.J.F.	- 2 yrs imprisonment	CAMO 1020(8).
MILITARY DISTRICT NO.2			
H.123439	Pte Nolan W.H.	- 1 yr imprisonment	CAMO 1020(8)
H.99526	Pte Mandero H.J.	- 1 yr imprisonment	CAMO 1020(8)
H.134371	Pte Redding G.B.	-18 mths imprisonment	CAMO 1020(8)
H.336	Pte Walker P.H.	-18 mths imprisonment	CAMO 1020(8)
MILITARY DISTRICT NO.3			
M.8104	Pte Lemere G.	-18 mos imprisonment	CAMO 1020(8)
M.8076	Pte St. Pierre G.	- 1 yr imprisonment	CAMO 1020(8)
MILITARY DISTRICT NO.6			
F.60281	Pte Boutilier J.A.	- 1 yr imprisonment	CAMO 1020(8)
F.41601	Pte Burns R.B.	- 1 yr imprisonment	CAMO 1020(8)
F.67610	Pte Francis L.M.	- 1 yr imprisonment	CAMO 1020(8)
F.16763	Pte Hunt E.W.	- 1 yr imprisonment	CAMO 1020(8)
F.90886	Pte Nielsen Olin	-18 mos imprisonment	CAMO 1020(8)
F.78630	Pte McNeil F.A.	- 2 yrs imprisonment	CAMO 1020(8)
F.62877	Pte Watson A.J.	- 1 yr imprisonment	CAMO 1020(8)

...../2

MILITARY DISTRICT NO.2

G.42369	Pte Gripps J.A.	- 1 yr	Imprisonment	GAMO 1029(8)
G.82463	Pte Lanteigne L.	- 18 mos	Imprisonment	GAMO 1029(8)
G.4660	Pte LeBlanc W.J.	- 1 yr	Imprisonment	GAMO 1029(8)
G.87471	Pte Chestnut S.R.	- 18 mos	Imprisonment	GAMO 1029(8)
G.86796	Pte Boudreau G.	- 1 yr	Imprisonment	GAMO 1029(8)

MILITARY DISTRICT NO. 13

L.18083	Pte Hatch W.H.	- 6 mos	Imprisonment	GAMO 1029(8)

4. These soldiers will be despatched from 89 Military Detention Barracks to their various home District Depots under suitable escort arranged by the D.A.P.M., MD 3, for the purpose of carrying out their discharge, such escort being supplied from 89 Military Detention Barracks, or 53 Coy C. Pro.C.

5. It is requested that after arrival at the various home District Depots for discharge the District Officer Commanding Concerned arrange for the remission of sentence for these soldiers as set out under MGO 9029-1-1 Adm 3 dated 15 June 45, which allows remission of one half the sentence, and that such remission be made effective the date of discharge.

6. The A.J.A.G., MD 3, will issue the necessary Order of Release and forward it to the Commandant, 89 Military Detention Barracks.

7. The D.G. & T.O., MD 3, will issue the necessary transportation.

8. The above mentioned soldiers under sentence will cease attachment to 89 Military Detention Barracks and be struck off strength 3 District Depot to various home District Depots for discharge effective the date they are despatched from 89 Military Detention Barracks. It is requested that these soldiers be discharged in accordance with instructions received from NDHQ as set out opposite their names.

9. The Commandant, 89 Military Detention Barracks, will advise this Headquarters when the above personnel are ready for despatch in order that the various District Officers Commanding concerned maybe advised before the arrival of these personnel at their home District Depots.

10. In this connection it is anticipated that these soldiers will be despatched on or about 31 JULY 45.

11. The Officer i/c, Esd, Bobcaygeon (Central) Brockville, will be requested by wire to forward the documents of the above mentioned soldiers immediately to the various home District Depots.

(R.H. MacGregor) Major
D.A.A.G. MD 3.

Copy to:
Secretary, Department of National Defence, Ottawa.
(Attention: Capt Parlee, Administration Branch)

District Officer Commanding, MD 1. LONDON, Ontario.
Officer Commanding, 1 District Depot, London, Ontario.

District Officer Commanding, MD 2, TORONTO, Ont.
Officer Commanding, 2 District Depot, TORONTO, Ontario.

...../8

District Officer Commanding, MD 5, QUEBEC, P.Q.
Officer Commanding, 5 District Depot, QUEBEC, P.Q.

District Officer Commanding, MD 6, HALIFAX, N.S.
Officer Commanding, 6 District Depot, HALIFAX, N.S.

District Officer Commanding, MD 7, SAINT JOHN, N.B.
Officer Commanding, 7 District Depot, FREDERICTON, N.B.

District Officer Commanding, MD 12, REGINA, Sask.
Officer Commanding, 12 District Depot, REGINA, Sask.

Major,
for (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No. 3.

WEM/EV.

original in 58036 6 Vols
noted in card
GCB.

CR(c) CR on file
C53. M 1164

WOD
admitted

C O P Y

CSS M-1264

CR(C) PM on file
W.J. Bowker
Adm 3/61 d

VER V CIA NR 56

FROM CMDG 3 KINGSTON ONTARIO 281730Q

TODOC MD NO 2 TORONTO

TO SECTY DND OTTAWA ONTARIO

GRS 167 BT

9346 RESTRICTED RELET KS 674(A) DATED 27 JULY 1945 STOP THE FOLLOWING SUS PRESENTLY HELD AT SERIAL 2089 WILL BE DESPATCHED UNDER ESCORT AND WILL ARRIVE TORONTO AT 1745 HRS ON 31 JULY 1945 FOR DISCHARGE UNDER RO 1029(8) REPEAT EIGHT AND GRANTED A REMISSION OF THE UNEXPIRED PORTION OF THEIR SENTENCE STOP OFFICER IN CHARGE 2ND ECHELON CENTAL HAS BEEN REQUESTED TO FORWARD ALL DOCUMENTS OF THESE SOLDIERS DIRECT TO THE OC NO 2 DD STOP B ONE THREE THREE FOUR THREE NINE DOLAN F R STOP B THREE NINE FIVE THREE SIX MANDARO N J STOP B ONE THREE FOUR THREE SEVEN ONE REDDING C D AND B THREE THREE FIVE WALKER B P STOP REQUEST THAT ESCORTS MEET THIS TRAIN ON ITS ARRIVAL AND THESE SUS ESCORTED TO NO 2 DD STOP ADDSD CMDG 2 RPTD DEFENSOR

BT 282041 Q

GY B

original on S 8336 L Vol 3
noted on card
QCS

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55-M-1664 (ICM)

NDHQ Ottawa, Ont

26 Jul 1945

District Officer Commanding

Military District No 3

Kingston, Ont.

CONFIDENTIAL
F.G.C.M.

B.39536 Pte MANDARO Norwood John

89 MDB

Ref

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

(A E Walford),
Major-General,
Adjutant-General.

THIS COPY FOR

H.Q. C.55-M-1664
M.D. 10/Mandaro, NJ/1

3

FIELD GENERAL

GS

MEMORANDUM - DISTRICT COURT-MARTIAL

No. B 39536 Name MANDARO, Norwood John

Rank Pte Unit 5 C.A.D.T.C. RCASC CAO

Charge (1) A.A. 9(2) WOAS, Disobeying a lawful....

(2) A.A. 8(2) WOAS using threatening language

(3) A.A. 15(1) A.W.L.

Date of Crime (1) 31-12-44; (2) 31-12-44; (3) 2-1-45

Date of Arrest (3) 9-1-45 Charge Signed 23-1-45

Orders for F.G.C.M. Lt Col Comd RCASC 5 CAD

Place and Date of Trial In the field; 29-1-45

Sentence Penal servitude 3 yrs.

Date of Confirmation 25-2-45

Date of Promulgation 28-2-45

Entered in Records of J.A.G. as No. 3595

Date 10-5-45

MEMO Conf Auth commutes the sentence to read "To be imprisoned without hard labour for one year.", and confirms the sentence as so commuted.

Reviewed at CMHQ

Absent	Sentence
8 days	Imprisonment without hard labour 1 yr

for Judge Advocate-General

10M-1-45(H-4629)

Quote No. H.Q.C.55-M-1664(JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada

25 May 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

B.39536 Pte. Norwood John Mandaro,
5 C.A.C.T.C., RCASC.,CAC

1. Receipt is acknowledged of your dated 4 Apr 194 5, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

10/Mandaro,NJ/1

A.F.A3104 is also acknowledged.

E.L. M Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

MM

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

4 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

~~B.30536 Pte MANDARC, N J~~
SUS EX MAN

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of imprisonment.

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

for (A E Walford) Major-General
Adjutant-General

Encl. 3

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Mandaro, NJ./

CANADIAN MILITARY HEADQUARTERS

LONDON 4 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C-55-M-164

B-39536 Pte Mandaro, N.J.

1. The m/n soldier is now serving a sentence of 1 year imprisonment awarded by FGCM 29 Jan 45 for offences under AA Sec 9(2), AA Sec 8(2) and absenting himself without leave when under open arrest. The earliest date on which he should be released if he earns full remissions for good conduct while serving his sentence is 28 Sep 45.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the serious nature of the 3 offences of which this soldier has been convicted, his previous record and all available reports, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has not misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 29 Jan 45, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters

Enc. 4.

1/39a CMHQ 1000:76
40/P & S/803 (6739)

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS B-39536 Pte Mandaro, N.J. of 5 Cdn Armd Div Tps Coy RCASC was by Field General Court-Martial held in the field convicted of the offence(s) of Disobeying a lawful command given by his superior offic Using threatening language to his superior officer and Absence without leave. and by a sentence signed on the 29th day of January, 1945 sentenced to undergo Imprisonment for 1 year

said sentence of imprisonment commencing on the aforesaid day, and such sentence has been confirmed by E.G. Weeks, Major-General i/c Adm., CMHQ as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody on route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 4th day of April 1945

(E.F. Beeth) Brigadier
Deputy Adjutant General
Canadian Military Headquarters.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.39536 Norwood John Mandaro 5 CAD Tps Coy RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NotGuilty	Guilty	
2nd	NotGuilty	Guilty	
3rd	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~(beginning on (date)~~ "WMWS" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer penal servitude for a term of three years.

(Sgd) "WM W Shaw Capt" Judge-Advocate, if any. 29 Jan 45 Date awarded. (Sgd) " C.B. Arrell Major" President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the findings and sentence for confirmation.

Date 1 Feb 45 (Sgd) "Ian S Johnston A/ (I.S. Johnston Brig) Commanding 5 Cdn Armd Div

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

"I confirm the findings but I commute the sentence to read quote to be imprisoned without hard labour for one year unquote and I confirm the sentence as so commutted"

[redacted]

(1. AA 57A. Delete if not used.)

(Sgd) "E. G. Weeks" Major-General
IC Administration
Date 25 Feb 45 Commanding CANADIAN MILITARY HEADQUARTERS
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-39536 Pte Mandaro, N.J. 5 CAD Tps Coy RCASC	28 Feb/45	S O Mullins Lt for O.C. 2 Cdn Pro Coy Cmt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Certified true Copy: (D.M. [illegible] Capt. Cdn Sec [illegible] Ech AFHQ) 7406

RECORDED AT CMHQ IN AB 168 4163

CFAOS (In lieu of AFSP 40/P & S/168 (2nd)) 21 Army Gp.

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt-Col J.L.Sparling OBE Comd RCASC 5 CAD dated 28 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B.39536	Pte		Norwood John	MANDARO	5 Cdn Armd Div Tps Coy, RCASC

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 29 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 27/42

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr of any~~ "WMWS", assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1330 hours trial commences.

"WMWS" A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. RR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President~~ to accused: Do you object to XXXX

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, sir, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(~~s~~)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(~~s~~), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(~~s~~).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No Sir (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. [redacted] the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on [redacted] The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on "WMWS" charge(s). Part I of the Schedule is amended [redacted]
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. [redacted] "WMWS"

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him ([redacted]) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir. (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1) "WMWS"
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) [redacted] the evidence for the Prosecution does not [redacted] "WMWS" [redacted] accused on the [redacted] charge(s).(2) The Court [redacted] is closed [redacted] the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the [redacted] charge(s), and allowed on the [redacted] charge(s), and that, accordingly, the trial will proceed [redacted] on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. give evidence Do you intend to call witnesses on your behalf? Ans. No Sir ~~Are they witnesses as to character only? Ans.~~ "WMWS"
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 1st & 2nd charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~ "WMWS"
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~ "WMWS"

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. No Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. No Sir "WMWS" (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1E), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.39536, Private Norwood John Mandaro of 5 Canadian Armoured Divisional Troops Company, RCASC. a soldier of the Canadian Army Overseas, is charged with:

First Charge Sec 9(2) Army Act

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field at approx 1630 hrs on the 31 Dec 44, did not leave his platoon kitchen when ordered to do so by H.65452 A/Sgt Strecker, G.F. of 5 Cdn Armd Div Tps Coy RCASC., saying " You won't tell me when to get out, I will get out when I am good and ready" or words to that effect.

Second Charge 8(2) Army Act

WHEN ON ACTIVE SERVICE USING THREATENING LANGUAGE TO HIS SUPERIOR OFFICER

in that he

In the Field on the 31 Dec 44 after having been ordered by H.65452 A/Sgt. Strecker, G.F. of 5 Cdn Armd Div Tps Coy, R.C.A.S.C., to leave the platoon kitchen, said to A/Sgt Strecker, "Fuck off"; "I'll bop you one".

Third Charge Sec 15(1) Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field when under open arrest absented himself without leave from 0745 hrs. 2 Jan 45 until apprehended in Florence at 1615 hrs 9 Jan 45.

Absent - 7 days, 8 hrs., 30 minutes

In the Field
23 Jan 45

"L.S. Eckardt Major"
(L.S. Eckardt) Major,
Officer Commanding,
5 Cdn Armd Div Tps Coy,
RCASC.

To be tried by Field General Court Martial.

In the Field
28 Jan 45

"WMWS"
" C.B.A."

"J.L. Sparling"
(J.L. Sparling) Lt-Col
CRASC 5 Cdn Armd Div.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAF)
40/P&R/1697 (30653)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.39536	Pte		Norwood John	MANDARO	5 Cdn Armd Div Tps Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 28 Jan 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

"JLS"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ "JLS"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~ "JLS"

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C.B. Arrell	Perth R.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lt	To be detailed by Ir R C	
Capt or Lt	To be detailed by C B Highrs.	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lt	To be detailed by 11 Cdn Indep~~t~~ MMG Coy (PLF)	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	W M W Shaw	H.Q. 5 Cdn Armd Div.

On Active Service in the Fd

in Italy (Country.)

"J. L. Sparling" (Signed personally. RP 105 fn 2.) (Rank.)

Date 28 Jan 45

(J. L. Sparling) Lt Col
Commanding RCASC 5 Cdn Armd Div.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"WMWS" "CBA"

MEDICAL CERTIFICATE

Certified that B.39536 Pte Mandaro N.J. has been Medically examined and is fit to stand trial.

Signed this 29th day of January 1945.

"KNE"

"KN Edward Capt"
(K N Edwards) Capt
Medical Officer
RCASC
5 Cdn Armd Div.

"WMWS"

-1-

1st Witness Pros

H.65452 A/Sgt Strecker G.F. 5 CAD Tps Coy RCASC duly sworn states:-

Pl Sgt of Comp Pl. On 31 Dec 44 at 1630 entered kitchen & overheard conversation between cook & Pte Mandaro asking Mandaro to leave kitchen. I had warned him previously that they would leave kitchen when they got their meals. He did not leave & I gave him an order to leave - I sd "Pte M you will leave the kitchen, you know you are not supposed to be here". he replied " Fuck you I will leave when I am ready, you wont tell me when to leave". I repeated order & he did not leave. L/Cpl Grassy just came in so I ordered him to get two men to put M under arrest. When L/Cpl left Pte M sd "Fuck off or else I'll bop you " or words to that effect. I sd would be enough & Pte M started for the door as L/Cpl arrived with the 2 men. I told L/Cpl would not need the men & warned Pte M that under open arrest.

Order required compliance at once.

S/Sgt Sproule with me at the time. Pte Mandaro is the accsd.

XXX : I told Pl verbally about leaving the kitchen. I told men first then I told see Cpls to make sure no men ate in kitchen. They had been told previously that no one to eat in kitchen. Men had bench outside under shelter to eat. Way he spoke & acted he might have been drinking. Think he was fit for duty. Could not smell. He always obeyed orders before. Figured drinking or in cantankerous mood.

Re Exam:- He was in kitchen behind counter. 2 days previous I had asked him to leave kitchen.

Court:- 5 mins after gave order tha he started to leave. speech plain & not staggering. He seemed in fighting mood - he was in serious mood when sd would bop me. 2 days previous he left immediately. Mood was ugly. Have had words with him before but nothing serious. He understood perfectly well what I told him to do. 3 or 4 days previously several had always eaten in kitchen.

R P 83 (b) complied with.

2nd wit pros

H.51748 S/Sgt Sproule, E.W. 5 CAD Tps Coy RCASC duly sworn states:

In comp Pl. Recognize accsd, Pte Mandaro, he was attd Comp Pl.

On 31 Dec 44 approx 1630 hrs I entered Pl Kitchen - was at end of serving table when heard Sgt Strecker order accsd to leave kitchen. Accsd sitting behind serving table. Accsd replied Fuck you you are not going to order me around Ill leave when I'm ready.

Sgt S repeated order & accsd continued to use abusive language dont't remember words. Sgt S order L/Cpl Grassy to get two men. Accsd sd " Dont fuck around with me I won't hesitate to bop you one" Accsd then left kitchen & Sgt S told him under arrest. 4 to 5 mins elapsed after order before he left. Accsd in a pugnacious mood.

XXm:- Men had been eating at a trellis under a shed. Insts that no eating in kitchen had been given several days previously. Accsd was sitting with mess tins on knees, had food in tins, didn't see him eating. After getting food would have to return to foot of line to get around the table where he was sitting. Had been in Pl approx 3 weeks. Have not had occasion to give him orders before.

Special point had been made to issue eating insts to men.

No visible appearance of drinking - believe he might have been drinking but only because of attitude. Certainly wasn't staggering. Was a party New Year's Eve & was quite a bit of drinking.

Re-Exam:- 5 yrs a S/Sgt.

Court:- Sgt Strecker is a Sgt butcher & is i/c personnel & discip of Comp Pl - were a no. of men who had been drinking but none were drunk. Supper at 1630 hrs. Accsd was on duty in afternoon.

R.P. 83 (B) complied with.

Prosn closed.

1st Wit Def

The accused, duly sworn, states:-

On 31 Jan last year were working 8am in morning. & p.m. was off. Some boys going back to Sask LI so had a party & quite a bit of drinking. Then went over to supper about 4 o'clock. Went in line-up. Remember cook saying something about leaving kitchen - was quite a big line up - Did see Sgt Strecker get my supper & went to my billets & ate. Then went back to where boys were have party & carried on with them. Next remember waking up past Forli in a truck. Thats all I remember happening I went into Florence.

Every 3 days got an afternoon off - this was my seco pm off. Believe took my meal to billets - don't know if ate it.

XXm: Have vague idea of what went on - Don't know who sd to leave kitchen, presume it was cook. Don't remember saying anything

to Sgt Strecker. Don't know what happened after supper until I woke up. Remember getting meal but don't remember eating it.
Didn't realize under open arrest.

Re-Exam:- Nil
Court:- Was not at Pl party. I was at B Pl party.
Could remember where party was. Was not warned officially that kitchen out of bounds. Heard boys say were not supposed to eat in kitchen.

R.P. 83 (B) complied with.

Def Closed

Pros in closing:- Evidence proves charges. Comd was legal - was given by sup offr - did not comply. Def claims drunk & did not understand order - Accsd knows actions up to & after the occurrence. Language used is shrewn & not challenged by def - ask conviction on both.

Def Offr in closing:- Seem that intrs re eating in kitchen were slack - not given in orders, on parade or posted on noticies, nothing definite

A acsd could innocently be in kitchen & not know was not supposed to be there. Acsd had pm off & did lot of drinking. In such state of drunkenness he should have been charged under AA19 & not under 9(2) or 8(2). Since Sgt put him under open arrest it shows considered man drunk & charges might have been dropped.

J.A. sums up:- Functions of court, credibility of witnesses, presumption of innocence, burden on prosn, reasonable doubt, disobeying lawful comd, threatening language, drunkenness & effect on crime.

"WMW Shaw Capt".

SUMMARY OF EVIDENCE

in the case of

B-39536, Private Norwood John MANDARO, 5 Cdn Armd Div Troops Coy, RCASC, a soldier of the Cdn Army Overseas, charged with:

1. Disobeying a lawful command given by his superior Officer.
2. Using threatening language to his superior Officer.
3. Absenting himself without leave.

The Commanding Officer directs that the evidence be taken upon oath?

First Witness

H.65452, A/Sgt. Strecker, G.F. of 5 Cdn Armd Div Troops Coy. RCASC., having been duly sworn states:.

I was on the 31st Dec 1944 and still am an Acting Sgt. in Composite Platoon of 5 Cdn Armd Div Tps Coy. RCASC. On 31st Dec 1944 at approx 1630 hrs I heard a conversation in our platoon kitchen between Pte Mandaro, whom I saw recognize, and Pte Nedeljak P., platoonsock, in which Pte Nedeljak asked Pte Mandaro to leave the kitchen as he was not supposed to be eating his evening meal there. As instructions had been issued previously that all men would leave the kitchen as soon as they had been served, I interrupted the conversation and ordered Pte Mandaro to leave the kitchen. Pte. Madaro's reply was "I will leave the kitchen when I feel like it and you will not tell me when to leave". He also told me to "Fuck Off". On Pte Mandaro refusing to obey my order, I instructed L/Cpl Grassie, who was the first junior NCO I saw in the kitchen, to fall in two men for the purpose of removing Pte Mandaro from the kitchen. While L/Cpl Grassie was getting the two men Pte Mandaro threatened me with the remark "If you are not careful I will bop you". Before L/Cpl Grassie had arrived back with the two men Pte Mandaro left the kitchen and I then warned him that he was under open arrest.

At approx. 0745 hrs 2 Jan45 L/Cpl Grassie reported to me. We then made a check of the platoon area and Pte Mandaro was not to be found Pte Mandaro's absence was reported immediately to Company H.Q.

The accused declines to cross-examine the witness.

"G F. Strecker.
H.65452 A/Sgt. Strecker, G.F.

Q. 1. What was the condition of Pte Mandaro when your ordered him out of the kitchen?

A. 1. I had not seen Pte Mandaro drinking at any time during the day, but I assumed he may have been due to the remarks he made.

"A" "WMWS."

Second Witness

H.51748, S/Sgt Sproule, E.W., 5 Cdn Armd Div Troops Coy, RCASC. having been duly sworn, states:

I was on the 31st Dec. 1944 and still am S/Sgt of the Composite Platoon 5 Cdn Armd Div Tps Coy, RCASC. On 31st Dec 1944 at approx. 1630 hrs I was in the kitchen of Composite Platoon to procure my evening meal. I was aware of and saw Pte Mandaro, whom I now recognize, seated behind the serving table, eating. At the time in question Sgt Strecker had just preceded me into the kitchen and on entering the room I heard Sgt. Strecker order Pte Mandaro to leave the kitchen. Pte Mandaro's reply was "Fuck off" and other words which I can't now recall. Sgt Strecker repeated his order and Pte Mandaro refused to leave and made the statement "That he would leave when he felt like it". Sgt. Strecker then ordered L/Cpl Grassie to fall in two men to remove Pte Mandaro from the kitchen. While L/Cpl Grassie was procuring the men Pte Mandaro became abusive and in my hearing uttered threatening statement to Sgt Strecker; one phrase I recall was "Don't fuck around with me or I won't hesitate to bop you one". Pte Mandaro then left the kitchen of his own accord and Sgt Strecker warned him that he was under open arrest".

The accused declines to cross-examine the witness.

"E.W. Sproule"
H.51748 S/Sgt. Sproule, E.W.

Third Witness

H.51910 L/Cpl Grassie, D.C. of 5 Cdn Armd Div Troops Coy, RCASC. having been duly sworn states:.

I was on the 31st Dec 1944 and still am L/Cpl in Composite Platoon of 5 Cdn Armd Div Tps Coy. RCASC On the evening of 31st Dec 1944 at approx 1630 hrs I entered the Composite Platoon kitchen for the evening meal, and proceeded to section set aside for washing mess tins. On returning to line up for meal Sgt. Strecker who was in the kitchen when I entered instructed me to fall in two men to remove Pte Mandaro from the kitchen. I had not previously heard any part of his conversation with Pte Mandaro. I left the kitchen to get two men from my section, but when I returned with same, Pte Mandaro had already left the kitchen.

On the morning of 2 Jan 1945 at approx. 0745 hrs my

"A" "WMWS"

Third Witness(Continued) Page 3

section was called out for an ammunition detail. It was then that I first noticed that Pte Mandaro was missing and I immediately reported same to Sgt. Strecker. We then made a thorough check of platoonlines and there was no sign of Pte Mandaro.

The accused declines to cross-examine the witness.

"D.C. Grassie."
(H. 51910 L/Cpl. Grassie, D.C.)

Certificate of apprehension read to accused & attd as Exh B.

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused:

"I have nothing to say at this time".

Cont'd page 3.

The accused declines to call witnesses in his own behalf.

I certify that RP 4 has been complied with.

Taken by me in the Field in the presence and hearing of the accused this 23rd day of January, 1945.

"A.Victor Loftus Capt".
(A.V. Loftus Capt)
Officer Taking Summary
5 Cdn Armd Div Tps Coy.
RCASC.

"A" "WMWS"

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10 Jan 1945 521

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SEC 163 (i) (jj)

I Certify that No. B.39536 Rank Pte Name Mandaro N. J.
of the TROOPS COY 5th Cdn Armd Div. RCASC.
was arrested at FLORENCE at 1615hrs.
on the 9th day of Jan 1945.

S
W
t

"H. D. Harper"
Rank Captain

Commanding. 507 Provost Coy, CMP.

Date 10 Jan 45 "A" "WMWS.

"This Exhibit "" referred to in the Summary of Evidence in the case of B.39536, Pte Mandaro, N.J., taken before me this 23rd day of January, 1945.

"A Victor Loftus Capt".
(A V Loftus) Capt.
Officer Taking Summary
5 Cdn Armd Div Tps Coy.
RCASC.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
B.39536	Private	Norwood John Mandaro	5 Cdn Armd Div Tps Coy. RCASC.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For Sec 15(1)	8 times	16	times.
Sec 9(2)	1	1	
For Sec 10(2)	1	1	times.
Sec 19	1	4	
For Sec 40	3	6	times.
For Sec 24(2)	1	2	times.
Sec 22	Nil	3	
Date of first entry in Field Conduct Sheet			
Sec 11	Nil	1	
Date of last entry in Field Conduct Sheet			

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for not be~~ing tried for~~ ~~xxxxxxx~~

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 21 days in military custody, i.e., ... days in open arrest, ... days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 20 yrs, 7 months, 23 days.

6. The date of his ~~enlistment for military service~~ attestation is 21 Nov 1940

7. The service which the accused is allowed to reckon is N/A

†State the military decorations (if any) held by accused.

8. The accused is in possession of † ~~nil~~

9. (If the accused is a warrant officer or N.C.O.). The accused has served continously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	
In the war substantive rank of N/A.	
In the acting rank of	

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13479/2857 30,000 5/44 S1-432 T.Ltd. Forms/B.296(War)/2

"C" "WMWS."

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		see MFM 6 Attached.		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 29 day of January 1945

"M.A. North Lt".
(M.A. North) Lt & Adjt.
5 Cdn Armd Div Tps Coy, RCASC.

No. B39536 Name Mandaro N.J. Sqn. Battery or Company | Corps RCASC | Date of enlistment 21-11-40 | OC Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/P&S/198 (8438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature OC Company, etc ???????Lieut | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Old sheet	destroyed	21-5-41	Date of last entry 29-4-41		Nil cases of	Drunkenness		(W.K. Smith Lieut)	
Parsons Bridge	31may 41	Pte	Nil	AWL from 1200 hrs 31-5-41 to 1510 hrs 6-6-41. Absent 6 days, 3 hrs and 10 mins. AA sec 15-(1)	Cpl Emersland.	Stoppage of Pay $59.58 FR &I 172(8) 10 dys C.B.	11-6-41	Major MacLennan	Fors 7 dys pay FR&I 149 (1) (a)
Parsons Bridge	13Jun 41	Pte	Nil	1. Failing to appear at a place of parade, etc 2. Failed to appear P.T.1115 hrs 13-6-41 3. Failed to appear Defaulters 1730hrs13-6-41 4. Failed to appear at Tattoo 2130hrs 13-6-41 5. Failed to appear at Defaulters 0630hrs 14-6-41 AA 15(2)	WIT Cpl Emersland L/Cpl Cooley	14 dys Detn	16-6-41	Lt-Col W Bapty "B" "WWS"	Forfs 14 dys pay FR&I 149 (1)(b)

(PTO)

Place	Date of offence	Rank	Cases of Drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Nanessee Bivouacs	17Jul 41	Pte	Nil	AWL from 2200 hrs,17-7-41 to 0645 hrs, 18-7-41. Absent 8 hrs 45 mins. AA Sec 15(1)	Sgt Jones Pte Goodson	7 dys Detn	21-7-41	Lt-Col Bapty	Forfs 1 dys pay FR&I 149(1)(a)
Nanaimo BC	29Jul 41	Pte	Nil	1. Conduct to the prejudice etc AA Sec 40. 2. When in arrest, escaping 0600 hrs 29-7-41.AA Sec 22	QMS Hodges Sgt Embree Cpl Dunn L/C Kenny	14 dys Detn	1-8-41	Lt-Col Bapty	Forfs 7 dys pay FR&I 149(1)(b) Forfs 14 dys pay FR&I 149(1)(b)
Prince Rubert B.C.	2Aug 41	Pte	Nil	1. When in confinement escaping between 1750 hrs and 1830 hrs 2-8-41 AA Sec 22 2. AWL from 1830 hrs 2-8-41 to 1420 hrs 8-8-41. Absent 5 days 19 hrs and 50 mins. AA SEC15(1) 3. Neglected to obey Bn, order No.69 AA Sec 11 Returned to unit at public expense.	Sgt Lawes Cpl Emersland Sgt Angus Cpl Mallaby Sgt Simpson Docum.	28 dys detn placed under stoppage of pay covering cost of apprehension $48.40 FR&I 172(8)	16-8-41	LtCol W Bapty	Forfs 6 dys pay FR&I 149(1)(a) Forfs 28 dys pay

No. B39536 Name Mandaro N.J. Sqn. Battery or Company | Corps RCASC | Date of enlistment | 21-11-40 | RC Badges | Service or Proficiency Pay | N/A | MFM 6 (AFB 152) 40/PAS/136 (3453)

Date of last entry in Company Conduct Sheet | N/A | No and date of last drunk | N/A | Period not reckoning towards freedom from extra fine | N/A | Sheet No 2 | Signature OC Company, etc | (H.W. Rider) Lieut. | Character B# "WWS"

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Prince Rubert BC	22Aug 41	Pte	Nil	1. When in confinement, escaping at or about 1400 hrs 22-8-41 AA Sec 22 2. AWL from 1400 hrs 22-8-41 to 0900 hrs, 23-8-41. Absent 19 hrs AA Sec 15(1) 3. Losing by neglect clothing to the amount of $6.76 AA Sec 24(2)	PteLivingstone Docum Pte Plamondon Docum	14dys Detn Stoppage of pay for cost for return $14.60 Stoppage of pay losing clothing $6.76	27-8-41	Lt Col W Bapty	Forfs 1 dys pay FR&I 149 (1)(a) Forfs 14 dys pay FR&I 149 (1)(b) Forfs 5 dys pay FR&I 149 (1)(jj) 1st Offense No fine Forfs 1 dys payFR&I 149 (1)(a)
Prince Rupert BC	2 Oct 41	Pte	1	1. Drunkenness AA Sec 19 2. AWL from 0100 hrs 12-1041 0900 hrs 12-10-41 Absent 8 hrs AA Sec 15(1)	Sgt Simpson Cpl Norquay	7 dys C.B.	13-10-41	Major MacLennan	

Over

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Prince Rupert BC	13Oct 41	Pte	2	Drunkenness, 2nd Offense AA19	Sgt Embree Cpl Emerslund	14 dys C.B.	14-10-41	Lt Col Bapty	
Frederick Ft.Pr Rup BC	31Oct 41	Pte		AWL from 0900 hrs 31-10-41 to 1600 hrs 31-10-41 Absent 7hrs AA Sec 15-1- 1. Neglect to the prejudice, when ordered to perform a duty by a superior offr. AA 40	Sgt Green	7 dys C.B.	3-11-41	Lt AJ Tisdall	Forfs1 dys pay FR&I 149(1)(a)
Ft.Frederick Pr Rupert BC	12Nov 41	Pte			L/C Riley Cpl McFarland	7 dys Detn	13-11-41	2/Lt AH Jukes	Forfs 7 dys pay FR&I 149(1)(a)
Van BC	14Feb 43	Pte	3	Drunkenness 3rd Offense, AA19(a)	Cpl Milnes L/C Stranaghan	Fine $10.00	16-2-42	LtCol Lock	Forfs 5 dys pay AA 46(2)(d)
Van BC	17Feb 42	Pte		AWL 0800 hrs 17-2-42 to 1030 hrs 15-5-42. AA 15(1)	Docum	DCM 111 Dys Detn	23-6-42	Lt-ColLock	111 dys pay FR&I 149(1)(a) 38dys pay under arrest. Forfs add $14.25

No B39536 Name Mandaro N.J. Sqn, Battery or Company | Corps RCASC | Date of enlistment 21-11-40 | OC Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 3 | Signature OC Company, etc ????????? Lieut | Character "B" "WWWS"

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 Jan 43	Pte		1 AA 15(1) AWL in that he was absent from Coy Meal Pde 2.AA. 40 Conduct to the prej. of Gd Order & MilitaryDiscipline	A/Cpl Seguin A/Cpl Edgar	7 dys C.B.	8-1-43	Maj R.J. Dufresne	
Field	6 Feb 43	Pte		Section 15(1) AA AWL in that he, WOAS, absented himself without permission from 2245 hrs, 6 Feb 43 until 2245 hrs 7 Feb 43. Absent 1 day.	Cpl Timbrell Cpl Cox M.	7 days F.P.	10Feb 43	Captain M. R Harriss	Forfeits 1 day pay FR&I 149(1)(a) For.7 dys pay FR&I 149 (1) (b) Total Forf 8days pay.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17Mar 43	Pte		AWL Sec 15(1) TTA, 17 hrs and 50 mins.	Documentary	Forf2dayspay C st of apprehen-sion £0-5-8	23-3-43	LtCol W.G. Fletchen	Forf 1 days pay FR&I 149(1)(a) Forf 2 days pay FR&I 149(2) Cost of apprehen-sion £0-5-8 FR&I 158(2)
Field	14 Apr 43	Pte		AA 15(1) AWL from2359 hrs 14 Apr 43 until 0740 hrs 15Apr 43	Documentary	7 days C.B.	16 Apr 43	Capt J.C. Anderson	Auto forf 1 days pay FR&I 149(1)(a)
Field	19 Apr 43	Pte		AA Sec 15(1) AWL TTA 2 days 14 hrs. AA Sec 40 Conduct	Documentary L/C Pizzy	14 days detn with 14 days pay(conc) & cost of app £0-5-8	24Apr43	Major RJ Dufresne	Forfs 3 days pay FR&I 149(1)(a) 2 days pay FR&I 149(1)(c) ( )14 days pay FR&I 149(1)(b) cost of app F&I 172 (8)

No B39536 Name Mandaro N.J. Sqn, Battery or Company | Corps RCASC | Date of enlistment 21-11-40 | OC Badges | Service or Proficiency Pay N/A

MFM 6 (AFB 122) 40/P&S/136 (3435)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 4 | Signature OC Company, etc

Character "B" "WMWS"

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9 May 43	Pte		Sec 15(1) AWL 2200 hrs 9 May 43 until 2030 hrs 29 May 43 TTA 19 D D 22 H 30 M Sec 40-2 charges	TRIED BY FGCM Date of trial 10 June 43 Sentence 160 dys detention Confirmed B Gp 11 June 43 Promulgated 14 June 43		Forf 20 days pay 160 days pay	149(1)(a) 149(1)(b) 11 days pay 149(1)(c)	
Field	8 Oct 43	Pte		AWL Sec 15(1) Absent from 1600 hrs 8 Oct 43 until 2100 hrs 9 Oct 43 (TTA 1 day and 7 hours)	Documentary	7 days CB Awarded 6 days pay	11-10-43	Lt Col WC Fletcher	Forf 2dayspay FR&I 149(1)(a Awarded 6 day pay FR &I 149(2)
Field	26 Nov 43	Pte		1 AA Sec 9(2) WOAS Disobeying a lawful command 2. AA Sec 19(2) WOAS using.					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26 Nov 43	Pte		insubordinate language to his superior officer	Lt JM Atwell Cpl Davis RL Pte Purchill CC.	27 days Detn	10 Dec 43	Lt Col FB Conrad	Forf 27 days pay FR&I 149(1)(b)
Field	3 Apr44	Pte	4	1 AA 19 Drunkenness 4 offense 2 AA 40 driving a WD veh in a careless and negligent manner	Documentary Documentary	Fined $10.00 14 days forf of pay	12Apr 44 12Apr 44	Major AW Black	
Field	4 Jun44	Pte		AA 15(1) AWL from 2200hrs 4Jun 44 until apprehended at 0930 hrs 5 Jun 44 (Absent-11hrs 30 mins.	Sgt Kempling Documentary	28 days Detn	14Jun44	Capt E.W. George	Forfs 1dayspay FR&I 149(1)(a) Forfs 28 days pay FR&I 149(1)(b)

No. B.39536 Name Mandaro N.J. Sqn, Battery or Company | Corps RCASC | Date of enlistment 21-11-40 | OC Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/P&S/136 (3488)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 5 | Signature OC Company, etc "BR" "WMWS" | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Dec 44	Pte		AA Sec 15(1) AWL 0001 hrs 1 Dec 44 until 2120 hrs 2 Dec 44. (absent 1 day 21 hrs 19 min)	Documentary	14days forf	20Dec44	L.S. Eckardt Major	14daysForf FR&I149(2)
	18 Dec 44	Pte		AA Sec 25(2) Losing by Neglect Losing 4 Blankets while on leave	CQMS Morrison D.	$12.28			2 days forf FR&I 149(1)(a) $12.28 Stoppage FR&I 158 (2)

CERTIFIED THAT THIS A TRUE AND EXACT COPY OF THE ORIGINAL TAKEN FROM THE REGIMENTAL BOOKS IN MY CUSTODY.

" M.A. North Lt"
(M.A. North) Lieut.
Adjutant
5 Cdn Armd Div Troops Coy
RCASC.

(PTO)

LNPG V LAIE SRL 18

FROM CANMILITRY 261111Z

TO CDN G2 E GMF

42339 RT

RESTD PARA ONE. FGCM PROCEEDINGS B 145082 PTE COURIERE SA

B111809 PTE HOWDEN HG 628152 PTE LUTWICK LE SERIAL 943/1

F49827 PTE SKILTON HT SERIAL 42/1 ENDORSED BY MGA 25

FEB 45 QUOTE I CONFIRM THE FINDING (S) AND SENTENCE AND I DIRECT

THAT A PART OF THE SENTENCE NOT EXCEEDING TWO YEARS SHALL BE SERVED

IN A MILITARY PRISON UNQUOTE .PARA TWO. FGCM PROCEEDINGS B39536

PTE MANDARO BJ SERIAL 592/1 ENDORSED BY MGA 25 FEB 45 QUOTE I CONFIRM

THE FINDINGS BUT I COMMUTE THE SENTENCE TO READ QUOTE TO BE IMPRISONED

WITHOUT HARD LABOUR FOR ONE YEAR UNQUOTE AND I CONFIRM THE

SENTENCE AS SO COMMUTED UNQUOTE. PARA THREE .FGCM PROCEEDINGS

F87889 PTE COURADE AL SERIAL 357/1 ENDORSED BY MGA 25 FEB 45 QUOTE

I CONFIRM THE FINDING AND SENTENCE BUT I REMIT THREE YEARS

PENAL CONVITUDE UNQUOTE . RETURN UK EARLIEST ABSENCE TERMINATED 18

SEP 44 TRIED 30 JAN 45 INVESTIGATE DELAY AND REPORT

B 261725 NA AA

R SRL 18 261726 NAB R 'P' GBER R U YTEMS

B.39536 Pte. Mendero, N.J.
1 C.A.S.C.R.U.
BGHQ 5-6-2/216 66125

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this 8th day of JUNE, 1943

Whereas it appears to me, the undersigned, an officer in Command of B GROUP CANADIAN REINFORCEMENT UNITS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable to delay the trial for the convening of a Court of Inquiry~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~The members of the Court~~

~~*(1. The Officers to constitute the Court)~~

~~*(2. A Field Officer President)~~

~~for the following reasons namely:~~

* Omit if not applicable.

Proceedings Resumed 28 June 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.D. Langmuir	1 C.E.R.U.

Members.

Rank.	Name.	Regiment.
A Captain	from	1 C.S.R.U.
A Lieutenant	from	1 C.A.S.C.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (P.R. Shields) Brig
Commanding B Gp C.R.U.
Convening Officer.

A.D. Langmuir Major
Quartered 7504

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B.39536 Pte. MANDARO, Norwood, John, 1 Cdn ASC R.U.	First Charge A.A.Sec.15(1)	GUILTY	GUILTY TO UNDERGO 160 DAY DETENTION	Confirmed P.R. Shields Brig 11 Jun 43
	Second Charge A.A.Sec.40	GUILTY	~~30 Day Punishment Forfeiture~~ GUILTY	N.H.
			TO PAY COST OF APPREHENSION 18s 5d	
	Third Charge A.A.Sec. 40	GUILTY	GUILTY	
			10 June 43	
	See Attached Charge Sheet			

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) P.R. Shields (P.R. Shields) Brigadier
Commanding B Group, C.R.U.
Convening Officer (e)

(Signed) R.L. Langmuir Major
ICERU
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 10 day of JUNE 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~) N/A
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 10 day of June 1943

R.L. Langmuir Major
President of the Court Martial. ICERU.

C. Certificate in case of death sentence.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

* See footnote (b) on page 762 M.M.L. 1929.

~~Signed this day of 19 .~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 11 day of June 19 43

P.R. Shields Brig
Confirming Officer.

Promulgated and extracts taken in the case of B39536 Pte Mandaro N.S.

(a) (Dated) 14 June 1943 (Signed) Maurice Beal

Promulgated and extracts taken in the case of B39536 Pte. Mandaro N.S.

(Dated) 14 & 15 June 43 (Signed) H.P. Stilwell Capt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.L. 47207/1867 30 M. 5/43 K.H.,(R288(3)) Gp. 698/3

CHARGE SHEET

The accused, B-39536 Pte. Norwood John MANDARO, RCASC, 1 Cdn ASC Rft Unit, a soldier of the Cdn. Army, Overseas, is charged with:

WHEN ON ACTIVE SERVICE

1st Charge
A.A.
Sec.15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he,
at Farnborough, Hampshire, absented himself without leave from 2200 hrs, 9th May 43 until 2030 hrs 29th May 43, when he was apprehended by the Corps Military Police, Coventry, England.
Total Time Absent - 19 days, 22 Hrs, 30 Min.
Cost of apprehension - 15 shillings 5 pence.

WHEN ON ACTIVE SERVICE

2nd Charge
A.A.
Sec.40

AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,
at Coventry, England, on the 29th May 43, was in possession of a document purporting to be a genuine pass, well knowing that it was not genuine.

WHEN ON ACTIVE SERVICE

3rd Charge
A.A.
Sec. 40

AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,
at Farnborough, Hampshire, on the 16th Apr 43, was found to be improperly dressed when checked by the Cdn. Provost Corps, having battle dress tunic open with two buttons undone contrary to dress regulations.

(H.P.Bonnick) Lt-Col.
Commanding, 2 Trng. Wing.
1 Cdn ASC Rft Unit.

Farnborough, Hampshire,
4th June, 43.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(P.R. SHIELDS) BRIG
COMD "B" GROUP
CDN RFT UNITS

8 Jun 43

Major - President
1 CERU.

Medical Officers' Certificate.
K.R. (Can.) Para 557

I certify that I have this morning examined No. B.39536 Pte Mandaro L.J.
of L.C.A.S.C.-R.H. and in my opinion he is fit to undergo
trial by court martial.

Station. Blenheim Barracks.

Date. 10 June 1943

(Medical Officer)

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT FIELD
ON THE 10 DAY OF JUNE 1943

The accused B39536. PTE. MANDARO. N.T. ..Unit. 1 C.A.S.C.R.U. ....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. MAJOR. A.D. LANGMUIR ...Unit. 1 C.E.R.U. ....

Members.. CAPT. F.A. DENISET .....Unit. 1 C.S.R.U. .....

..LIEUT. H.E. HOAR .....Unit 1 C.A.S.C.R.U. ...

The officers under instruction are duly sworn:-

LT. W.J. DIXON 1 C.A.S.C.R.U
.... LT. W.R. CORNER .....Unit 1 C.A.S.C.R.U .....
LT. O.R. SIMONS 1 C.A.S.C.R.U
.... LT. D.L. COWAN .....Unit 1 C.E.R.U. / 1 C.A.S.C.R.U
LT. M.T. CHILCO

Prosecutor. LIEUT. N.C. NANCERVELL ...Unit 1 C.A.S.C.R.U. ....

Defending Officer MAJOR. R.W. DYAS ..Unit. 1 C.A.S.C.R.O. ..

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment. ✓
(b) ~~Calls witnesses as to character.~~ PAL
(c) ~~Calls witnesses in mitigation of punishment.~~ PAL
(d) Addresses the Court by his Defending Officer.

O/S R.O. was complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Only just of Military age. Worried about invalid Mother. Not able to get proper assistance in Unit so went AWL to consult with his aunt in Manchester. Was convinced by friend that phoney pass would help him & was given some in Coventry

P.A. Langmuir
Major and DCM

Certified True Copy
Officer taking Summary

LAST D.O.	1 CDN.A.S.C. REINFORCEMENT UNIT	THIS D.O.
NO. 116	CANADIAN ARMY OVERSEAS	NO. 117
13 May 43	Daily Orders Part II	14 May 43

issued by
Colonel J.M. Pocock, Commanding

SECTION "A"

1. STRENGTH INCREASE

(a) Lieut. R.H. Brown — TOS from 9 Cdn.Inf.Bde.Coy.RCASC wef 27 Apr 43.
Admitted to 1 Cdn.Gen.Hosp. wef 26 Apr 43.

2. STRENGTH DECREASE

(a) Lieut.Arthur Brown — SOS to CMHQ (DQS Sub Br) wef 30 Apr 43. (Auth: 10/Brown.A/1 (M86) d/10 May 43.)

(b) Lieut. C.G. Sharpe — SOS to CMHQ (DQS Sub Br) wef 30 Apr 43. (Auth: 10/Sharpe C/1(M86) d/10 May 43.)

3. ATTACHMENTS

(a) Lieut. A.E. Boutilier — Attached for all purposes from 7 CIRU wef. 12 May 43 (Auth: CMHQ/SPL/AT-3206 d/11 May.

(b) Lieut. Arthur Brown — Ceases to be attached for all purposes to CMHQ wef 30 Apr 43 on being SOS.

(c) Capt. J.H.C. Clarry — Attached for all purposes to 4 Cdn.Armd Bde. H.Q. wef 16 May 43 to 22 May 43 (inclusive) (Auth: (402/Attach/1 (DAAG) (409/1CASCRU/1 (DAAG) d/11 May 43.

(d) Lieut. C.G. Sharpe — Ceases to be attached for all purposes to CMHQ wef 30 Apr 43, on being SOS.

(e) Lieut. E.V. Wilson, — Ceases to be attached for all purposes to H.Q. 2 Cdn.Div wef 29 Apr 43.
Attached for all purposes to 2 Cdn.Anti Tk Regt RCA wef 30 Apr 43. (Auth: MG/5687 d/10 May 43).

4. HOSPITALS

(a) Lieut. A.M. Hay — Admitted to Garnons Conv.Hosp wef 3 Mar 43.
Admitted to Garnons Conv.Hosp wef 5 Apr 43.
Discharged from Garnons Conv.Hosp. wef 5 May 43.
Admitted to 16 Cdn.Gen.Hosp. wef 5 May 43.
Discharged from 16 Cdn.Gen.Hosp. wef 7 May 43.

5. LEAVE OF ABSENCE

(a) Major S.A. German — Granted 7 days Privilege Leave from 11 May 43 to 18 May 43 and money allowance in lieu of rations (Art.739(3)(4) FRAI as amended by O.R.O. 2459.)

6. QUALIFICATIONS

(a) The undermentioned Officers having attende M/C Course at Unit "I" Sec.No.1 Trng.Wing qualified as ASC M/C Ride wef 9 May 43.

Lieut. B. Cutforth
Lieut. J.F. Kay
Lieut. J.E. Miller
Lieut. C.F. McIntyre
Lieut. P.A. Pelland
Lieut. J.E. Roy
Lieut. J.W. Strong
Lieut. W.A. Villeneuve
Lieut. W.N. Fortier
Lieut. D.R. Leacock,
Lieut. R.G. Moore
Lieut. R.D. Olson
Lieut. C.E.L. Rancourt
Lieut. J.G. Smith
Lieut. J.H. Tims

Exhibit "A"

7. QUALIFICATIONS

(a) Lieut. T.E. Curry — Having attended CMHQ Course #300 Ser.20 (Unit Gas Officers and N.C.O.'s) qualified as "Q-1" wef 10 Apr 43.

8. NEXT-OF-KIN

(a) Lieut. C.W. Chichester — Change of address of next-of-kin: Mrs. Constance Ethel Chichester (Wife) New address-2 Osborne Apts. Osborne & River Ave. Winnipeg, Manitoba. Canada.

SECTION "B"

9. STRENGTH INCREASE

(a) The undermentioned personnel are TOS from 1 CSRU wef 14 May 43 pending transfer to RCASC (Auth: CL 96 d/21 Aug 42).

D-106925 Cpl. Aucoin, M. (Cook "C") — A-11521 Cpl. Donaghy, C.S. (Cook "C").

(b)	D-91167 (Fitter"B") M/S/Sgt. Batten, H.J.	TOS from 1 CORU wef 12 May 43 (Auth: CRU/A-1306 d/11 May 43).
(c)	D-105629 Pte. Beattie, D.J.	TOS from 10 Cdn.Fd.Amb.RCAMC wef 13 May 43. (Auth: EA7/2170 d/7 May 43).
(d)	L-1358 Pte. Reese, J.A.	TOS from Sask.Lt.Inf.wef 14 May 43. (Auth: EA7/2339 d/11 May 43).
(e)	A-103305 Pte. Daniel, J.H.	TOS from CRU Postal Unit C.P.C. wef 13 May 43 pending transfer to RCASC (Auth: Rec/A-103305 d/5 May 43).
(f)	F-86384 Pte. Deal, H.L.	TOS from 45 Cdn.Gen.Tpt.Coy.RCASC wef 14 May 43. (Auth: EA5/1530 d/11 May 43).
(g)	B-4216 (Clerk "B") Sgt. Goodson, R.E.	TOS from 1 CGRU wef 12 May 43 (Auth: 6/OCTU/8 (A.G.6) d/20 Apr 43).
(h)	A-102052 Pte. Hunter, J.E.	TOS from desertion wef 0715 hrs. 12 May 43.
(i)	B-11685 (Cook "C") Spr. LaFrance, A.G.	TOS from 6 Cdn.Const.Coy.RCE wef 25 Jan 43 pending transfer to RCASC (Auth: CL 96 d/21 Aug 42).
(j)	D-106691 (Cook "C") Pte. Martin, J.R.	TOS from H.Q. 2 Cdn.Corps wef 29 Apr 43. Admitted to 10 Cdn.Gen.Hosp. wef 28 Apr 43.
(k)	B-83917 Pte. Martin, W.	TOS from 32 Cdn.Corps Tps.Coy.RCASC wef 4 May 43, on being committed to 1 Cdn.Detention Bks. Awarded 6 months detention on 15 Apr 43.
(l)	C-12020 S/Sgt. Mead, E.	TOS from 9 Cdn.Inf.Bde.Coy.RCASC wef 11 Apr 43. (Overage) (Auth: EA7/2110 d/6 May 43).
(m)	G-12466 L/Cpl. Miner, J.P.	TOS from 9 Cdn.Inf.Bde.Coy.RCASC wef 8 May 43. Admitted to 16 Cdn.Gen.Hosp. wef 7 May 43.
(n)	C-11447 Sgt. Morin, B.L.	TOS from 32 Cdn.Corps Tps.Coy.RCASC wef 5 May 43. Attending CMHQ Course #523 Ser.11. (CSM's) from 4 May 43 to 15 Jun 43.
(o)	C-11565 Pte. MacCormack, W.F.	TOS from 1 Cdn.Div Tps.(12) Coy.RCASC wef 1 May 43. Admitted to 14 Cdn.Gen.Hosp. wef 30 Apr 43.
(p)	B-85948 Pte. O'Neil, J.V.	TOS from 65 Cdn.Tank Tptr.Coy.RCASC wef 6 May 43. Admitted to 14 Cdn.Gen.Hosp. wef 5 May 43.
(q)	A-9337 Pte. Parker, J.	TOS from 1 Cdn.Div.Tps.(12) Coy RCASC wef. 6 May 43. Admitted to 1 Cdn.Gen.Hosp. wef 5 May 43.

STRENGTH INCREASE (Cont'd)

(r)	L-8692 Pte. Pardis, A.M.	TOS from 32 Cdn.Corps Tps.Coy.RCASC wef 29 Apr 43. Admitted to 14 Cdn.Gen.Hosp. wef 28 Apr 43.
(s)	A-56535 Pte. Riddel, G.K.	TOS from 1 Cdn.Div.Tps.(12) Coy.RCASC wef 1 May 43. Admitted to 14 Cdn.Gen.Hosp. wef 30 Apr 43.
(t)	C-11554 (Fitter "A") Sgt. Switzer, F.E.	TOS from 31 Cdn.Corps Tps.Coy.RCASC wef 7 May 43. Admitted to 14 Cdn.Gen.Hosp. wef 6 May 43.
(u)	L-2097 Cpl. Ratcliffe, J.M.	TOS from Sask.Lt.Inf. wef 14 May 43. (Auth: EA7/2340 d/11 May 43).
(v)	L-54800 Gnr. Sorrell, A.V.	TOS from 3 CARU wef 14 May 43 pending transfe to RCASC (Auth: CL 96 d/21 Aug 42).
(w)	B-85480 Pte. Twining, W.	TOS from 2 Cdn.Div.Tps.Coy. wef 13 May 43. (Auth: EA7/2257 d/10 May 43.)
(x)	D-107233 (Fitter "A") Sgt. Vandenbulcke, L.P.	TOS from 1 CORU wef 12 May 43. (Auth: CRU/A-1306 d/11 May 43).
(y)	L-7502 Pte. Ward, I.W.	TOS from 9 Cdn.Inf.Bde.Coy.RCASC wef 8 May 43 Admitted to 16 Cdn.Gen.Hosp. wef 7 May 43.
(z)	AMENDMENT	D.O.77 para 5(c) d/29 Mar 43 in so far as it refers to "H-3015 Pte. Gagnon, A.J." is amended by: Delete: 1 CIRU Sub: 1 CGRU.
(aa)	AMENDMENT	D.O.105 para 7(t) d/12 May 43 in so far as it refers to "D-36601 Sgt. McKeefery, P.J." is amended by: Delete: 9 May 43 Sub: 8 May 4
(ab)	CANCELLATION	D.O.115 para 7(c) d/12 May 43 in so far as it refers to "H-16512 Pte. Specht, C." is CANCELLED.
(ac)	CANCELLATION	D.O.115 para 7(aa) d/12 May 43 in so far as it refers to "M-36922 Pte. Taylor, E." is CANCELLED.
(ad)	CANCELLATION	D.O.104 para 6 (ac) d/29 Apr 43 in so far as it refers to "H-37841 Pte. Tetroe, J.F." is CANCELLED.

10. TRANSFERS

(a)	B-73452 Pte. Corbett, J.E.	TRANSFERRED from 48th Highrs. of Can. to RCASC wef 24 Apr 43. (Auth: 408/Trans "C"/2 d/19 Apr 43.)
(b)	M-35925 Cpl. Hately, R.	TRANSFERRED from RCE to RCASC wef 24 Apr 43. (Auth: 99/6/ASC/2(A.7) and 99/20/6 Fd.Pk.Sqn./1 d/12 Apr 43.)
(c)	M-12436 Pte. McDonald, L.J.	TRANSFERRED from Calgary Highrs. to RCASC wef 24 Apr 43. (Auth: 99/20/ASC/2 (A.7) and 99/20/Calg Highrs./1 d/15 Apr 43.).
(d)	B-31476 Pte. Warren, D.H.	TRANSFERRED from RCCS to RCASC wef 23 Apr 43. (Auth: BGHQ-6-2-4 d/9 Apr 43.).

11. STRENGTH DECREASE

(a) The undermentioned personnel are SOS to 1 N.E.T.D. wef 13 May 43 (Auth: Evac. Cat."D").

M-16078 L/Sgt. Blacklock, W.A. L-102104 Pte. Driscoll, G.
K-65428 Pte. Gicas, A.

STRENGTH DECREASE (Cont'd)

(b) The undermentioned personnel are SOS to 1 CARU wef 13 May 43 (Auth: CRU/444/Return/1 (SCA) d/7 May 43).
B-11139 Sgt. Edgell, E. B-9161 L/Sgt. Jones, F.K.
C-37034 Sgt. Thompson, E.C.

(c)	B-74497 Tpr. Aide, H.W.	SOS to 3 CACRU wef 13 May 43. (Auth: CRU/A-1263 d/9 May 43);
(d)	L-6127 Gnr. Barry, A.M.	SOS to Beachyhead & Michael Dean A/T Ranges wef 13 May 43 (Auth: EA2/4248 d/10 May 43).
(e)	F-49786 Pte. Cooke, H.G.	SOS to 47 Cdn.Gen.Tpt.Coy.RCASC wef 13 May 43 (Auth: 99/20/61 Tpt./1 (A.5f) d/24 Nov 42).
(f)	M-20838 Pte. Dahl, J.R.	SOS to H.Q. First Cdn.Army wef 13 May 43. (Auth: EA2/4139 d/7 May 43).
(g)	M-28607 (Turner "B") Pte. Dawson, G.F.	SOS to 1 CORU wef 13 May 43. (Auth: 408/Trans "D"/2 d/4 Apr 43.)
(h)	L-7441 Pte. Florizoone, R.	SOS to 4 Cdn.Gen. Pioneer Coy. wef 13 May 43. (Auth: 8/Pers Adjust/1/9 (A.G.2c) d/7 May 43)
(i)	L-18098 Sgt. McLeod, J.C.	SOS to 1 Cdn.Arty Reinf. Unit wef 13 May 43. (Auth: CRU/444/Return/1 (SCA) d/7 May 43).
(j)	D-9241 L/Bdr. Pelletier, J.J.	SOS to 5 Cdn.Armd.Bde.W/S RCOC wef 16 Apr 43. (Auth: Demand No. 7539 d/11 Apr 43.)
(k)	K-52467 Cpl. Pendlebury, W.M.	SOS to 1 CGRU wef 13 May 43. (Auth: CRU/444/Return/1 (SCA) d/7 May 43).
(l)	A-56621 Sgt. Rubery, A.E.	SOS to 3 CIRU wef 13 May 43. (Auth: 444/Retu /1 (SCA) d/7 May 43).
(m)	B-82622 A/Sgt. Rutherford, H.	SOS to 46 Cdn.Gen.Tpt.Coy.RCASC wef 13 May 43 (Auth: EA2/4243 d/10 May 43).
(n)	M-20719 Pte. St.Hilare, R.	SOS to 1 CSRU wef 13 May 43, on transfer. (Auth: BGHQ/Q/795 d/5 May 43).

P. ATTACHMENTS

(a) The undermentioned personnel are attached for all purposes to No. 4 Tech Trng. Group wef 13 May 43. Attending CMHQ Course 1047 Ser.14 (Dr/Mechs) 13 May 43 to 26 Jun 43.
M-56190 Pte. Larratt, A.A. H-88141 Pte. Semotok, M.J.
K-70983 Pte. Schrawen, A.

(b)	B-92872 Spr Allard, J.J.	Ceases to be attached for all purposes from 1 CSRU wef 13 May 43.
(c)	D-91167 M/S/Sgt. Batten, H.J.	Ceases to be attached for all purposes from 1 CORU wef 11 May 43.
(d)	D-82857 Pte. Darlington, T.A.	Attached for all purposes from 3 CARU wef 12 May 43 (Auth: CMHQ/SIL/AT/3206 d/11 May 43.)
(e)	H-16512 Pte. Specht, C.	Attached for all purposes to 1 CIRU wef 10 Apr 43. to 10 May 43.
(f)	L-8204 A/Cpl. Stover, D.G.	Attached for all purposes to No.20 Tech Trng. Group wef 13 May 43. Attending CMHQ Course 1044 (M/C Recovery) 13 May 43 to 2 Jun 43.
(g)	D-107233 Sgt. Vandenbulcke, L.P.	Ceases to be attached for all purposes from 1 CORU wef 11 May 43.
(h)	AMENDMENT	D.O.82 para 3(d/10 Apr 42) in so far as it refers to "B-92872 Spr. Allard, J.J." is amended by: Delete: Allard, W.J. Sub: Allard, J.J.

ATTACHMENTS

(i) CANCELLATION — D.O.23 para 9(m) d/26 Jan 43 in so far as it refers to "B-11685 Spr. LaFrance, A.G." is CANCELLED.

13. COURSES

(a) The undermentioned personnel returned from CMHQ Course 1109 (M/Mechs) wef 13 May 43.

B-84980 Pte. Handley, K.L. C-37596 Pte. Montroy, W.M.

(b) C-37309 L/Cpl. Thurgood, R. — Returned from Wireless Course held at 1 CSRU (Unsuitable), wef 13 May43.

14. HOSPITALS

(a) The undermentioned personnel were Admitted/Discharged to/from Hospitals shown wef dates indicated.

		ADMITTED	HOSPITALS	DISCHARGED
C-12420	Pte. Atlee, R.P.		15 General	13 Apr 43.
F-89151	Pte. Buffet, W.		8 General	13 May 43.
B-83910	Pte. Delaney, F.L.		10 General	13 May 43.
B-87075	Pte. Gorham, B.J.		14 General	13 May 43.
D-135960	Pte. Hall, G.		8 General	12 May 43.
K-75395	Pte. Harrison, A.E.		10 General	13 May 43.
C-31279	Pte. Hawn, D.B.		14 General	13 May 43.
H-87918	Pte. Hutsell, R.B. (Clerk "C")		1 General	13 May 43.
K-65494	Pte. Johnstone, J.		8 General	12 May 43.
A-10048	Pte. Kahgee, A.H.		15 General	13 May 43.
D-26172	Pte. Kerson, W.		10 General	8 Apr 43.
D-26172	Pte. Kerson, W.	8 Apr 43	1 Conv.Depot	13 May 43.
L-7516	Pte. Medley, R.A.		5 General	9 May 43.
L-7516	Pte. Medley, R.A.	9 May 43	Alton.Conv.	
F-87457	Pte. Miller, J.F.		5 General	9 May 43.
F-87457	Pte. Miller, J.F.	9 May 43	10 General	
E-22553	Pte. Morin, A.		1 Conv.Depot	13 May 43.
C-77093	Pte. Murdock, W.S.		5 General	9 May 43.
C-77093	Pte. Murdock, W.S.	9 May 43	Alton.Conv.	
C-41549	Pte. Myre, J.R.L.		1 General	13 May 43.
C-11565	Pte. MacCormack, W.F.		14 General	11 May 43.
M-31519	Pte. MacDonald, A.G.		15 General	13 May 43.
D-117522	Pte. McIver, J.E.		1 General	13 May 43.
L-8692	Pte. Pardis, A.M.		14 General	12 May 43.
B-81578	Sgt. Pickering, C.W.		1 Conv.Depot	27 Apr 43.
C-32724	Pte. Purdon, C.J.		8 General	12 May 43.
A-282	Tpr. Ranger, J.L. (Cook "C")		8 General	11 May 43.
B-86730	Pte. Raymond, H.J.		15 General	13 May 43.
M-50855	Pte. Rollin, A.		14 General	13 May 43.
L-7708	Pte. Ross, G.A.		10 General	13 May 43.
B-55822	Pte. Selkirk, A.J.	10 May43	8 General	
K-42077	Pte. Tasker, E.D.		1 Conv.Depot	13 May 43.
B-89462	Cpl. Timbrell, H.C.		10 General	13 Mar 43.
C-35175	Pte. Willshaw, G.S.	10 May43	8 General	
B-83871	Sgt. Sheppard, G.A.		5 General	9 May 43.
B-83871	Sgt. Sheppard, G.A.	9 May 43	10 General	
L-7588	Pte. Watkis, J.R.		16 General	3 May 43.
L-7588	Pte. Watkis, J.R.	3 May 43	1 C.M.C.	11 May 43.
B-87087	L/Cpl. Wood, I.W. (Clerk "C")		10 General	13 May 43.

(b) AMENDMENT — D.O.115 para 11(a) d/12 May 43 in so far as it refers to "L-7946 Pte. Fisher, M." is amended by: Delete: 17 May 43. Sub: 7 May 43.

(c) CANCELLATION — D.O.111 para 16(a) d/7 May 43 in so far as it refers to "G-3663 L/Cpl. MacLeod, G.A." is CANCELLED.

15. (a)	LEAVE OF ABSENCE K-75548 Pte. Aspineul, R.	Granted 7 days Privilege Leave and 48 hrs. short leave from 13 Apr 43 to 22 Apr 43 and money allowance in lieu of rations (Total leave and entitilement - 9 days) Art. 789 (3)(4) FR&I as amended by O.R.O. 2459.
16. (a)	ABSENT WITHOUT LEAVE E-59077 Pte. D'Aoust, J.R.	Ceases to be AWL wef 1700 hrs. 11 May 43.
(b)	U-1596 A/Cpl. Daniel, J.L.	Ceases to be AWL wef 0930 hrs. 11 May 43.
(c)	B-39536 Pte. Mandaro, N.J.	AWL from 2200 hrs. 9 May 43 (24 hrs.) still absent.
(d).	M-11451 Pte. Ridsdale, J.H.	AWL from 2359 hrs. 8 May 43 (24 hrs.) still absent.
(e)	B-84286 L/Cpl. Taylor, G.E.	AWL from 2230 hrs. 3 May 43 (8th day) still absent.
(f)	B-6405 Gnr. Treleaven, R.C.	AWL from 2200 hrs. 3 May 43 (8th day) still absent.
(g)	B-61043 Tpr. Yellowlees, N.A.	AWL from 2200 hrs. 2 May 43 (8th day) still absent.
(h)	AMENDMENT	D.O.113 para 15(e) d/10 May43 in so far as it refers to "A-61904 Pte. Laroque, I.T." is amended by: Delete: 4 Apr 43 Sub: 14 Apr 43.
17. (a)	APPOINTMENTS	The undermentioned personnel are appointed to P.E. of C'y's shown wef dates shown:

G-31482	A/Cpl. Reid, E.H.	No.2 Coy	9 May 43.
G-339	Pte. Saunders, C.A.	Adm.Wing	7 May 43.
B-73415	Sgt. Williams, G.E. (Cook "C")	C.B.T.W.	6 May 43.

(b)	L-102104 Pte. Driscoll, G.	Relinquishes appointment to P.E. (No.2 Coy) wef 12 May 43.
(c)	A-59309 Pte. Gaudette, G.J.	Relinquishes appointment to P.E. (C.B.T.W.) wef 11 May 43.
(d)	B-5567 A/Cpl. Gill, J.W.	Appointed to rank of A/Sgt. with pay wef. 12 May 43. (No.1 Coy)
(e)	C-11904 (Clerk "B") A/Sgt. Jenson, A.P.	Relinquishes appointment to P.E. (R.H.Q.) wef 11 May 43.
(f)	B-87542 Pte. Kingsley, R.S.	Appointed to rank of A/L/Cpl. with pay wef 16 Apr 43. (Hold.Coy).
(g)	AMENDMENT	D.O.98 para 13(a) d/22 Apr 43 in so far as it refers to "M-1177 S/Sgt. Gilbert, H.F." is amended by: Delete: 10 Oct 43. Sub: 1 Oct 42.
18. (a)	REVERSION A-59309 Cpl. Gaudette, G.J.	Reverts to permanent rank of Pte. at his own request wef 11 May 43.

19. QUALIFICATIONS

(a) The undermentioned personnel having been Trade Tested qualified as Cooks Group "C" wef dates shown: (Auth: TTB/HQ/CRU d/7 May 43.)

B-53843	Spr. Bertrand, J.B.	5 May 43.
B-91999	Pte. Dalziel, J.K.	5 May 43.
B-92908	Cpl. Dion, T.	5 May 43.
K-41143	Spr. Fordham, S.J.	5 May 43.
D-109311	Pte. Levesque, L.J.	5 May 43.
L-6358	Gnr. Prince, P.	1 May 43.

(b) The undermentioned personnel having been Trade Tested qualified as Cooks Group "C" wef dates shown. (Auth: TTB/HQ/CRU d/11 May 43).

B-38146	Cpl. Harding, W.	7 May 43.
C-18594	Pte. Page, C.A.	7 May 43.
B-85999	Pte. Bennie, J.L.	7 May 43.

(c) B-6084 Gnr. Curry, A.E. — Trade Tested qualified as Cook Group "C" wef. 8 May 43 (Auth: TTB/HQ/CRU d/12 May 43.).

(d) K-52455 Pte. Kyte, G.W. — Trade Tested qualified as Cook Group "C" wef. 2 May 43 (Auth: TTB/HQ/CRU d/6 May 43.)

20. TRADES PAY

(a) The undermentioned personnel are granted Trades Pay as Dr/Mechs on quota basis wef 10 May 43. (Art. 147(5) FR&I.)

C-33171	Pte. Arbour, J.E.	B-84528	Pte. Brown, F.C.
M-67418	Pte. Doll, T.F.	L-41498	Pte. Fairey, J.
K-70755	Pte. Goss, W.A.	L-74897	Pte. Hamm, A.S.
F-87158	Pte. Lake, W.A.		

(b) The undermentioned personnel are granted Trades Pay as Cooks Group "C" wef dates shown on quota basis. Art. 789(3)(4) FR&I.

B-85999	Pte. Bennie, J.L.	7 May 43.
B-53843	Spr. Bertrand, J.B.	5 May 43.
B-6084	Gnr. Curry, A.E.	8 May 43.
B-91999	Pte. Dalziel, J.K.	5 May 43.
K-41143	Spr. Fordham, S.J.	5 May 43.
L-18101	Gnr. Higginbottom, A.	20 Apr 43.
B-11685	Spr. LaFrance, A.G.	5 Apr 43.
D-109311	Pte. Levesque, L.J.	5 May 43.
C-18594	Pte. Page, C.A.	7 May 43.

(c) C-52259 (Cook "C") Pte. Bowen, E.H. — Reverts to Regt'l Rates of Pay wef 10 Apr 43.

(d) B-85793 Sgt. Belleau, L. — Granted Trades Pay as Clerk Group "C" on quota basis wef 1 May 43. Art. 147(5) FR&I.

(e) B-82937 (Carpenter "B") Pte. Frewing, N.D. — Reverts to Regt'l Rates of Pay wef 9 May 43.

(f) A-448 (Cook "C") Pte. Gould, D.L. — Reverts to Regt'l Rates of Pay wef 1 May 43.

(g) D-32010 (Clerk "C") Sgt. Packwood, M.A. — Granted Trades Pay on quota basis wef 1 May 43 as Clerk "C". Art. 147(5) FR&I.

(h) B-84031 (Clerk "C") A/CQMS Thoms, W. — Reverts to Regt'l Rates of Pay wef 20 Apr 43.

(i) P-6694 (Butcher "C") Cpl. Newman-Jones E.A. — Granted Trades Pay on quota basis wef 1 May 43 as Butcher Group "C" Art. 147(5) FR&I.

21. PAY AND ALLOWANCES

(a) The undermentioned personnel are granted increase in Regt'l Pay from $1.30 per day to $1.40 per day wef. dates shown, having completed 4 months proficient service. (Auth: G.O. 486/42).

B-83783 Pte. Carmichael, A.G. 11 Apr 43.
F-87877 Pte. MacLeod, W.M. 28 Jan 43.
B-56423 Pte. Needham, D.C. 6 Mar 43.

(b) The undermentioned personnel personnel are granted increase in Regt'l Pay from $1.40 per day to $1.50 per day wef dates shown, having completed 6 months proficient service. (Auth: G.O. 486/42).

F-87877 Pte. MacLeod, W.M. 28 Mar 43.
B-56423 Pte. Needham, D.C. 6 May 43.

(c) The undermentioned personnel are granted increase in Regt'l Pay from $1.30 per day to $1.50 per day wef. dates shown, having completed 6 months proficient service. (Auth: 486/42).

M-103362 Pte. Bergeron, C.J. 6 Feb 43.
D-91509 Pte. DeTracey, M. 1 Jan 43.
A-59309 Pte. Gaudette, G.J. 11 May 43.
B-82934 Pte. Henery, F. 1 Jan 43.
M-17292 Pte. Wills, J.D. 1 Jan 43.

(d) D-91294 L/Cpl. Bombardier, J. — Granted increase in Regt'l Pay from $1.50 per day to $1.60 per day wef 1 Jan 43. (Auth: G.O. 486/42).

(e) CANCELLATION — D.O.113 para 20(c) d/10 May 43 in so far as it refers to "F-65848 Pte. Isenor, L.E." is CANCELLED.

(f) CANCELLATION — D.O.113 para 20(c) d/10 May 43 in so far as it refers to "D-127246 Pte. Larocque, J.F.A." is CANCELLED.

22. TRADESMEN'S RATES OF PAY

(a) D-91654 (Fitter "A") Pte. Neville, E.A. — Granted Tradesmen's Rates of Pay wef 1 Jan 43, having completed 6 months proficient service. (Fitter "A" $2.25 per day wef. 1 Jan 43) (Auth: G.O. 486/42).

(b) CANCELLATION — D.O.115 para 15(b) d/12 May 43 in so far as it refers to "C-18594 Pte. Page, C.A." is amended by: Delete: para12(a)Sub:para21(a).

23. DETENTION

(a) D-105592 Pte. Seymour, A. — Released from detention wef 13 May 43. Earned 13 days remission.

(b) H-16512 Pte. Specht, C. — Released from detention wef 10 Apr 43. Earned 14 days remission.

(c) AMENDMENT — D.O.102 para 22(c) d/27 Apr 43 in so far as it refers to "L-7380 Pte. Thomson, J.G." is amended by: Delete: 19 Mar 43 Sub: 19 Apr 43.

24. PUNISHMENTS

(a) B-98310 Sgt. Bowes, H.W. (Hold.Coy.) — Was, on 12 May 43 reprimanded and awarded stoppage of pay in the amount of £1-10-0. for an offence contrary to A.A.Sec.40. (Damage to W.D. Vehicle). Placed under stoppage of pay in the amt of £1-10-0. Art. 158(2) FR&I. Damage to W.D. Vehicle.

	PUNISHMENTS (Cont'd)	
(b)	L-8360 Pte. Halldorson, H.A. (No.6 Coy.T.P.)	Was, on 11 May 43 awarded forfeiture of 7 days pay for AWL from 2359 hrs. 9 May 43 to 1840 hrs. 10 May 43. (Absent 18 hrs. 41 mins.) A.A.Sec.15(1). Forfeits 1 days pay FR&I 149(1)(a). Forfeits 7 days pay FR&I 149(2) Total forfeiture of pay 8 days.
(c)	M-52889 Pte. Huff, A. (No.6 Coy.T.P.)	Was, on 11 May 43 admonished for AWL from 2359 hrs. 9 May 43 to 1840 hrs. 10 May 43. (Absent 18 hrs. 41 mins) A.A.Sec.15(1). Forfeits 1 days pay FR&I 149(1)(a).
25.	BIRTHS	
(a)	D-77397 Pte. McKellar, M.	BORN, on 25 Feb 43 to Mrs. Kathleen Irene McKellar, (Wife) a Son (Ernest John Matthew) at Redhill Surrey Eng.(Cert. No. D.C. 089599)
(b)	K-53465 Pte. Peshee, A.	BORN, on 9 May 43 to Mrs. Florence Emily Peshee (Wife) a Son (Peter Aime) at Woking Surrey, England. (Cert.No.D.C. 130396)
26	DEATHS	
(a)	D-77397 Pte. McKellar, M.	DIED, on 25 Apr 43 at Kismet Place Parkview Road, Lodge Lane, Selfords, Surrey England, (Ernest John Matthew) son. (Cert.No.365822671)
27.	NEXT-OF-KIN	
(a)	B-56362 Pte. Boyd, R.E.	Change of address of next-of-kin: Mrs. Hazel Boyd (Mother) New Address: Waubaushene Ont. Canada.
(b)	D-114068 Pte. Dance, A.L.G.	Change of address of next-of-kin: Mrs. Doris Dance (Wife) New Address: 90 Franklin Ave. Toronto Ont. Canada.
(c)	B-85469 Pte. Fitzsimmons, R.G.	Change of address of next-of-kin: Mrs. Jewell Fitzimmons, (Wife). New Address: 22 Close Ave.Toronto, Ont.Canada
(c)	F-66050 Pte. Goodwin, K.H.	Change of address of next-of-kin: Mrs. Rita Goodwin (Wife) New Address: South Chio, Yarmouth County, Nova Scotia, Canada.
(d)	F-92801 Pte. Grant, D.B.	Change of address of next-of-kin: Mrs. Marie Sadie Grant (Wife) New Address: Salem,Yarmouth County,Nova Scotia, Canada.
(e)	M-3206 Pte. Hall, G.H.	Change of address of next-of-kin: Mrs. Marion Hall (Wife) New Address: c/o R. Hutton, South Westminister B.C., Canada.
(f)	D-137817 Pte. Hardy, R.J.	Change of address of next-of-kin: Mr. F. Hardy, (Father) New Address: St. Boniface, Manitoba, Canada.
(g)	B-56038 Pte. Hare, C.L.	Change of address of next-of-kin: Mrs. Joyce Hare (Wife). New Address: R.R.No.2 Malton, Ont.Canada.
(h)	F-31278 Pte. Harris, E.B.	Change of address of next-of-kin: Mrs. Stella Harris, (Wife) New Address: Alberton, P.E.I. Canada.

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NEXT-OF-KIN (Cont'd)

(i)	H-28390 Pte. Jones, R.J.	Change of address of next-of-kin: Mr. W.J. Jones (Father) New Address: 665 St.Joseph Blvd., Lachine Quebec, Canada.
(j)	C-100406 Pte. Landriault, L.	Change of address of next-of-kin: Mrs. Ruth Landriault, (Wife). New Address: 5291 Hutchison St. Montreal Quebec, Canada.
(k)	B-113240 Pte. Rowe, W.A.	Change of address of next-of-kin: Mrs. Hazel Rowe (Wife) New Address: 11 Ash Crescent, Longbranch Ontario, Canada.
(l)	K-66145 Pte. Simpson, O.C.	Change of address of next-of-kin: Mrs. Margaret Mary Simpson, (Wife) New Address: 324 Cedar St., New Westminster B.C. Canada.

28. CHANGE OF MEDICAL CATEGORY

(a)	H-65057 Pte. Hargreaves, W.C.	Reboarded to Cat."C-2" wef 13 Apr 43 (Auth: M.F.B. 227 d/23 Apr 43).

CONCLUDED

for (J.M. Pocock) Colonel,
Commanding,
1 Cdn.ASC Reinf. Unit
Canadian Army Overseas.

[illegible] maj
ICER's Presentat DGCM.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No. B-39536 . Rank Pte. . . . Name . Vandano, J. . . . . .

Unit . No.1 C.A.S.C.D.U. . . . was arrested at Coventry. . . .(place)

at 2030 Hrs. .(hour) on . 29 May 43 .(date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian clothes~~)

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
1 June 43

. . . . . Capt.
(W. Fern) D. A. P. M.,
London Area.

Exhibit B

CHARGE

Army Form B 252
(See King's Regulations)

The Royal Canadian Army Service Corps. Regiment / Battery / Squadron / Troop or Company

No 1 R. Unit.

CHARGE against No. B 39536 Rank Pte.

Name Mandaro N.J.

Place ? Date of Offence ?

OFFENCE W.O.A.S.

1 Absent from ? until apprehended by the Military Police in Trinity Street Coventry at about 2030 Hrs on the 29th.May.1943.

2 Being in possession of a forged pass and purporting it to be genuine.

Names of Witnesses :—

Cpl. Hambleton. J. C.M.Police.

L/cpl. Benson.W. C.M.Police.

Signature of O.C. Battery, Squadron, Troop or Company

Benjamin Major
Lieutenant

Punishment Awarded

By whom Awarded

Exhibit "C" [illegible] Adjutant.

To be forwarded on completion to your A.P.M. Dis or Div H.Q.

168th.M.P.Provost Coy.

P.T.O.

20133. WL.W1242/969. 2,000,000. 5/42. K. & H., Ltd. G.651/47.

Statement of **EVIDENCE** in the case of.

No. B 39536 Pte. Mandaro N.J.
No 1 R Unit.
The Royal Canadian Army Service Corps.
Farnborough Hampshire.

Sir.

At Coventry on the 29th.May.1943 at about 2030 Hrs I was on duty in Trinity Street where I saw the above mentioned soldier.

I asked him if he was on leave and he produced the attached pass,on examining this I was convinced that it forged I conducted him to the Coventry City Police Station where enquiries were made with the London Provo st(Canadian) who stated that the above mentioned soldier was absent.

He was conveyed to the Main Guardroom Budbrooke Barracks where he was handed over to the N.C.O.I/C Guard to be detained to await escort.

Warwick.
29th.May.1943.
Sir.

J. Hamblett Cpl.
C.M.Police.

I have read over and corroborate the above statement.

Warwick.
29th,May.1943.

C. Benson. L/cpl.
C.M.Police.

REMARKS

* If a calling-out of the whole Army Reserve is ordered, every soldier on pass must return immediately to his unit without waiting for instructions.

No. 117. Regiment No. 1. C. E. R. U.

PASS

Army Form B.197
(In pads of 100)

No. B 19536. (Rank) Spr. (Name) Sanderson N.

has permission to be absent from his †quarters/duty, from

1700 hrs. 24/5/43. to 7/6/43. hrs 1200.

for the purpose of proceeding to* London

(Station) Field

(Date) 24/5/43. Capt. Ram RE.
Commanding

† Delete whichever is not practicable.
* Destination not required [illegible] is required [illegible] hours unless notification is desirable owing to local [illegible] is [illegible] purchase of a rail ticket at reduced fare.

NO. 9 CANADIAN ENGINEERS
P.T.O.
ALL RIGHTS RESERVED
HEADQUARTERS

Capt. D' [illegible] Major
Pres. 79 CA

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. B 39536 Rank Pte. Name Mandaro, N. Unit 1 C. A.S.C. R.U. 43 Gen. Hosp

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit ~~From~~ London from Warwick

Date	Particulars (1/3 portion	Amount		
(June 4)	Escorts return fare from LONDON To Warwick		9	3
	Prisoners single fare to LONDON From Warwick		6	11
	Prisoners fare from To			
	Escorts & ~~Prisoners~~ expenses for ~~Bed~~, Meals, Bus fares (1/3 portion		2	3
	Total £		18	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Major
President S.P.C.

Officer Issuing Railway Warrant and Expense Permit.

Lieut.

D.A.P.M. LONDON AREA

No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
60/P & S/503

Exhibit "E"

CHARGE # 2440

Army Form B 252
(See King's Regulations)

6 Hold

R.C.A.S.C. Regiment
No. 1 A.S.C.R.U. Battery / Squadron / Troop or Company

CHARGE against No. B. 39536 Rank Pte.

Name MANDARO,

Place FARNBOROUGH Date of Offence 16 Apr. 43

OFFENCE W.O.A.S.

(1) Improperly Dressed.

R. C. Fenn Lieut.
(R.C. Fenn) A/O.C.
No. 7 Provost Company,
Cdn. Provost Corps.

Names of Witnesses :—

L/Cpl. Page, W. Cdn. Provost Corps.
L/Cpl. Johnson, G.R. " " "

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

84889 Wt.19/21972/580. 2,000,000. 7/41. K. & H., Ltd. G657/47

IN THE CASE OF: D. 39536
Pte. Mandaro
R.C.A.S.C.
NO. 1 A.S.C. C.R.U.

STATEMENT OF: **EVIDENCE**

At approx. 1840 hrs. on the 16 th day of April 1943 while on patrol in the Town of Farnborough in company with L/Cpl. Johnson, G.R. I had occasion to check the a/m soldier for dress: i.e. Tunic Open, with two buttons undone. I warned him that a charge would be laid and ordered him to return to his Unit.

W. Page ..... L/Cpl.
(W. Page.) Cdn. Provost Corps.

I have read over and corroborate the above statement.

G. R. Johnson ..... L/Cpl.
(G.R. Johnson) Cdn. Provost Corps.

REMARKS

Result of charge to be forwarded to **D.A.A.** & Q.M.G. H.Q. C.R.U.

2446

SUMMARY OF EVIDENCE

In the case of,

B-39536 Pte. Norwood John MANDARO, RCASC, 1 Cdn ASC Rft Unit, Blenheim Barracks, Farnborough, Hampshire.

The Commanding Officer, Colonel J.M. Pocock, 1 Cdn ASC Rft Unit, directs that the evidence be taken on oath:

1st Witness for the Prosecution

Lieut. H.C. Nancekivell, RCASC, having been duly sworn states:

I am Lieut. H.C. Nancekivell, RCASC, 1 Cdn ASC Rft Unit, and have knowledge and am custodian of certain documents pertaining to this case and relative to the accused.

I produce herewith:

Exhibit "A" - Certified Copy, Daily Part II Order, No. 117, dated 14 May 43, issued by Colonel J.M. Pocock, Commanding, 1 Cdn ASC Rft Unit, which shows the accused, B-39536 Pte. Mandaro, N.J., whom I now recognize, absented himself from 2200 hrs 9th May, 43.

Exhibit "B"
Certificate in accordance with P.C. 2797, purporting to be signed by Capt. W. Fern, D.A.P.M. London Area, showing the apprehension of the accused.

Exhibit "C"
A.F.B. 252, purporting to be signed by Cpl. Hambleton, J and L/Cpl Benson, W. of the Corps Military Police, showing evidence relative to the apprehension of the accused.

Exhibit "D"
A.F.B. 255, a document purporting to be a pass, issued to B-39536 Spr. MANDARO, N.J. and issued by #1 Cdn. Engrs. Holding Unit Headquarters.

Exhibit "E"
CMHQ Form 1000:55, Expense Voucher, purporting to be signed by Capt. W. Fern, D.A.P.M. London Area, showing expenses to the amount of 18 shillings 5 pence incurred in the apprehension and returning of the accused to his Unit.

Exhibit "F"
A.F.B. 252, a document purporting to be signed by L/Cpl Page, W. and L/Cpl Johnson, G.R., Cdn Provost Corps, showing evidence relative to the 3rd Charge of the Charge Sheet.

SHEET #2

SUMMARY OF EVIDENCE in the case of B-39536 Pte. MANDARO, N.J.

I certify that in my opinion the attendance of Capt. W. Fern, D.A.P.M. London Area, Cpl. Hambleton, J and L/Cpl Benson, W. of the Corps Military Police, L/Cpl Page, W. and L/Cpl Johnson, G.R., of the Can. Provost Corps. are, owing to the expense and loss of time involved, not readily procureble and a written statement of their evidence, signed by them, have been read to the accused and is attached hereto, marked Exhibits "B", "C", "D" and "F".

H.C. Nancekivell
(H.C. Nancekivell) Lieut.
1 Cdn ASC Rft Unit.

I do not require the attendance of the above witnesses for the purpose of cross examination.

B39536 Mandaro N.J.
(B-39536 Pte. Mandaro, N.J.)
1 Cdn ASC Rft Unit.

The accused was then warned in accordance with R.P. 4(e).

"Do you wish to make a statement on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence?"

A. "I do not wish to make any statement at this time."

B39536 Mandaro N.J.
(B-39536 Pte. Mandaro, N.J.)
1 Cdn ASC Rft Unit.

I hereby certify that the foregoing Summary of Evidence was taken down by me in writing on the 4th of June 43, at 1 Cdn ASC Rft Unit, in the presence and hearing of the accused and that RP 4 (c)(d)(e)(f) and (g) have been complied with.

H.C. Nancekivell
(H.C.Nancekivell) Lieut.
1 Cdn ASC Rft Unit.

I, B-39536 Pte. Mandaro, N.J. RCASC, 1 Cdn ASC Rft Unit, desire the assignment of an officer to represent me at my forthcoming trial by Court Martial.

B39536 Mandaro N.J.
(B-39536 Pte. Mandaro, N.J.)
1 Cdn ASC Rft Unit.

Farnborough, Hampshire,
4th June, 43.

J.H. Longmire Major
Prosecutor

SHEET #3

SUMMARY OF EVIDENCE in the case of B-39536 Pte MANDARO, N.J.

LIST OF EXHIBITS:

Exhibit "A" - Daily Part II Order #116 d/14 May 43.
Exhibit "B" - Certificate in accordance with PC 2797.
Exhibit "C" - A.F.B. 252
Exhibit "D" - A.F.B. 295
Exhibit "E" - CMHQ Form 1000:55
Exhibit "F" - A.F.B. 252

LIST OF WITNESSES

Capt. W. Fern - D.A.M.M. London Area, London, Eng.
Cpl. Hambleton, J. - Corps Military Police, Warwick, Eng.
L/Cpl. Benson, W. - Corps. Military Police, Warwick, Eng.
L/Cpl. Page, W. - Cdn Provost Corps, Aldershot, Hants.
L/Cpl. Johnson, G.R. - Cdn. Provost Corps, Aldershot, Hants.

R.A. Longmuir Capt
Quartermaster

CERTIFIED TRUE COPY

Date of Enlistment 21-11-40 Sheet No. 1

No. B39536 Name MANDARO N.J. Sq., Bty., or Company Corps R.C.A.S.C.

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc.

Army Form B.104

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Old sheet destroyed 21-5-41. Date of last entry:-29-4-41 Cases of Drunkenness NIL.									
Parsons Bridge	31-5-41	Pte		A.W.L. from 1200 hrs. 31-5-41 to 1510 hrs 6-6-41 Absent 6 dys., 3 hrs 10 min. A.A.15(1)	Cpl. Emersland	10 days C.B. Placed under stop. $59.50 FR&I 172 Sec (5)	11-6-41	Maj. McLennan	Forf 7 dys pay FR&I149 (1)(a)
Parsons Bridge.	13-6-41	Pte		1 (Failing to appear at a place of parade etc.) 2 (Failed to appear P.T. 1115 hrs. 13-6-41) 3 (Failed to appear Defaulters 1730 hrs. 13-6-41) 4 (Failed to appear at Tattoo 2130 hrs. 13-6-41) 5 (Failed to appear at Defaulters 0630 hrs 14-6-41)	WITNESS: Cpl. Emersland L/Cpl Cooley	14 days det. 16-6-41		Lt-Col. W Bapty	Forf. 14 dys pay FR&I 149 1 (b)

[P.T.O.

W. 39549/793, 2m.m. 11/40, S.P. Co., 51-7961

Pass	Date of offence	Rank	Cases of Drill Offences	Offence	Names of Witnesses	Punishment Awarded	Date of Award or if under Remand with trial	By whom awarded	Remarks
Monasa Bivouacs	17-7-41	Pte		A.W.L. from 2200 hrs 17-7-41 to 1645 hrs 18-7-41 (Absent 8 hrs 45 min. A.A.15(1)	Sgt. Jones Pte Goodson	7 days det.	21-7-41	Lt-col Bapty.	Forf 1 day pay FRAI 149 (1) (a) Forf 7 days pay FRAI 149 (1)(b)
Messina B.C.	29-7-41	Pte		(1) Conduct to the prejudice, A.A. Sec 40 (2) When in arrest, escaping, 0600 hrs. 29-7-41 A.A. sec 22	etc. C.Q.M.S. Hodges. Sgt. Embree Cpl. Dunn L/C Danny	14 dys det.	1-8-41	Lt-col Bapty	Forf 14 days pay FRAI 149 (1)(b)
Prince Rupert B.C.	2-8-41	Pte		(1)When in confinement escaping, between 1750 hrs and 1830 hrs 2-8-41 A.A. Sec 20 (2)A.W.L 1830 hrs. 2-8-41 to 1420 hrs 8-8-41 (absent 5 days 19 hrs 50 min (A.A. 15(1) (Neglects to obey Btn. order #69 A.A.11 Returned to Unit at public expense.	Sgt. Lawes Cpl Emerland Sgt Angus Cpl Mallab Sgt Stipson Docus.	28 days det. Pled. under step. of pay covering cost of apprehn. AA 40 FRAI 172 (8)	16-8-41	Lt-col Bapty	Forf 6 days pay FRAI 149 (1)(a)

Date of enlistment 2-11-40 Sheet No. 2

No. B39536 Name Mandaro N.J. Sq., Batty., or Company Corps R.C.A.S.C.

Date of last entry in Company Conduct Sheet — No. and date of last drunk — G.C. Badges — Long Service and G.C. Pay — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Prince Rupert	22-8-41	Pte		Pte (1)Men in confinement escaping at or about 1400 hrs 22-8-41 AA sec 22 (2)AWL fr. 1400 hrs 22-8-41 to 0900 hrs 23-8-41 Abs.19 hrs A.A. 15 (1) (3)Losing by neglect clothing $6.76 A.A. 24(2)	Pte. Living-stone to Pte Plamonden Docum. Docum.	14 dys det. Cost for return $14.60 Stop pay losing clothing $6.76	27-8-41	Lt-col Batty	Forf 1 dys pa FR&I 149 1 (a Forf 14 dys pay FR&I 149 1 (b) Forf 5 days pay FR&I 149 149 (1) (ii)
Prince Rupert	12-10-41	Pte		(1) (1) DRUNKENESS A.A. sec 19 (2)AWL fr. 0100 hrs 12-10-41 to 0900 hrs 12-10-41 Absent 8 hrs. A.A. 15 (1)	Sgt. Simpson	7 dys C.B.	13-10-41	Maj McLerman	(1st Offe NO FINE Forf 1 dy pa FR&I 149 1 (

Army Form B.122

(P.T.O.

Wt. 28949/793, 2m.m. 11/40, S.P. Co., 61-7901

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Prince Rup.	13-10 41	Pte	(2)	DRUNKENESS 2 nd. Offence A.A. 19	Sgt. Embree Cpl Emerslandd	14 dys C.B.	14-10-41	Lt-col Sapty	
Frederick Fl Pr.Rupert.	31-10 41	"		AWL fr 0900 hrs 31-1041 to 1600 hrs 31-10-41 Absent 7 hrs. A.A. sec 15(1)	Sgt Green	7 days C.B.	3-11-41	Lt-col Atisdale	Forf 1 dys pay FR&I 149 1 (a)
Pt Frederick Pr. Rupert	12-11 41	Pte		Neglect to the prej. etc. when ordered to perf. a duty by a sup. Officer, AA 40	L/C Riley A/Cpl. McFarland	7 dys. det.	13-11-41	Lt. A.H. Jukes	Forf. 7 dys pay FR&I 149 1 (a)
Van. B.C.	14-2-42	Pte	(3)	DRUNKENESS 3rd Offence A.A. 19 (a)	Cpl. Milne L/C Stranaghan	FINE $10.00	16-2-42	LT/col Lock	Forf 5 dys pay A.A. 46(2)
Van. B.C.	17-2-42	Pte		AWL 0800 hrs 17-2-42 to 1030 hrs 15-3-42 A.A.15 (1)	P.O.W. Dewar	111 dys Det.	23-6-42	Lt/Col Lock	~~111dys pay~~ 149 1a 78 dys pay, add $14.25

Sheet No.)

Date of enlistment) 21-11-40

No. B39536 Name Mandaro N.J. Sq., Battery, or Company) Corps R.C.A.S.C. G.C. Badges) Long Service and G.C. Pay) Signature O.C. Company, etc.)

Date of last entry in Company Conduct Sheet)			No. and date of last drunk)	Offence	Name of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Place	Date of offence	Rank	Cases of Drunkenness						
Field	7-1-43	Pte		AA 15 (1) AWL in that he was absent from coy parade (Meal) (2) AA 40 Conduct to the prej. etc.	A/Cpl Sequin A/Cpl. Edgar	7 dys C.B.	8-1-43	Maj P.J. Dufresne	Forfeits 1 day pay FRI 149(1) (a) Forf. 7 days pay FRI 149 (1) (b) Total forf 8 days pay
Field	6 2-43	Pte		Sec. 15 (1) A.A. AWL in that he, WOAB, absented himself without permission from 2245 hrs. 6 Feb 43 until 2245 hrs. 7 Feb 43. (Absent 1 day)	Cpl. Zimbroli Cpl. Cox, M.	7 days F.P.	10 Feb 43	Capt. M. R. Harries	

Army Form B.122

P.T.O.

Wt. 29240/793, 2m.m. 11/40, S.P. Co., 51-7951

Place	Date of offence	Rank	Corps of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of sentence or of order disposing with trial	By whom awarded	Remarks
Field	17-3-43	Pte		AWL sec 15(1) TTA 17 hrs 50 mins.	Docum.	Forf 2 dys pay Cost of Apprehn. £0-5-8	23-3-43	Lt-col Fletcher	Forf 1 dy pay FR&I 1(a) Forf 2 dys pay FR&I 149 2
							Cost of apprehension £0-5-8 FRI 158 2.		
Field	14-4-43	Pte		AA 15 (1) AWL fr. 2359 hrs 14-4-43 to 1740 hrs 15-4-43	Docum.	7 dys C.B.	16-4-43	Capt Anderson	Auto. forf. 1 dys pay FR&I 149 1(a)
Field	19-4-43	Pte		AA Sec 15(1) AWL TTA 2 dys 14 hrs AA sec 40	Docum	14 dys det. 14 dys pay(conc) cost of app. £0-8-5	24-4-43	Maj. Dufresne	Forf. 3 dys pay FRI 149 1 (a) 2 dys pay FR&I 1. (6) (ii) 14 dys pay FR&I 149 1(b) Cost of app. FR&I 172 (8)

Major
Adjutant 2 Inf Bde

Capt
OFFICER i/c RECORDS

M.F.B. 355
22M—5/41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-39536	Pte	MANDARO, N.J.	1 Cdn ASC Rct Unit

1. The following is a fair and true summary of the entries in the ~~Service and General~~ ~~Regimental and Squadron Battery~~ ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Sec.15(1)	5 times	Sec. 15(1)	11 times
For	Sec. 40	2 times	Sec. 40	4 times
For		times	Sec. 47(2)	3 times
For		times	Sec. 19	3 times
			Sec. 11	
			Sec. 22	3

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or X

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ (Air Force Act / A.F.A. 73)

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. ~~The accused has~~ been in confinement awaiting trial on the present charges, for N/A days in civil custody, and 12 days in military custody, making a total of 12 days in custody, of which Nil days were spent in hospital. (Air Force)

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19 yrs

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 21 November 1940

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force ~~decoration~~ military, or air force ~~reward~~ military (or is in possession of or entitled to). State any air force ~~decoration~~ military or ~~reward~~ military. N/A

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A (Air Force)

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army / Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Regiment / Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
District C.M.	23-6-42 Vancouver, Canada.	Sec.15(1) AWL	111 days detention	N/A.

B.A. Benjamin Major
President FGCM.

A.G. Stilwell Capt.
OFFICER i/c RECORDS,
1 CON ASC RFT UNIT

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... day of .....

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

H.Q.C. 55-M-1665 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENLRAL COURT-MARTIAL

MARA. HAROLD WILLIAM B.132905 PTE.

CONFIDENTIAL H.Q.C. 55-M-1665

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")			
APR 20 1945				J.A.G.	NEW FILE C.R.		APR 19 1945
				Admin	Per quartermaster pls		22-4-45
				J.A.G.	returned		2-5-45
				Admin	Per request pls return	E.D.M	11-5-45
APR 24 1945	24.5.45	PA		JAG.	Returned		12.5.45
	3.7.45	PA		Admin	For Disposition C.R. JUL 3 - 1945		
	26 7/45	PA		I.G.O.			
SEP 21 1945	10/9/45	PA		W.S.G.	SEP 5 1945		
				EMBR	For Disposition C.R. SEP 13 1945		
				AG		was	OCT 22 1945
OCT 27 1945				Admin	Passed pls		22.10.45
				Admin	For Disposition C.R. FEB 27 1946		
				DM	Signature please		27.2.46
FEB 26 1946	1-3-46	PA		Admin JAG			28/2/46
MAR 1 - 1946				JAG	With Papers C.R. MAR 19 1946	OK	
MAR 21 1946							
MAR 20 1946	20.3.46	PA		Admin	Is not sufficient pls		19/3/46
MAY 23 1946	MAY 23 1946	PA	was	DORB	MAY 6 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

CONFIDENTIAL

IN REPLY PLEASE QUOTE No. K. 55-M-5596 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario. 16 March 46.

CENTRAL REGISTRY Army
CONF. SEC.
12700
MAR 18 1946
File 633-m-1665
Cngd. to
Referred to Judy

The Secretary,
Dept. of National Defence,
OTTAWA, Ontario.

REMISSION OF SENTENCE
B. 132905 Pte. MARA, H.W.

Enclosed herewith, Remission of Sentence together with Army Form A-3104 in respect of the marginally named.

for W. C. Duckworth Maj
(G.A. McCarter) Brigadier.
District Officer Commanding
Military District No. 3.

/EC.
Encls.

Ed
reg

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B-132905 Pte MARA H W Unit Irish R of C

Sentenced to Three years and six months penal servitude on 6 Jan 45

Age on, and date of enlistment 20 Years 6 months 14 Sep 1942 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20819) Wt.[illegible] 100,000 [illegible] A.A.R.W.Ltd. Gp.698 Forms/A 3104/72

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	Confirmed, Return to Canada in custody under sentence	(C. S. BOOTH) Brigadier, D.A.G., Canadian Military Headquarters. 4 APR 1945	
12-3-46	REMIT WEF. 12 MAR 46	(G.A.McCarter) Brig., DOC MD 3.	

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. 1st CHARGE Sec 12(1)(a) A.A. WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE, in that he, In the Field on the 20th December 1944 when his Platoon was in a forward area under enemy shell-fire with intent to avoid service in such area, absented himself without leave from approximately 2000 hrs. 20 December 1944 until surrendering himself to the Regimental Police at Mezzano at 1400 hrs. 21 Dec 1944 (Total Absence 18 hrs.	20 Dec 44	6 Jan 45
Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
12 Feb 45	The conduct of this soldier inthe field with this Unit has not been good, and it is recommended that the sentence be NOT remitted.	L H C Payne, Lt-Col Comd The Irish Regiment of Canada

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
13 Feb 45	I recommend that sentence be NOT reduced	10 R/ Dominion Lt Col A/ " Can Inf Bde

FORM FOR REMISSION, COMMUTATION OR
MITIGATION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-M-1665

District File No. K.55-M-5596

PART 1

No. B.132905 Rank Pte. Name MARA, H.W.

Unit Irish Regt. of Canada

PART 11

Date of Trial : 6 Jan 45

Charge(s) : Desertion - AA Sec 12(1)(a)

Sentence : three years, 6 months penal servitude

Date of Sentence : 6 Jan 45

Confirmation - (a) Authority: Maj-Gen i/c Admin CMHQ
(b) Date : 13 Feb 45

PART 111

R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence of the marginally named soldier after the 12th day of March, 1946, and direct that the accused be relieved of all consequences in respect thereof after the said 12th day of March, 1946, and that all records be amended accordingly.

Signed at Kingston, Ontario, this 12th day of March 1946.

(G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No. 3.

PART IV

P R O M U L G A T I O N

Remission promulgated and extracts taken at Collin's Bay Penitentiary Collin's Bay, Ontario

this 14 day of MAR, 1946

W.H. Craig
(Officer i/c Documents)
Warden
Collin's Bay Penitentiary

(1)

(1) Unit, attachment and appointment to be stated

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART 11

No. Rank Name

Certified true extract of Daily Orders Part 11 of

No. Place Date

Adjutant

CERTIFATE OF PROMULGATION AND RELEASE

I certify that this Remission of Sentence was communicated to B.132905 Pte. MARA, H.W. at the Collins Bay Penitentiary on the 14 day of March, 1946, and that the said B.132905 Pte. MARA, H.W. was released on that date.

W.H. Crawford
WARDEN

Collins Bay Penitentiary.

RMC 55-21-1665
Adm 3(b)3

27 Feb 46.

Dear Madam:

This will acknowledge receipt of your letter dated 21st February, 1946 concerning your son, B.132905 Pte. Mara, H.W.

I have been informed by the appropriate officers of this Department that your son was tried by Field General Court-Martial on 6th January, 1945 for absence without leave. He was found guilty and sentenced to penal servitude for three and one half years.

It is not the intention of the military authorities that a soldier should be held in custody any longer than is necessary in the interests of military discipline. Accordingly, sentences are subject to periodical reviews with a view to affecting remission when the circumstances warrant.

Subsequent to his return to Canada his case was reviewed by the appropriate authorities with the result that, subject to his continued good conduct, a substantial reduction will be made in the length of his sentence.

Provided his conduct remains good and he earns full remission his release can be anticipated during April of this year.

Yours truly,

Deputy Minister,
(Army)

EEM/MA

Mrs. H. Mara,
156 John St.,
BRAMPTON, Ont.

Recommended for signature please
J. Murchison Capt
for A.G.

VER V CIA NR 3

FROM COMMANDING THREE KINGSTON ONT 261055R

TO SECTY DND OTTAWA ONT

GR 39 BT

ATTE KD 350 RESTRICTED

RELET HQC 55-M-1665 ADM 3(A) DATED 24 OCTOBER 45 REFERS

B132905 PTE NARA H W ACKNOWLEDGED

BT 261320R WE B

R.C.SIGS
NATIONAL DEFENCE BLDG
OCT 26 1945
OTTAWA
ARMY SIGNAL OFFICE

RECEIVED
OCT 26 1945
A.D.M.I.N.
3a

1707
26/10/45
CSC
83530

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE
BELOW AND RETURN TO A.D.M. WOODS

BRANCH	TIME	SIGNATURE

25

HQC 55-M-1665
Adm 3(a)

DEPARTMENT OF NATIONAL DEFENCE

ARMY CONFIDENTIAL

AIR MAIL OTTAWA, Ontario, 24 Oct 45.

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

B.132905 Pte MARA H W
CM Board of Review
Kingston Penitentiary

Ref telegram AG 0267 dated 18 Oct 45 review.

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation: -

"Release on 6 Apr 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be informed of action taken.

6. Ack by telegram requested.

(E. E. Walford)
Major-General
Adjutant-General

RDW/MR

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HQC 55- M- 1665 (CMBR-1)/ecb
15 Sep 45
Case No C375

PAGE 1.

REVIEW OF SENTENCE

1. No, Rank and Name: B.132905, Pte. Mara, H.W.

2. Unit at date of offence: The Irish Regt of Canada - CMF

3. Charge: AA Sec 12(1)(a) - W.O.A.S., when in forward area under enemy shell fire, with intent to avoid service in such area, was AWL for 18 hrs.

4. Place and Date of Trial: In the Field - Italy - 6 Jan 45

5. Finding: Guilty

6. (a) Sentence: P.S. for 3½ years
   (b) Date of Sentence: 6 Jan 45

7. Date of Confirmation: 5 Feb 45

8. Date of Promulgation: 8 Feb 45

9. Being served at Kingston Penitentiary in MD 3

(N.B. - Discharged under RO 1029 ( ) for
wef).

23

Case No ------

(In simple cases this sheet need NOT be used - See ITEM 12).

PRECIS OF PROCEEDINGS

10. (a) Prosecution: Proved case by summary of evidence.

(b) Defence: Accused testified? xxxx No

Under oath? xxxx No

None offered - Pleaded guilty

(c) Closing address by Defence in mitigation of punishment, etc. xxxxxxxxx By Defending Offr

Accused simply lost his nerve and cracked up.

22

Case No----------

CONDUCT

11. (a) Prior to conviction: Excellent

Date of enlistment: 14 Sep 42

Date of enrolment: Age: 23

(b) After conviction: Unknown. Earliest date of release 5 May 47 if remissions fully earned.

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

N.A.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC Reviewing Offr, etc).

CMHQ: To serve full sentence and to be discharged for misconduct.

RO: To review again 1 Dec 45.

Reviewed by Capt

---

14. ~~Decision~~ Recommendation of the Board:

Release on 6 Apr 46

W A Stewell maj

Date: OCT 22 1945 194---.

~~Chairman/Member~~/Secretary.

Courts Martial Board of Review

21

DEPARTMENT OF NATIONAL DEFENCE
- Army -

BQC 55- M-1665 (ICM)

NDHQ Ottawa, Ont

25 Jul 1945

District Officer Commanding

Military District No 3

Kingston, Ont.

CONFIDENTIAL
F.G.C.M.

B-132905 - Pte MARA H W

No 89 MDB

Ref KS 674 (A):-

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford), Capt
Major-General,
Adjutant-General.

20

Judge Advocate General
Canadian Army

Brampton Feb 21. 46

HQS-M-46934

Director of Records
A. G. Branch
FEB 25 1946
Nat. Defence Canada
Ottawa, Canada

Dear Sir

I am writing to you for some information regarding my Son who had been with the Irish Reg. of Canada B. 132905. Harald W. Mara.
I wish to know how soon I can expect him home again He is now Serving at Kingston for desertion. I would like to explain a little how he happened to be where he is now.
I had five Sons Serving their country and one gave his life. Flt Sgt. J.F. Mara was missing about 2 Months after ward, Word Came he was killed in France.
Harald W. Mara has had shell shock and had several operation on his ears. In Italy. It was my letter to Harald telling of my Sons death. that caused Harald

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to worry, so he did not know, how it happened
the morning he was away. He wrote to me to tell
me as soon he he came to himself. He reported
back to his unit.
Harald. W. Mara Kingston box 190. Collins bay has
served 1 year in detention and I would apreciate
it if you could tell me any thing concerning this
case and help me to bring him home again or do
something to help him. I thank you

Mrs. Harry Mara
Brampton Ont
156 John St.

/ML

1

C O P Y

K.S.676(A)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

C55-M-1165
C.R. PA on file
31

KINGSTON, Ontario July 9th, 1945

The secretary,
Department of National Defence,
OTTAWA, Ontario

SUB EX ITALY GO 131/44
NO 39 MDE, Fort Henry, Barrfield, Ont.

Reference HQS 8536-6 Vol 3 Adm 3(b)2 dated 25th June, 1945.

2. Please be advised that the undermentioned soldier were discharged from the Canadian Army at Kingston, Ontario on this date and were immediately afterwards re-committed to the Kingston Penitentiary at Portsmouth, Ontario to serve the remainder of his sentence.

B.158369 Pte HOMINUK A

B.117650 Pte LAVIGNE A C

B.152905 Pte MARA NW

B.25653 Pte GUIMET L P

B.44543 Pte PREVOST L J

B.23454 Mbr QUIN N

B.134423 Pte STEEN R C

B.27032 Pte SILVERTHORN M R

3. For your information, pls.

19

(W Watts) Major
for (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No 3

noted on cards
gcs

CR PA

CSS-M-1665

Wo Sale Capt

REMINDER
from
S.E. SECTION

H.Q. file

Date MAY 14 1945

TO: D Admin

Special Enquiry No. 2236A

re. B-132905 Pte Mara, H. was forwarded on 6 Apr 45

A final reply to this enquiry has not as yet been received.

2. May final reply or report of action taken to finalize (addressed to originator of enquiry) be forwarded in duplicate to the S.E. Section, A.G. Branch, forthwith.

RECEIVED
MAY 14 1945
S.E. ADMIN.
3411

18

Harris Maj

S.E. Section
A.G. Branch

THIS COPY FOR H.Q. C.55-11-1065
N.D. 10/Mach IIW/1

GS

FIELD GENERAL
MEMORANDUM - DISTRICT COURT-MARTIAL

No. B.132905 Name MARA, Harold William

Rank Pte Unit The Irish Regt of Can CAS

Charge A.A. 12(1)(a) WCAS Desertion

Date of Crime 20-12-44

Date of Arrest 21-12-44 Charge Signed 29-12-44

Orders for ~~DD~~ FG D.C.M. Brig Comd 11 Cdn Inf Bde

Place and Date of Trial In the field; 6-1-45

Sentence Penal servitude 3 yrs 6 mos.

Date of Confirmation 5-2-45

Date of Promulgation 8-2-45

Entered in Records of J.A.G. as No. 3543

Date 14-5-45

MEMO Conf Auth directs that a part of the sentence not exceeding two years shall be served in a military prison. Balance of sentence remitted by Conf. Auth. 12.3.46

17

for Judge Advocate-General

10M-1-45(M-4629)

21 May 45

Passed - no irregularities noted.
HO

MEMORANDUM

TO: MILITARY SECRETARY

DEPARTMENT OF NATIONAL DEFENCE,
HQ 405-M-46,954, Adm 3(b)2,
Ottawa, Ontario, 12 May 45.

B-152905 - Pte MERA H

S E 5336A d/7 May 45
Min File: 940-45

1. This soldier is serving a sentence of 3 years and 6 months penal servitude awarded by FGCM 6 Jan 45, for an offence under -

AA Sec 12 (1) (a) - NOAS - Deserting His Majesty's Service - while in a forward area under enemy shell-fire with intent to avoid service in such area - surrendered after 16 hours.

2. The earliest date upon which he should be released if he earns full remission for good conduct and remains in military custody is 5 May 47.

3. This SUS is being returned direct from Italy at an early date. The MGA, CMHQ has recommended that in view of the serious nature of the offence upon which this soldier has been convicted and the necessity for exemplary punishment that he should serve his present sentence in full and thereafter be discharged for misconduct under CARO 1029 (8). It is stated that it is probable that he has misconducted himself for the purpose of obtaining his discharge.

4. The sentence awarded will be reviewed from time to time but it is probable that in view of the above recommendation that this SUS will be required to serve a very substantial portion of the sentence awarded. It is probable that he will be discharged for misconduct in accordance with the above recommendation accordingly under existing regulations he will on release receive clothing allowance and transportation to his place of residence immediately prior to his enlistment or to any other place in Cda providing the cost is not greater. He will not qualify for the gratuities provided for in The War Services Grants Act, 1944.

MVFS

(A E Walford)
Major-General
Adjutant-General.

FINAL
WO:HW

16

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

1 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

B.132905 Pte MARA H W
SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CLHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of penal servitude.

3. CLHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

D W A Stirling Major
for (A E Walford)
Major-General
Adjutant-General

Encl. 3

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Mara, HW/1

CANADIAN MILITARY HEADQUARTERS

LONDON 4 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

C-55-A-1665

B.132905 Pte Mara, H.W.

1. The m/n soldier is now serving a sentence of 3 years 6 months penal servitude awarded by FGCM 6 Jan 45 for an offence under AA Sec 12(1)(a). The earliest date on which he should be released if he earns full remissions is 5 May 47.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the serious nature of the offence of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para.8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 6 Jan 45, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

for (E.G.WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters.

Enc.4.

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1/39a CMHQ 1000/76
40/P & S/803 (6739)

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS B.132905 Pte Mara, H.W. of Ir R C
was by Field General Court Martial held in the field convicted of
the offence(s) of deserting His Majesty's Service

and by a sentence signed on the 6th day of January 1945
sentenced to undergo penal servitude for 3 years 6 months
said sentence of penal servitude commencing on the aforesaid day,
and such sentence has been confirmed by Maj-Gen i/c Admin, CMHQ
as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 4th day of April 1945

(C.S. Booth) Brigadier
Deputy Adjutant General
Canadian Military Headquarters.

/2

Extracts entered as No. 3493 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 14 day of Feb 19 45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B132905 Pte Harold William MARA, 2RC

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for a term of three years and six months.

(Sgd) W M Shaw Capt 6 Jan 45 (Sgd) J A McDonald Maj.
Judge Advocate, if any. Date awarded. President. (RP 45, 50.)

[redacted]

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation

Date 7 Jan 45 (Sgd) Chas L Johnston Brig Commanding 11 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence and I direct that a part of the sentence Not exceeding Two years shall be served in a Military prison.

~~I direct that the accused be not committed to prison or detention barracks until further order.(1)~~

(1. ~~AA 57A. Delete if not used.~~)

(Sgd) E G Weeks
(E.G. WEEKS) Major-General
i/c Administration
Military Commission

Date ..... Commanding ..... Confirming Officer.

5 FEB 1945

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as wrongly withholding confirmation.

RECORDED AT CMHQ IN AB 160 40-10

FIELD GENERAL COURT-MARTIAL

CFAB6 (In lieu of AFAB 40/P & R/1008 (2004))

Convened by Order of Brig I S Johnston, DSO, ED, Comd 11 Cdn Inf Bde dated 4 Jan 1945

RECEIVED 30 JAN 1945 JAG BRANCH C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B132905	Pte		Harold William	MARA	IRC

RE PROCEEDINGS REVIEWED 5 FEB 1945 JAG OFFICE BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 6 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2G-31

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J A McDonald	HQ CRE MC
Member	Capt	G P Murphy	PLF
Member	Capt	J F McKnight	Perth
Judge-Advocate	Capt	W M Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	F C White	2RC
Defending Offr	Capt	G J Wood	2RC

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 8

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No, sir (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, SF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No, sir
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4. 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes thru def atty (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(2B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B132905 Private Harold William MARA, The Irish Regiment of Canada, a soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE
Sec 12(1)(a)
A.A.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

in that he

In the Field on the 20th December 1944 when his Platoon was in a forward area under enemy shell-fire with intent to avoid service in such area, absented himself without leave from approximately 2000 hrs. 20 December 1944 until surrendering himself to the Regimental Police at Mezzano at 1400 hrs. 21 Dec. 1944 (Total Absence 18 hrs.)

L H C Payne, Major,
~~R.C. Clark, Lt-Col.~~
A/Comd The Irish Regiment of Canada

In the Field
29 December 1944

"To be tried by Field General Court Martial".

(I S Johnston) Brig
Comd 21 Gdn Inf Bde

In the Field
5 Jan 1945

8

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B132905	Pte		Harold William	MARA	IRC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Jan 1945 endorsed by me, (~~[illegible]~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J A McTAVISH	HQ CREME

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	W A STANDING	C S H
Capt	D A SMITH	I R C

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	G P MURPHY	P L F
Capt	J F McKNIGHT	PERTH

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	W M W SHAW	ADJA HQ 5 Cdn Armd Div

On Active Service in the Fd

in Italy (Country.)

(Signed personally, RP 105 fn 2.) Brig (Rank.)

Date 5 Jan 1945 Commanding 11 Cdn Inf Bde Convening Officer.

7

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA05 (In lieu of AFA5) W/P & S/1697 (4601)

[illegible]

The following is the correct form of medical certificate to be used for trial. The accused must be examined the morning of each day he is on trial and a certificate obtained on each such day.

I certify that I have this morning examined No. B132905

Rank Pte Name Mara, H W

and in my opinion he is fit/~~unfit~~ to undergo trial by court-martial.

Station Field

Date 6 Jan 45

M. Lorman Capt RCAMC
(Medical Officer) SchwCCS

(X W(Gen) 51))

WMWS

6

I

Capt W A Standing and Capt D A Smith not being present Capt S P Mapply and Capt J F McKnight take their places as members of the court.

Def offr in mitigation:-
Have been several cases of this type - men lose their nerve and leave. That is what happened here. He surrendered himself even knowing that he had committed an offence and wish you to take this into consideration.

Wm W. Shaw
capt

5

SUMMARY OF EVIDENCE

in the case of

B132905 Private MARA, Harold William, The Irish Regiment of Canada, a soldier of the Canadian Army placed on Active Service.

CHARGE:

(1) When on Active Service, Deserting His Majesty's Service.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS

M53303 Sgt. Ferrier, H.M., The Irish Regiment of Canada having been duly sworn, states:
"I am M53303 Sgt. Ferrier, H.M. I am Platoon Sergeant of No. 14 Platoon of which the accused, Private Mara, H.W. is a member. I am familiar with the accused by sight. On the 20 December 1944 when his Company was in a forward area in contact with the enemy and under enemy shell-fire the accused Private Mara, H.W. ~~(with intent to avoid service in such area)~~ did absent himself without leave from 2000 hrs. 20 Dec. 1944. When the Platoon moved off from the assembly area at 2000 hrs. I made a check and the accused was not present. I did not see the accused until 28 Dec. 1944 in the custody of Regimental Police". M Ferrier

Officer taking the summary questions the witness.

Q. When the Battalion moved forward from the assembly area was Private Mara, H.W. with your Platoon?

A. Yes, Sir.

Q. Was the Platoon aware of the coming action and the part the Battalion was to play in it?

A. Yes, Sir.

The accused declines to cross-examine the witness.

SECOND WITNESS

C65135 Pte. Trumbull, M.J., The Irish Regiment of Canada having been duly sworn, states:
"I am C65135 Pte. Trumbull, M.J., of the Irish Regimental Police. I was on duty with the Regimental Police at "A" Echelon, Mezzano when the accused, Pte. Mara, H.W. surrendered himself to me at the guard room at 1400 hrs., 21 Dec. 1944". M J Trumbull Pte
The accused declines to cross-examine the witness.

Question to the accused.

Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused.

"I have nothing to say".

I certify that rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

Taken down by me in the presence of the accused in the Field this 29th Day of December 1944

H A C Thomas

H.A.C. Thomas Lieut.
The Irish Regiment of Canada
Officer detailed to take summary of Evide

A. Comus

Substitute for AB 64

No. B132905 Rank Private Name Harold William MARA IRC

Age 22 Married or Single Single No of Dependents Nil

Date of Attestation 14 Sept. 42

Number of days in close arrest awaiting trial 10 15

Civil..... Military 15 Hospital.....

Dates of appointments, promotions, etc. (if any) N/A

.....

.....

.....

Decorations N/A

In the field
~~31 Dec. 44~~
Date.

"C"
Woods

Sanctioned Capt.
(Officer i/c Pay Bks)

No. B132905 Name Pte MARA, H W Regt, Battery or Company | Corps CIC | Date of enlistment 14.9.42 OC Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Old Sheet Destroyed 14.3.43 - Last Entry Nil Cases of Drunkenness Nil									
Field	22.7.43	Pte		A.A. Sec. 40 Neglected to clean his webbing after being warned to do so	Lt.Mitchell Cpl Millington	7 Days C B	23.7.43	Major R D Clendenning	

Lieutenant Colonel
H. L. Thomas
.....
CERTIFIED TRUE COPY

"B"

(PTO)

FGCM:	6 Jan 45 B132905 Pte MARA, H. Irish Regt of Canada
CHARGE:	AA 12(1)(a)
FINDING:	Guilty
SENTENCE:	To suffer penal servitude for a term of three years and six months.
RESERVATION:	Finding and sentence reserved for confirmation by Brigadier I.S. Johnston, Comd 11 Cdn Inf Bde, 7 Jan 45.
CONFIRMATION:	"I confirm the finding and sentence and I direct that a part of the sentence not exceeding two years shall be served in a military prison" Major/General E.G.Weeks MGA, CMHQ - 5 Feb 45.

PROMULGATED AND EXTRACTS TAKEN
In the Field, ITALY

8 Feb 45
(Dated)

B.B. Crawe (Name)

Lieut (Rank)

Adjutant (For) (Appt)

2 Cdn Reallocation Centre (Unit)

H.Q.C. 55-M-1666 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MASON. WILLIAM HILLIARD C.957 GNR.

CONFIDENTIAL
H.Q.C. 55-M-1666

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add remarks in Remarks enter here "With Minute") NEW FILE C.R.		APR 16 -45
APR 20 1945							
MAY 29 1945	28 5 45	P.A.			returned		5-5-45
JUN 16 1945	6.7.45			Admin	For Requisition C.R. JUN 15 1945		
JUN 25 1945	25.6.45	PA		Admin	For Requisition C.R. JUN 21 1945		
JUL 5 - 1945	6.7.45			Admin	PER B.F. JUL 6 1945		
	26 7 45			1601			
SEP 12 1945	3.9.45			Admin	Request	CR	11-9-45
				Adm	With Papers C.R. SEP 15 1945		
				SE(AG)	SE		18-9-45
							19-9-45
				SE(AG)			26.9.45
SEP 26 1945	26.9.45	PA			Returned		25.9.45
					For Requisition C.R. OCT 19 1945		
				AG		was	OCT 22 1945
OCT 26 1945	9.1.46			Adj	Passed		23.10.45
				JAG	With Papers C.R. JAN 1 1946		
JAN 7 - 1946				CMBR	To note		7-1-46
JAN 8 - 1946	8/1/46	PA		Admin	To note		8 Jan 46
JUN 11 1945				LORB	For Requisition — MAY 4 1946		
OCT 25 1947	24-10-47	PA			PER REQUEST CR AUG 29 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to see same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. K.55-M-5602-C(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ont., 28 Dec 45

CONFIDENTIAL

DEC 31
55-M-1666

The Secretary,
Dept of National Defence,
OTTAWA, Ontario.

Remission of Sentence & AFA 3104
C.957 Gnr. Mason, W. H.
Cdn Sec GHQ 1 Ech APMQ

1. Herewith Remission of Sentence, effective 20th December, for the m/n soldier, together with Army Form A3104, duly completed.

Noted
8 Jan 46
A. McMay
CMBR-5

Encl/R

G. A. McCarter, Brigadier,
District Officer Commanding,
Military District No. 3.

NAT DEF. B 441
FORM A 44 (A32)
H.Q. 1772-39-767

IN REPLY PLEASE QUOTE No. K.55-M-5602-C(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ont., 28 Dec 45

CENTRAL REGISTRY
18071
DEC 31 1945
55-M-1666
Chgd. to
Referred to

CONFIDENTIAL

The Secretary,
Dept of National Defence,
OTTAWA, Ontario.

Remission of Sentence & AFA 3104
C.957 Gnr. Mason, W. H.
Cdn Sec GHQ 1 Ech AFHQ

1. Herewith Remission of Sentence, effective 20th December, for the m/n soldier, together with Army Form A3104, duly completed.

Noted
8 Jan 46
A. McLennan
CMBR-5

Encl/R

W. C. Duck Maj
G. A. McCarter, Brigadier,
District Officer Commanding,
Military District No. 3.

NAT. DEF. B. 440
200M-4-46 (A320)
H.Q. 1772-10-767

FORM FOR REMISSION, COMMUTATION OR
MITIGATION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No

District File No K.55-M-5602-C
(JAG)

PART I

No. C.957 Rank Gnr. Name MASON, W.H.

Unit Cdn Sec GHQ 1 Ech AFHQ

PART II

Date of Trial: 12 Jan 45 (FGCM Italy)

Charge(s): AA Sec 40 (3 charges)
AA Sec 15(1) - 1 " - "Guilty"

Sentence: 2 yrs imprisonment with hard labour

Date of Sentence: 12 Jan 45

Confirmation - (a) Authority: Officer i/c Cdn Sec 1 Ech AFHQ

(b) Date: 30 Jan 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence of the marginally-named soldier after the 20th day of December, 1945, and direct that the accused be relieved of all consequences thereof after the said 20th day of December, 1945, and that all records be amended accordingly.

Signed at Kingston, Ontario, this 19th day of December 1945

G. A. McCarter, Brigadier
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
District Officer Commanding,
Military District No. 3.

PART IV

PROMULGATION

Remission promulgated and extracts taken at KINGSTON, Ontario.

this 20th day of December 1945

(S.E.F.MOREA)Captain
Officer i/c Documents
No. 3 District Depot, C.A.
(1) Legal Officer

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. C.957 Rank Gnr. Name MASON, W.H.

Remitted the unexpired portion of his sentence after the 20th day of December, 1945, and relieved of all consequences thereof after the said 20th day of December, 1945. ~~and that~~ All records be amended accordingly.

Certified true Extract of Daily Orders Part II of No.3 District Depot, C.A.

No. C.136 Place KINGSTON, Ont. Date 21 December, 1945.

A/ Adjutant Capt.

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

RCA, att fap to Cdn Sec

I.—Case of No. C957 Gnr MASON, William Hilliard Unit 1 Ech AFHQ

Sentenced to Imprisonment with HL for 2 Years on 12 Jan 45

Age on, and date of enlistment 19 Yrs, 10 Mons;17 Jan41 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(26519) W1.4667/270 10,000 2/45 A.& E.W.Ltd. Gp.698 Forms/A.3104/12

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	Not remission. Return to Canada in Custody under Sentence	C.S. Booth (C. S. BOOTH) Brigadier, D.A.G., Canadian Military Headquarters. 16 APR 1945	
19 Dec 1945	to remit with effect 20 Dec 45	G.A. McCarter (G.A. McCarter) Brigadier, D.C.C., M.D. #3	

(Continued on page 4.)

If further space required, an additi

		Signature of Officer making entry.	

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
29 Jan 45	This soldier has never served with this unit but his record suggests that he should not be shown any special consideration.	[illegible]

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
30 JAN 1945	This man's record is bad and he has given the Army little useful service to date. I do not recommend lessening and consider he should serve the majority of his sentence.	W.G.H. Roaf (W.G.H. Roaf) Brigadier Officer i/c Cdn Sec 1 Ech AFHQ

FIRST CHARGE
AA Sec 40

When on Active Service, Conduct to the Prejudice of Good Order and Military Discipline

in that he

in the Field, in Italy, on or about 15 Oct 44, was improperly in possession of WD Vehicle No Z5519159

SECOND CHARGE
AA Sec 40

When on Active Service, Conduct to the Prejudice of Good Order and Military Discipline

in that he

in the Field, in Italy, on or about 31 Oct 44, was improperly in possession of 1 pair of breeches, the property of 2601250 Signalman Glover F C.

THIRD CHARGE
AA Sec 40

When on Active Service, an Act to the Prejudice of Good Order and Military Discipline

in that he

in the Field, in Italy, between 15 Oct 44 and 31 Oct 44, improperly burned a quantity of mail contained in a British Army Express Letter Service vehicle.

FOURTH CHARGE
AA Sec 15 (1)

When on Active Service, Absenting Himself wihout Leave

in that he

in the Field, in Italy, absented himself without leave from 0300 hours 24 Sep 44 until 2045 hours 31 Oct 44. (Absent 37 days, 12 hours, 45 minutes).

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. (See list attached) Signature of Officer making entry.		11-12 Jan 45
VIII.—Second Trial. Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
29 Jan 45	This soldier has never served with this unit but his record suggests that he should not be shown any special consideration.	[illegible]

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
30 JAN 1945	This man's record is bad and he has given the Army little useful service to date. I do not recommend lenency and consider he should serve the majority of his sentence.	W.G.H. Roaf (W.G.H. Roaf) Brigadier Officer Cdn Sec 1 Ech AFHQ

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO A.S.S. WOODS

BRANCH	TIME	SIGNATURE

R.C. SIGS
NATIONAL DEFENCE BLDG.
OCT 25 1945
OTTAWA
ARMY SIGNAL

RECEIVED
OCT 25 1945
3A

VER V CIA NR 17

FROM COMMANDING THREE KINGSTON ONT 251055R

TO SECTY DND OTTAWA ONT

GR 32 ET

KD 302 RESTRICTED

RELET HQC 55 M 1666 ADM 3(A) DATED 24 OCTOBER REFERS

C957 GNR MASON W H ACKNOWLEDGED

ET 251339R WE B

251339R

82542

HQC 55-M-1666
Adm 3(a)

DEPARTMENT OF NATIONAL DEFENCE

ARMY CONFIDENTIAL

AIR MAIL OTTAWA, Ontario, 24 Oct 45.

District Officer Commanding,
Military District No. 3,
KINGSTON, Ont.

G.957 Gnr MASON M M
CM Board of Review
89 MDS

Ref telegram AG 0267 dated 18 Oct 45 review.

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation: -

"Release on 11 Jan 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be informed of action taken.

6. Ack by telegram requested.

(A. E. Walford)
Major-General
Adjutant-General

RDM/MR

HQC 55-M-1666 (CMBR-5)
Case No 19 Oct 45

0397

REVIEW OF SENTENCE
BY
COURTS MARTIAL BOARD OF REVIEW

1. No, Rank and Name:
C-957 Gnr MASON, W.H.

2. Unit at date of offence:
Att. to Cdn Sec GHQ 1 Ech AFHQ

3. Charge:
(1) AA Sec 40 - Improper possession of WD vehicle
(2) AA Sec 40 - Improper possession of clothing
(3) AA Sec 40 - Improperly burnt official mail
(4) AA Sec 15 (1) - AWL from 0800 hrs 24 Sep 44 until 2045 hrs 31 Oct 44. Length of absence 37 days.

PLEA:
Not guilty on first 3 charges, guilty on 4th charge.

4. Place and Date of Trial:
(FGCM) (DCM) (SCM) In the field, Italy, 11 Jan 45
XXXXXXXXXXXXX

5. Finding:
Guilty on all charges.

6. (a) Sentence:
2 yrs imprisonment with hard labour.
(b) Date of Sentence:
12 Jan 45

7. Date of Confirmation:
24 Jan 45
Offr IC Cdn Sec GHQ 1 Ech AFHQ

8. Date of Promulgation:
26 Jan 45

9. Being served at:
89 M.D.B.
in MD 3

(N.B. - Discharged under RO 1029 ( ) for
wef)

Case No .....

CONDUCT.

11. (a) Prior to conviction:

Date of enlistment: 17 Jan 41

Date of enrolment: Age: 24

Fourteen charges of AWL, minor periods.
Four charges of drunkeness
Nine other charges.

(b) After conviction: Good

(Expected date of release 11 May 46)

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances).

Item 10 has been omitted.
His true age is said to be 22 not 24 yrs. Severely addicted to alcohol and in his own statement he drank heavily during his absence.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc).

CMHQ Recommends sentence be served in full

Rev Offr. In view of this man's lengthy record of crime and the seriousness of his offences it is recommended that he serve his sentence in full with normal remission of half.

Reviewed by A.M. Stephenson
A.M. Stephenson Maj.

---

14. Recommendation of the Board:

Release on 11 Jan 46

OCT 22 1945

W.A. Stewart Maj
Secretary
Canadian Central Board of Review

CONFIDENTIAL

21 September 1945

J.O. Gour, Esq., M.P.,
House of Commons,
Ottawa.

Dear Mr. Gour,

Re: C-957, Gnr. W.H. Mason

As stated in my letter to you of the 6th of September 1945, enquiries were made with reference to Gunner Mason.

A report has now been received to the effect that on the 11th of January 1945 this soldier was tried by Court-Martial in Italy for the following offences:-

Absence without leave of 37 days;
Improper possession of a Canadian military vehicle;
Improper possession of property of a fellow soldier; and
Improperly burning a quantity of mail.

He was found guilty of all four charges and sentenced to be imprisoned with hard labour for two years. On review of sentence at Canadian Military Headquarters it was directed that this soldier be returned to Canada in custody with a recommendation that he be required to serve the balance of his sentence in full and be discharged from the Army for misconduct. He was returned in May

The sentence was reviewed in August and no remission was recommended. It will be reviewed again in January next.

Yours very truly,

RECEIVED
CONTROL

Doris L. Bentley,
Private Secretary.

MD/B
b

87

MS

C. 55-M-1666 Adm 3(b)2

18 Sep 45

HE 48558 6/8 Sep 45

C-957 Gnr MASON, W H

This SUS was tried by FGCM in Italy on 11 and 12 Jan 45 for the following offences:-

- Absence without leave of 37 days;
- Improper possession of a Canadian mil vehicle;
- Improper possession of property of a fellow soldier; and
- Improperly burning a quantity of mail.

2. The accused was found guilty of all four charges and sentenced to be imprisoned with hard labour for two years.

3. On review of sentence at CMHQ it was directed that this soldier be returned to Cda in custody with a recommendation that he be required to serve the balance of his sentence in full and be discharged for misconduct from the Cdn Army. He was returned in May 45 and committed to No 89 MDR.

4. Sentence awarded was reviewed 14 Aug 45 and no remission of sentence was recommended. Sentence will be reviewed again 12 Jan 46 when he has served one-half of the term awarded.

5. Correspondence is returned herewith.

(A E Walford),
Major-General,
Adjutant-General.

FINAL

WOP/4293/oej

MINISTERS OFFICE
SEP 19
DEPT. N.D. OTTAWA

86

IN REPLY PLEASE QUOTE No. K.55-M-5602-C(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 14 Sep 45

CONFIDENTIAL

341786

SEP 15 1945
File C55-M-1666
Circ'd to
Referred to Admin

The Secretary,
Dept of National Defence,
OTTAWA, Ontario.

C.957 Gnr. MASON, W. H.
SUS ex Italy

1. Ref your HQC 55-M-1666 Adm.3(b)2 dated 12 Sep 45 in connection with the m/n soldier.

2. Please be advised that this file was reviewed 14 Aug 45 and it is considered that further review will not be necessary until completion of one-half term, which will be 12 Jan 46. The file has been "B.F.ed" for review at that date.

R. A. Rae Capt.

for (F. G. Malloch) Colonel,
T/District Officer Commanding,
Military District No. 3.

RF:S

85

NAT. DEF. R. ARS
(5000M-4-45 (4322)
55-Q 1772-29-767

HQC 55-M-1666
Adm 3(b)2

CONFIDENTIAL

12 Sep 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

C.957 Gnr MASON, W H
No 59 MDB

Ref K.55-M-5602-C:

2. May this HQ be infm, pls the result of any review of sentence in this instance and whether further review or remission is contemplated prior to this SUS having served one-half of the sentence awarded.

3. This matter being a subject of a Special Enquiry, may it be treated as urgent, pls.

(A E Walford)
Major-General
Adjutant-General

WOF:da

89

55-M-1666

URGENT
SPECIAL INQUIRY

Date SEP 8 1945

TO: D. ADTH.

No. 4855B

Reply addressed to MS will be forwarded in duplicate (exclusive of file copy) to Special Inquiry Section, A.G. Branch, WD HQ ND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Inquiry Section (Room 507 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned, for the A.G.

A.G. Control & Co-ordination
(A.N. Section)

83

1016-27

A. G.

May a report be submitted for the Minister's information, please, with the return of the attached correspondence.

Col.
September 6, 1945. / M.S.

J. O. Gour, Esq., M.P.,
House of Commons,
OTTAWA.

Dear Mr. Gour,

Re: C-957, William Hilliard Mason.

I have for acknowledgment your letter of the 28th of August 1945, with further reference to the above named soldier.

I am asking that enquiries be made with regard to this man's case and as soon as a report is received, I will write to you again.

Yours very truly,

RECEIVED
SEP 10 1945
ADMIN.
3 W 2

(Doris L. Bentley),
Private Secretary.

MD/

Billings' Bridge, Ontario

August 20, 1945

Mr Gour M P Russel County,
Casselman, Ontario.

Dear Sir:

Youbeing our representative in Parliament for the COUNTY of Russel, I turn to you for to help me in my trouble.

I lived for 13 years on the farm, near Limoges (Robert Orr's farm my Father) and my boys, Andrew, and Bill, enlisted in the Service of their country there, they have been overseas four years ago last March, now for the reason of this letter.

Bill, for his misdeeds in Italy, (a lot of foolishness as far as I can make out) was brought back to Canada sometime last May, and was taken to the Fort Henry, at Kingston, Ont, Detention Camp and is still there, I need my boys at home, I have had to get along alone for so long without them and have been working for over three years (Mr Mason is living, but a chronic alcholic) and now with summer going, and preparation needed for the approaching winter (I live in a cottage that has to be made warm) if you would look into this matter for me, and use your power and influence, so Bill will be home with me soon, I will always be grateful, Imight add that Bill put in a year in the front line in Italy, besides his service in England.

Sincerely yours,

(Mrs) Gladys Mason

81

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55- M-1666 (ICM)

NDHQ Ottawa, Ont

26 Jul 1945

District Officer Commanding
Military District No 3
Kingston, Ont.

CONFIDENTIAL
F.G.C.M.

G.957 Gnr MASON William Hilliard

89 MDB

Ref MB 674

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford),
Major-General,
Adjutant-General.

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COPY

WKM:TM

K.S. 674
K.55-D-594-C
K.55-M-5602-C
K.55-A-2322-C (A)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

KINGSTON, Ontario 18th June, 1945

Commandant, No 89 Military Detention Barracks, BARRIEFIELD, Ont.
A.J.A.G., M.D. No 3, KINGSTON, Ont.
Officer Commanding, No. 3 District Depot, KINGSTON, Ont.
District Paymaster, M.D. No 3, KINGSTON, Ont.
District Medical Officer, M.D. No 3 KINGSTON, Ont.
D.A.P.M., MD No 3 KINGSTON, Ont.
Officer Commanding, No 3 Ordnance Depot Coy. RCOC, KINGSTON, Ont.
Governor of the County Jail, County of Frontenac, Count Court-House, KINGSTON, Ont.

SUS MX ITALY GO 131/44
MILITARY DETENTION BARRACKS 89, Fort Henry

Further reference this Headquarters' letter numbered as above and dated 13 Jun and reference HQS 8536-6 Vol 2 Adm 3(b) 2 dated 27 Apr 45.

2. Under this Headquarters' letter numbered as above and dated 13 Jun, this Headquarters gave instructions to the Commandant, No 89 Military Detention Barracks, that the undermentioned personnel were to be despatched to No 3 District Depot where their discharge would be completed and they would then be detailed to the Governor of the County Jail of the County of Frontenac to serve the remainder of their sentence.

3. Advice has now been received by long distance telephone from the Provincial Secretary to Lt-Col. C.E. Tuck, "GI" M.D. No 3, on the 16th June 45 stating that provincial institutions in Ontario at the pres nt time could not take soldiers under sentence from Fort Henry who were to be admitted from Military District Nos. 3, 1 and 2.

4. This affects the following soldier:

MILITARY DISTRICT NO 3

C.120367 - Pte DESROSIERS, W G - 2 yrs hard labour.
C.957 - Gnr MASON, W H - 2 yrs hard labour.
C.77879 - Pte ANGSTOLON, P - 2 yrs hard labour.

5. Personnel sent to No 3 District Dpot for discharge will be returned frothwith to No 89 Military Detention Barracks without the completion of their discharge.

6. Personnel originally enlisted in Military District No 1 and Military District No 2 who were sentenced to imprisonment with hard labour and were to serve the remainder of their sentence of imprisonment in provincial institutions will not be despatched to District Depot No 1 or District Depot No 2 until further notice is received from provincial authorities stating that accommodation is available.

7. Personnel mentioned above will continue to serve thier sentence at No 89 Military Detention Barracks Fort Henry until further instructions are received from this Headquarters.

8. These instructions confirm instructions given over the telephone today to Lieut Boley, No 3 District Depot and Major Joyce, Officer Commanding, No 89 Military Detention Bks.

SGD ??????
(W K MacGregor) Major
D.A.A.G. M.D. No 3

OVER

Copies to:

District Officer Commanding,
Military District No 2,
TORONTO, Ontario

Officer Commanding,
No 2 District Depot,
TORONTO, Ontario

Governor County Jail,
County of York,
TORONTO, Ontario

District Officer Commanding,
Military District No 1
LONDON, Ontario

Officer Commanding,
No1 District Depot
LONDON, Ontario

Governor County Jail,
County of Middlesex,
LONDON, Ontario

Provincial Secretary,
Parliament Buildings,
TORONTO, Ont.
Attn: Superintendent of
Reformatories.

Secretary,
Department of National Defence
OTTAWA, Ontario
Attn: Capt Parlee, Adm Branch

SGD:??????? Major

for ((F.L. Armstrong) Brigadier,
District Officer Commanding
Military District No 3

C-55-Mp-1666

DEPARTMENT OF NATIONAL DEFENCE
/A R M Y -

FILE NO: K.S. 674
K.55-D-594-C
K.55-Mp5602-C;
K.55-A-2322-C (A)

KINGSTON? Ontario

13 JUNE 45.

Commandant, 89 Military Detention Barracks, Barriefield, Ontario
A.J.A.G. Military District No. 3 KINGSTON, Ont.
Officer Commanding, 3 District Depot, KINGSTON, Ont.
District Paymaster Military District No. 3 KINGSTON, Ont.
District Medical Officer, Military District No. 3, KINGSTON, Ont
D.A.P.M. Military District No. 3 KINGSTON, Ont.
Officer Commanding, 3 Ordnance Depot Coy. R.C.O.C. KINGSTON, Ont.
Governor of the County Jail, County of Frontenac, County Court-House, KINGSTON, Ont.

SUS EX ITALY GO 131/44
Military Detention Barracks, 89, Fort Henry.

Under HQS 8536-6 Vol 2 Adm 3(b)2 dated 27 Apr 45 National Defence Headquarters authorized the despatch of certain soldier under sentence from Italy to No. 89 Military Detention Barracks, Fort Henry, Kingston.

2. The under mentioned personnel have been sentenced to imprisonment with hard labour and are to serve the remainder of their sentence in a Provincial Institution in Ontario;

MILITARY DISTRICT NO. 3

C 120367	- Pte DESROSIERS, W.G	- 2 yrs hard labour
D 957	- Gnr MASON, W.H.	- 2 yrs hard labour
C 77879	- Pte APOSTOLON, P.	- 2 yrs hard labour

3. It is understood that National Defence Headquarters have made arrangements with the Province of Ontario whereby the above mentioned soldiers under sentence will be admitted to a Provincial Institution to serve the remainder of their sentence. Consequently the Commandant, 89 Military Detention Barracks, will arrange to have the above personnel despatched to no. 3 District Depot where their discharge will be completed and they will then be turned over to the Governor of the County Jail of the County of Frontenac, to serve the remainder of their sentence.

4. The A.J.A.G. will prepare the necessary Committal Warrant directed to the Governor of the County Jail, County of Frontenac. In this connection it will be necessary to grant one day's remission in each of the sentences of these soldiers.

5. The above personnel will be struck off strength the date they are discharged and handed over to the Governor of the County Jail of the County of Frontenac.

(W.K. MacGregor) Major,
D.A.A.G. MD 3.

COPY TO
Provincial Secretary, Parliament Buildings, TORONTO, Ont.
Attention Superintendent of Reformatories.

Secretary, Department of National Defence, OTTAWA, Ont.
Attention Capt. Parlee, Administration Branch.

Major,
for (F.L. Armstrong) Brigadier
District Officer Commanding,
Military District No. 3.

WKM/EV

THIS COPY FOR

H.Q. C-55-M-1666
M.D. 10/Mason, WH/T

FIELD GENERAL

GS

MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. C.957 Name MASON, William Hilliard

Rank Gnr Unit RCA att FAP Cdn Sec GHQ, 1 Ech AFHQ, CAO

Charge (1) A.A. 40 WOAS conduct to the.....

(2) A.A. 40 WOAS, conduct to the.....

(3) A.A. 40 WOAS conduct to the.....

(4) A.A. 15(1) A.W.L.

Date of Crime (1) 15-10-44; (2) 31-10-44; (3/ between 15-10-44 and 31-10-44 (4) 24-9-44.

Date of Arrest (4) 31-10-44 Charge Signed 9-1-45.

Orders for ~~DC~~ FG C.M. Brig Comd Cdn Sec GHQ, 1 Ech AAL

Place and Date of Trial In the field; 11-12--1-45

Sentence Imprisonment W.H.L. 2 yrs.

Date of Confirmation 24-1-45

Date of Promulgation 26-1-45

Entered in Records of J.A.G. as No. 3590

Date 10-5-45

MEMO Bal of sent. remitted by Conf Auth 20-12-45

Reviewed at CMHQ

Absent	Sentence
37 days, 12 hrs 45 mins.	Imprisonment W.H.L. 2 yrs.

for Judge Advocate-General

10M-1-45(M-4629)

Quote No.

H.Q.C.55-M-1666
(JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada

24th May 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

C.957 Gnr. MASON, W.H.

1. Receipt is acknowledged of your dated 194 ,10/Mason,W.H.I which you forwarded on April to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

A.F. A3104 is also acknowledged.

E.L.M.
Capt

WBB:ELM

for (R.J. Orde), Brigadier,
Judge Advocate-General.

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HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario
4 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

C-957 Gnr Mason W.H.

SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of imprisonment with hard labour

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

W a Stirling Major
for (A E Walford)
Major-General
Adjutant-General

Encl. 3

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BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Mason, W.H./1

CANADIAN MILITARY HEADQUARTERS

LONDON

4 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA.
Canada.

C-055-M-1666

C.957 Gnr. Mason, W.H.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 12 Jan 45, for the following offences - absence without leave of 37 days, improper possession of a Canadian Military Vehicle, improper possession of property of a fellow soldier, and improperly burning a quantity of mail. The earliest date on which he should be released if he earns full remissions for good conduct while serving his sentence is 11 May 46

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the offences of which this soldier has been convicted, his bad previous record and all available reports, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx. to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has not misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 12 Jan 45, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E.G.WEEKS) Major-General
In charge of Administration
CANADIAN MILITARY HEADQUARTERS

Enc.4.

1/39a CMHQ 1000/76
40/P & S/803 (6739)

74

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

RCA, att fap to Cdn Sec GHQ 1 Ech AFHQ

WHEREAS C.957 Gnr. MASON. W.H. of
was by Field General Court-Martial held in the field convicted of the offence(X) of **Absence without leave and three offences of Conduct to the prejudice of good order and military discipline.**
and by a sentence signed on the **12th** day of **January** 1945
sentenced to undergo **Imprisonment with hard labour** for **Two years**

said sentence of **Imp. with H.L** commencing on the aforesaid day,
and such sentence has been confirmed by **OIC Cdn Sec GHQ 1 Ech AFHQ**
as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this **4th** day of **April** 1945

(E.A.C. Booth) Brigadier
Deputy Adjutant General
Canadian Military Headquarters

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RECORDED AT CMHQ IN AB 150 4R-41

FIELD GENERAL COURT-MARTIAL

CPA96 (In Reply Refer to AFAP 40/P/R B/1656 (1294))

Convened by Order of BRIG. W.G.N. ROAF Comd CDN SEC G.HQ. 1 ECH AA 1 dated 9 JAN 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C957	GNR.		WILLIAM HILLIARD	MASON	R.A. ATT. F.A.P. CDN SEC GHQ 1 ECH AFHQ

PROCEEDINGS REVIEWED 19 Feb 45 REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ITALY on (*date(s)*) 11 JAN 45, 12 JAN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2H-63

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1)~~ Do you object to S/SGT PHILLIPS G.L. as shorthand writer? Ans NO SIR. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT.COL.	J.N.	MEDHURST OBE ED.	CDN SEC. G.HQ 1 ECH AFHQ
Member	MAJOR	E.Y.	WILSON	CDN SEC. G.HQ 1 ECH AFHQ
Member	LIEUT.	R.	MEUNIER	CDN SEC G.HQ 1 ECH AFHQ
Judge-Advocate	N/A			
Prosecutor	CAPT.	J.A.	BOURNE	CDN SEC G.HQ 1 ECH AFHQ
Defending Offr	CAPT.	G.C.	PIERCEY	6 BN. 2 CBRD.

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans YES.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused C957 GNR. WILLIAM HILLIARD MASON before arraignment make(s) (no) (~~a~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "C"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. (N23)

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instr(C).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge~~(s)~~(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge~~(s)~~, call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge~~(s)~~.(3) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO SIR. (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge~~(s)~~ to which the plea~~(s)~~ of Guilty is ~~(are)~~ not changed the President records finding~~(s)~~ of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex [illegible], initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him ~~(them)~~ again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO SIR (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) ~~(no)~~ opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the SECOND CHARGE ~~charge(s)~~.(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the SECOND charge(s), ~~and allowed on the ... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans GIVE EVIDENCE MYSELF (CHARACTER). Do you intend to call witnesses on your behalf? Ans NO SIR. Are they witnesses as to character only? Ans N/A

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the 1ST 2ND AND 3RD charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form ~~E below~~. B AND E.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans YES THROUGH MY DEFENDING OFFICER.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement~~(s)~~ as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet~~(s)~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier~~(s)~~ having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement~~(s)~~ and Conduct Sheet~~(s)~~, and in mitigation of punishment?(1) Ans YES THROUGH MY DEFENDING OFFICER.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 3570 in the Record of Courts-Martial kept in the office of the Judge-Advocate-General this 17 day of May 1945

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C957 GNR. WILLIAM HILLIARD MASON

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	
2nd	NOT GUILTY	GUILTY	
3rd	NOT GUILTY	GUILTY	
4th	GUILTY	GUILTY	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 73 days, of which NO days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO BE IMPRISONED WITH HARD LABOUR FOR TWO YEARS.

(Sgd) ..... Judge-Advocate, if any. 12 JAN 45 Date awarded. (Sgd) J. Medhurst Lt Col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

confirmed.

~~I direct that the accused be not committed to prison or detention barracks, but that he be released.~~ (1. AA 57A. Delete if not used.)

(Sgd) W. H. Roaf Brig. (W G H Roaf) Brigadier Officer IC Can Sec GHQ 1 Echelon Confirming Officer.

Date 24 Jan 45 Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C957 GNR MASON W.H.	26 JAN 45	W. B. Bate Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE-SHEET

THE ACCUSED, C957 GNR WILLIAM HILLIARD MASON, RCA, ATTACHED FAP TO CDN SEC GHQ 1 ECHELON AFHQ, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, IS CHARGED WITH

FIRST CHARGE
AA Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in Italy, on or about 15 Oct 44, was improperly in possession of WD Vehicle No Z5319159.

SECOND CHARGE
AA Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in Italy, on or about 31 Oct 44, was improperly in possession of 1 pair of breeches, the property of 2601250 Signalman Glover F C.

THIRD CHARGE
AA Sec 40

WHEN ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in Italy, between 15 Oct 44 and 31 Oct 44, improperly burned a quantity of mail contained in a British Army Express Letter Service vehicle.

FOURTH CHARGE
AA Sec 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he

in the Field, in Italy, absented himself without leave from 0800 hours 24 Sep 44 until 2045 hours 31 Oct 44. (Absent 37 days, 12 hours, 45 minutes).

In the Field
9 Jan 45

(D H Jupp) Lt-col
AAG
Cdn Sec GHQ 1 Ech

To be tried by Field General Court Martial.

W G H Roaf

In the Field
9 Jan 45

(W G H Roaf) Brigadier
Officer IC
Cdn Sec GHQ 1 Ech

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/T&S/1007 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C957	Gnr		William Hilliard	MASON	RCA, att fap Cdn Sec GHQ 1 Echelon AFHQ.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 9 Jan 45 endorsed by me, (~~or by an officer under my command~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for the purpose of a superior appointed offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint the three Offrs to form the Court, but have Offrs Present for the purpose here under detailed.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate the Officer detailed hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	J N Medhurst, OBE, ED	Cdn Sec GHQ 1 Ech AFHQ

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	E V Wilson	Cdn Sec GHQ 1 Ech AFHQ
Lt	R Meunier	Cdn Sec GHQ 1 Ech AFHQ

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	N/A	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	N/A	

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(W G H Roaf) Officer IC

Date 9 Jan 45

Commanding Cdn Sec GHQ 1 Echelon AFHQ

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

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MEDICAL OFFICER'S CERTIFICATE
(J.A.Gen. 99).

I certify that I have this morning examined C.9057

GNR. MASON W.H. and in my opinion he is fit to undergo trial by Court Martial.

11 Jan 45

Date

Medical Officer
2 Gen Gen Hospital, RCASC.

No. 5 Canadian General Hospital, R.C.A.M.C.
Canadian Army Overseas (CMF)

12 Jan 45

CERTIFICATION OF MEDICAL FITNESS

This is to certify that C957 Gnr MASON, W H has been examined by me on the 12 Jan 45 and has been found fit/unfit to undergo trial by Court Martial.

Has Pediculosis pubis

H. L. Dewlop Capt
Medical Officer

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D2 OPENING ADDRESS BY PROSECUTOR

Gentlemen --- with respect to the first, second and third charges, the evidence of the prosecution will prove that on the night of 15 Oct 44, outside a Signal billet in Pescara, an ELS vehicle of the British Army was improperly taken. In the vehicle were 18 sacks of British Army official mail. On, or about, that night the accused was improperly in possession of the vehicle. Between the 15th of October 1944 and the 31st of October 1944, the accused burned a quantity of the mail that was in the vehicle. On 31 Oct 44 the accused was apprehended in Pescara and at the time of his apprehension he was wearing a pair of breeches which were the property of Sgmn Glover who was the driver of the ELS vehicle that had been taken. The breeches had been in the vehicle at the time it was taken.

D3 First Witness for Prosecution: 2601250 Sgmn Glover F C, 163 DR Sec, 3 Coy, 15 L of C Signals, having been duly sworn, is examined by the Prosecutor:

Q1 Will you give your particulars to the Court, please?

A1 2601250 Sgmn Glover F C, 163 DR Sec, 3 Coy, 15 L of C Signals.

Q2 What was your position in the army on 15 Oct 44?

A2 I was a despatch driver at that time in charge of an ELS truck WD Z5319159 on the run from Ancona to Pescara.

Q3 Describe the structure of the vehicle in question?

A3 It was an ordinary 15 cwt Dodge with the back enclosed in a wire caging of fine net, under the canopy. This caging was welded to the body and completely enclosed the back of the vehicle from the front, sides, top and back. There was a door in the rear which was secured by a chain and lock.

Q4 In the course of your duty that you have described what did you carry in the vehicle?

A4 On 15 Oct 44 there was 18 bags of registered official WD mail locked in the vehicle.

Q5 Generally, in the course of your duties, what did you carry on your runs?

A5 Only the bags of official WD mail and my own kit. We are not allowed to carry anything else without the written consent of the signal-master.

Q6 Did you carry any other type of mail than what you have described as official WD mail?

A6 Only my personal kit.

Q7 On whose charge is the vehicle you have mentioned?

A7 163 DR Sec, 3 Coy, L of C Signals, and it was on my signature.

Q8 And in what army is the unit you have described?

A8 The British Army.

Q9 Was anyone else with you on the night of 15 Oct 44?

A9 I was accompanied by Pte Carter, who was acting as my armed escort.

First Witness for Prosecution (Cont'd)

Q10 Describe the way in which the mail was packed?

A10 It was in mail bags of different types - some canvas and cloth, and the bags were of different colours, some red, some blue and some grey. The bags were secured with string and each had the tag with the registered number of the bag on it, the office from which it was despatched and the office to which it was going.

Q11 Does that hold true of the bags you were carrying on the night in question?

A11 Yes.

Q12 Of the 18 bags that you carried that night to what place were they to be delivered?

A12 When I left Ancona I had 16 bags for the ELS office at San Vito and 2 bags for the RAF office at Pescara.

Q13 Describe what happened on that run?

A13 We arrived at Pescara approximately 2215 hours and I parked the vehicle in the station square outside the Signals billets. We were followed into the square by a vehicle of the RAF Centre. Pte Carter unlocked the cage and gave me the 2 bags for the Air Mail Centre. I handed them to the Cpl IC there and received 2 bags in return, one addressed to Bari and one to Foggia. Those 2 bags were placed in the cage of the vehicle, still making 18 bags of mail. Whilst I was exchanging the bags Pte Carter was taking his bedding into the billet, first having given me the key of the cage. When he came back I sent him to see if the tea was ready and I began to throw the bags into the back of the truck ready to make my bed.

Q14 In the normal run of events where do you sleep?

A14 Carter sleeps in the billet and me in the rear of the truck with the mail.

Q15 Go on - - -

A15 Carter returned and gave me my mug and indicated that the tea was ready. I finished moving the bags, locked the cage of the vehicle and went to the latrine and then to the cookhouse to get my tea, thinking that Carter had already got his tea and was stopping at the vehicle, which was the normal procedure. As I was getting my tea in the cookhouse I noticed Carter was there. As a result of what I mentioned to him he left immediately to go to the truck. He returned and as a result of what he said to me I went with him to where the truck had been parked and found the vehicle missing.

Q16 Approximately how long was it from the time you left the vehicle until you returned?

A16 Approximately 4 to 6 minutes.

Q17 Did you make any attempt to find the vehicle?

A17 Yes. We reported the matter immediately by telephone to the CMP and I accompanied Sgmn Headley in another vehicle to the CMP's office in Pescara to give the necessary description of the vehicle.

..../3

First Witness for Prosecution (Cont'd)

Q18 At the time you left the vehicle was the cage locked or unlocked?

A18 It was locked.

Q19 Did you give anybody permission to take the truck?

A19 No.

Q20 On the night in question, in addition to the mail you have described, what else, if anything, was in the vehicle?

A20 My complete army and personal kit and items of Carter's kit.

Q21 Will you name any particular items of your kit that may refer to this case?

A21 A pair of motorcycle boots and riding breeches shown to me later by CSM MacCallum of the SIB.

Q22 Apart from the personal letters you had in your kit and the official ELS mail were there any other documents in the truck?

A22 An AB 412 and two work tickets.

Q23 When did you next see the vehicle after 15 Oct 44?

A23 Approximately the 10th of November at the RASC workshop at Pescara.

Q24 How do you know it was the same vehicle?

A24 By the unit signs that had been painted out but were still showing, the WD number of the vehicle was on the tailboard, the section signs were still showing on the door and our section serial number was underneath the door between the door and the running board.

Q25 Describe the condition of the vehicle on 10 Nov 44?

A25 It was fairly badly damaged and the cage had been cut off, apparently with a hacksaw.

Q26 What about the canopy?

A26 The canopy and irons that support the canopy and caging were all missing.

Q27 You have already mentioned CSM MacCallum showing you a pair of motorcycle boots and riding breeches. What date was that?

A27 17 Nov 44.

Q28 Where?

A28 At our Coy office at Vasta.

Q29 Could you identify the boots?

A29 The boots were my size - I couldn't identify them as my boots.

Q30 How about the breeches?

A30 I identified them. They were my size; alterations had been made inside the leg to make them fit me.

Q31 What were the alterations?

A31 Pieces of battle dress had been let in by the tailor to make the breeches bigger so that they would fit me.

Q32 Would you say whether or not they were the same breeches that you left on the night of 15 Oct 44 in the vehicle in question?

A32 Yes. They were the same pair.

Q33 What happened to those breeches?

A33 They were handed to our Coy QM as I had already been issued with new ones.

Q34 Are they available now?

A34 I don't know where they are now.

Q35 In what country did the various incidents you have described take place?

A35 In Italy.

Cross-Examined by Defending Officer

Q36 In that immediate vicinity there are several roads?

A36 Yes.

Q37 Was it a very dark night?

A37 Yes.

Q38 Did your vehicle have lights?

A38 When the vehicle was left there was a light burning in the back of the cage.

Q39 Was it possible to switch on headlights?

A39 Yes.

Q40 When you came out of the Signal's billet did you look up and down the road?

A40 Yes.

Q41 Did you see any light - headlight, tail-light?

A41 No.

Q42 Did you see the lights of any vehicle?

A42 I can't remember now.

Q43 Would it be possible for a vehicle, assumingit was started in the four to six minute interval that you have mentioned in which you were having tea, to get over the range of view if you looked up and down the roads?

A43 Yes.

Q44 Were you asked at any time previous to the assembling of this court to make an effort to procure the breeches you speak about to present to the court for identification?

A44 No.

In the opinion of the Court ~~xxxxxxxx~~ it is unnecessary to comply with RP 83(B).

The witness withdraws.

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Second Witness for Prosecution: 6022196 Pte Carter R, 1/4 Bn Essex Regt att 3 Coy L of C Sigs, having been duly sworn, is examined by the Prosecutor:

Q45 Give your particulars to the court, please.

A45 No 6022196 Pte Carter R, 1/4 Bn Essex Regt att 3 Coy L of C Sigs.

Q46 What were your duties on 15 Oct 44?

A46 I was acting as escort on an ELS truck, 15 cwt Dodge, on 15 Oct 44, from Ancona to Pescara.

Q47 Who was in charge of the vehicle?

A47 Sgmn Glover.

Q48 What were your duties?

A48 To guard the mail in the back of the truck - to travel in the rear of the truck.

Q49 What were you carrying on the truck that night?

A49 18 bags of mail from Ancona to Pescara.

Q50 What type of mail was it?

A50 Registered and non-registered WD mail.

Q51 Give a brief description of the way in which the mail was packed?

A51 They were all in different coloured sacks - some red, some just ordinary sacks, and some ordinary white sacks.

Q52 Were there any marks on the bags?

A52 Just the labels on the bags.

Q53 What was the back of the vehicle like?

A53 There was a door to the back of the vehicle which, when travelling, we always kept locked and to which I carried the key.

Q54 Is it possible to get into the truck if you haven't the key?

A54 It is not possible.

Q55 Why?

A55 You have to come through the door and the whole back is caged in.

Q56 When did you arrive at Pescara that night?

A56 Approximately 2215 hours.

Q57 Tell the court what happened when you arrived at Pescara?

A57 The first thing I done was to unlock the cage of the truck, handing Sgmn Glover 2 bags of mail for the Airmail Port Centre. He returned 2 bags of mail to me from the Airmail Port Centre, thus making still 18 bags of mail on the truck.

Q58 Where were you at this time in Pescara?

A58 I was in the rear of the truck.

Q59 What part of Pescara?

A59 Near the carrier billets.

Q60 Give the court a brief description of what happened next?

65

D2 OPENING ADDRESS BY PROSECUTOR

Gentlemen --- with respect to the first, second and third charges, the evidence of the prosecution will prove that on the night of 15 Oct 44, outside a Signal billet in Pescara, an ELS vehicle of the British Army was improperly taken. In the vehicle were 18 sacks of British Army official mail. On, or about, that night the accused was improperly in possession of the vehicle. Between the 15th of October 1944 and the 31st of October 1944, the accused burned a quantity of the mail that was in the vehicle. On 31 Oct 44 the accused was apprehended in Pescara and at the time of his apprehension he was wearing a pair of breeches which were the property of Sgmn Glover who was the driver of the ELS vehicle that had been taken. The breeches had been in the vehicle at the time it was taken.

D3 First Witness for Prosecution: 2601250 Sgmn Glover F C, 163 DR Sec, 3 Coy, 15 L of C Signals, having been duly sworn, is examined by the Prosecutor:

Q1 Will you give your particulars to the Court, please?

A1 2601250 Sgmn Glover F C, 163 DR Sec, 3 Coy, 15 L of C Signals.

Q2 What was your position in the army on 15 Oct 44?

A2 I was a despatch driver at that time in charge of an ELS truck WD Z5319159 on the run from Ancona to Pescara.

Q3 Describe the structure of the vehicle in question?

A3 It was an ordinary 15 cwt Dodge with the back enclosed in a wire caging of fine net, under the canopy. This caging was welded to the body and completely enclosed the back of the vehicle from the front, sides, top and back. There was a door in the rear which was secured by a chain and lock.

Q4 In the course of your duty that you have described what did you carry in the vehicle?

A4 On 15 Oct 44 there was 18 bags of registered official WD mail locked in the vehicle.

Q5 Generally, in the course of your duties, what did you carry on your runs?

A5 Only the bags of official WD mail and my own kit. We are not allowed to carry anything else without the written consent of the signal-master.

Q6 Did you carry any other type of mail than what you have described as official WD mail?

A6 Only my personal kit.

Q7 On whose charge is the vehicle you have mentioned?

A7 163 DR Sec, 3 Coy, L of C Signals, and it was on my signature.

Q8 And in what army is the unit you have described?

A8 The British Army.

Q9 Was anyone else with you on the night of 15 Oct 44?

A9 I was accompanied by Pte Carter, who was acting as my armed escort.

First Witness for Prosecution (Cont'd)

Q10 Describe the way in which the mail was packed?

A10 It was in mail bags of different types - some canvas and cloth, and the bags were of different colours, some red, some blue and some grey. The bags were secured with string and each had the tag with the registered number of the bag on it, the office from which it was despatched and the office to which it was going.

Q11 Does that hold true of the bags you were carrying on the night in question?

A11 Yes.

Q12 Of the 18 bags that you carried that night to what place were they to be delivered?

A12 When I left Ancona I had 16 bags for the ELS office at San Vito and 2 bags for the RAF office at Pescara.

Q13 Describe what happened on that run?

A13 We arrived at Pescara approximately 2215 hours and I parked the vehicle in the station square outside the Signals billets. We were followed into the square by a vehicle of the RAF Centre. Pte Carter unlocked the cage and gave me the 2 bags for the Air Mail Centre. I handed them to the Cpl IC there and received 2 bags in return, one addressed to Bari and one to Foggia. Those 2 bags were placed in the cage of the vehicle, still making 18 bags of mail. Whilst I was exchanging the bags Pte Carter was taking his bedding into the billet, first having given me the key of the cage. When he came back I sent him to see if the tea was ready and I began to throw the bags into the back of the truck ready to make my bed.

Q14 In the normal run of events where do you sleep?

A14 Carter sleeps in the billet and me in the rear of the truck with the mail.

Q15 Go on - - -

A15 Carter returned and gave me my mug and indicated that the tea was ready. I finished moving the bags, locked the cage of the vehicle and went to the latrine and then to the cookhouse to get my tea, thinking that Carter had already got his tea and was stopping at the vehicle, which was the normal procedure. As I was getting my tea in the cookhouse I noticed Carter was there. As a result of what I mentioned to him he left immediately to go to the truck. He returned and as a result of what he said to me I went with him to where the truck had been parked and found the vehicle missing.

Q16 Approximately how long was it from the time you left the vehicle until you returned?

A16 Approximately 4 to 6 minutes.

Q17 Did you make any attempt to find the vehicle?

A17 Yes. We reported the matter immediately by telephone to the CMP and I accompanied Sgmn Headley in another vehicle to the CMP's office in Pescara to give the necessary description of the vehicle.

..../3

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First Witness for Prosecution (Cont'd)

Q18 At the time you left the vehicle was the cage locked or unlocked?

A18 It was locked.

Q19 Did you give anybody permission to take the truck?

A19 No.

Q20 On the night in question, in addition to the mail you have described, what else, if anything, was in the vehicle?

A20 My complete army and personal kit and items of Carter's kit.

Q21 Will you name any particular items of your kit that may refer to this case?

A21 A pair of motorcycle boots and riding breeches shown to me later by CSM MacCallum of the SIB.

Q22 Apart from the personal letters you had in your kit and the official ELS mail were there any other documents in the truck?

A22 An AB 412 and two work tickets.

Q23 When did you next see the vehicle after 15 Oct 44?

A23 Approximately the 10th of November at the RASC workshop at Pescara.

Q24 How do you know it was the same vehicle?

A24 By the unit signs that had been painted out but were still showing, the WD number of the vehicle was on the tailboard, the section signs were still showing on the door and our section serial number was underneath the door between the door and the running board.

Q25 Describe the condition of the vehicle on 10 Nov 44?

A25 It was fairly badly damaged and the cage had been cut off, apparently with a hacksaw.

Q26 What about the canopy?

A26 The canopy and irons that support the canopy and caging were all missing.

Q27 You have already mentioned CSM MacCallum showing you a pair of motorcycle boots and riding breeches. What date was that?

A27 17 Nov 44.

Q28 Where?

A28 At our Coy office at Vasta.

Q29 Could you identify the boots?

A29 The boots were my size - I couldn't identify them as my boots.

Q30 How about the breeches?

A30 I identified them. They were my size; alterations had been made inside the leg to make them fit me.

Q31 What were the alterations?

A31 Pieces of battle dress had been let in by the tailor to make the breeches bigger so that they would fit me.

Q32 Would you say whether or not they were the same breeches that you left on the night of 15 Oct 44 in the vehicle in question?

A32 Yes. They were the same pair.

Q33 What happened to those breeches?

A33 They were handed to our Coy QM as I had already been issued with new ones.

Q34 Are they available now?

A34 I don't know where they are now.

Q35 In what country did the various incidents you have described take place?

A35 In Italy.

Cross-Examined by Defending Officer

Q36 In that immediate vicinity there are several roads?

A36 Yes.

Q37 Was it a very dark night?

A37 Yes.

Q38 Did your vehicle have lights?

A38 When the vehicle was left there was a light burning in the back of the cage.

Q39 Was it possible to switch on headlights?

A39 Yes.

Q40 When you came out of the Signal's billet did you look up and down the road?

A40 Yes.

Q41 Did you see any light - headlight, tail-light?

A41 No.

Q42 Did you see the lights of any vehicle?

A42 I can't remember now.

Q43 Would it be possible for a vehicle, assumingit was started in the four to six minute interval that you have mentioned in which you were having tea, to get over the range of view if you looked up and down the roads?

A43 Yes.

Q44 Were you asked at any time previous to the assembling of this court to make an effort to procure the breeches you speak about to present to the court for identification?

A44 No.

In the opinion of the Court ~~xxxxxxx~~ it is unnecessary to comply with RP 53(B).

The witness withdraws.

Second Witness for Prosecution: 6022196 Pte Carter R, 1/4 Bn Essex Regt att 3 Coy L of C Sigs, having been duly sworn, is examined by the Prosecutor:

Q45 Give your particulars to the court, please.

A45 No 6022196 Pte Carter R, 1/4 Bn Essex Regt att 3 Coy L of C Sigs.

Q46 What were your duties on 15 Oct 44?

A46 I was acting as escort on an ELS truck, 15 cwt Dodge, on 15 Oct 44, from Ancona to Pescara.

Q47 Who was in charge of the vehicle?

A47 Sgmn Glover.

Q48 What were your duties?

A48 To guard the mail in the back of the truck - to travel in the rear of the truck.

Q49 What were you carrying on the truck that night?

A49 18 bags of mail from Ancona to Pescara.

Q50 What type of mail was it?

A50 Registered and non-registered WD mail.

Q51 Give a brief description of the way in which the mail was packed?

A51 They were all in different coloured sacks - some red, some just ordinary sacks, and some ordinary white sacks.

Q52 Were there any marks on the bags?

A52 Just the labels on the bags.

Q53 What was the back of the vehicle like?

A53 There was a door to the back of the vehicle which, when travelling, we always kept locked and to which I carried the key.

Q54 Is it possible to get into the truck if you haven't the key?

A54 It is not possible.

Q55 Why?

A55 You have to come through the door and the whole back is caged in.

Q56 When did you arrive at Pescara that night?

A56 Approximately 2215 hours.

Q57 Tell the court what happened when you arrived at Pescara?

A57 The first thing I done was to unlock the cage of the truck, handing Sgmn Glover 2 bags of mail for the Airmail Port Centre. He returned 2 bags of mail to me from the Airmail Port Centre, thus making still 18 bags of mail on the truck.

Q58 Where were you at this time in Pescara?

A58 I was in the rear of the truck.

Q59 What part of Pescara?

A59 Near the carrier billets.

Q60 Give the court a brief description of what happened next?

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A60 After that I got my bedding off the truck and handed Sgmn Glover the key of the truck and took my bedding into the billet. Having done that I came straight back to the truck. I then went back into the cookhouse to see if the tea was ready. Finding out it was I came back to the truck getting out drinking utensils, handing Sgmn Glover his mug in the rear of the truck. I then went for my tea.

Q61 Did anyone else go with you?

A61 No.

Q62 Did you see where Sgmn Glover was at that time?

A62 Yes - near the rear of the truck.

A63 Then what happened?

A63 Whilst in the cookhouse Sgmn Glover came in. After a conversation I went back to the truck to find it missing. I immediately reported back to Sgmn Glover, with the result that we both came out to investigate and found that the truck was gone.

Q64 How long were you away from the truck from the time you went to get your tea and the time you first came back and found it missing?

A64 I estimate about four minutes.

Q65 When you found the truck missing what did you do?

A65 I looked around the area to see if I could find it while Sgmn Glover went in to report to the police.

Q66 Were you able to see any trace of it?

A66 No.

Q67 Approximately what time would it be when the vehicle was found to be missing?

A67 Approximately 2230 hours.

Q68 Did you give anyone permission to take the truck that night?

A68 No.

Q69 Apart from the mail that was aboard was there anything else?

A69 Sgmn Glover's full kit and part of my kit.

Q70 Were there any other papers or documents in the truck apart from the sacks of mail you have described?

A70 No.

Q71 Was any of the mail private mail as distinguished from army mail?

A71 No, it was all WD mail.

Q72 How far did you travel in your search after you found the vehicle missing?

A72 I just travelled around the area, around the square.

Q73 What would be the furthest distance you got away from the billet in your search?

A73 60 yards, approximately.

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The Defending Officer declines to cross-examine the witness.

Questioned by Court

Q74 When Sgmn Glover came back into the billet you said you had a conversation. What was that conversation about?

A74 Sgmn Glover told me to go back to the truck.

Q75 Had you been escort on this particular truck before?

A75 Yes.

Q76 For how long a period?

A76 A couple of months, I would say.

Q77 Was it the same driver with you each time?

A77 No, sir, there was a different driver each day.

Q78 Every time you got on that truck Sgmn Glover was the driver?

A78 Yes.

Q79 You mentioned that you went away from the truck to get your tea and that you left Sgmn Glover in the truck. Who had the key while Sgmn Glover was in the truck and you were in the cookhouse?

A79 Sgmn Glover.

Q80 Was there an ignition or a control key for the vehicle - one that turns the ignition off?

A80 I can not answer that question.

In the opinion of the court it is unnecessary to comply with RP 83(B).

The witness withdraws.

First Witness for Prosecution: 2601250 Sgmn Glover F C, 163 DR Sec, 3 Coy, 15 L of C Signals, having been re-called, is examined by the Prosecutor:

Q81 Apart from the key which locks the back of the cage is there any other key required for the vehicle?

A81 No, sir, only one small key for the lock on the tool box.

Q82 What about the ignition?

A82 It is just an ordinary switch.

The Defending Officer declines to cross-examine the witness.

The witness withdraws.

Third Witness for Prosecution: 5778291 L/Cpl Simmons W, 231 Provost Coy, CM Police, having been duly sworn, is examined by the Prosecutor:

Q83 What happened on 31 Oct 44?

A83 On 31 Oct 44, about 2045 hours, I was on duty in Pescara with L/Cpl Parker of the CM Police. I was engaged on checking out of bounds cafes. I entered a cafe which was clearly marked out of bounds. There I saw an Italian patriot and Gnr Mason sitting at a table.

Q84 You mentioned Gnr Mason - who is that?

A84 The man sitting there (indicated accused to court).

Q85 Then what happened?

A85 I checked the identity of the Italian patriot and then questioned Gnr Mason. He answered me in the Italian language. He said "Io Italiano". I asked him to produce documents of identification and he answered "Niente document".

Q86 How was the accused dressed on that occasion?

A86 He was wearing battle dress tunic, motorcycle breeches and motorcycle boots.

Q87 Then what did you do?

A87 I ordered the Italian patriot and Gnr Mason to accompany me to police HQ in Pescara. I placed them both under arrest. This would be about 2050 hours. On the way to the police HQ Gnr Mason appeared unwilling to accompany me. He stopped once or twice and said "Aspette, aspette".

Q88 Did he give you any particulars?

A88 Before we got to the police HQ he admitted that he was - - - he spoke in English with a Cdn accent. When we arrived at police HQ he admitted he was a Cdn. He gave me some particulars which documents proved false.

Q89 What did you do with the accused that night?

A89 He was detained at the Carabinieri prison, Pescara.

Q90 Did you see him again later?

A90 Yes - about 0900 hours on 1 Nov 44, the next morning.

Q91 What took place then?

A91 I queried his particulars as I was not satisfied with those of the previous night. He then said "All right, I may as well give you my correct particulars" and he gave them as follows: C957 Gnr Mason W, 92nd Bty, 3rd Fd Regt, RCA, 1 Cdn Div.

Q92 Was that the last time you saw the accused?

A92 Yes, on the morning of 1 Nov 44.

Q93 Until when?

A93 Until at the summary of evidence here.

Q94 When you saw the accused on 1 Nov 44 how was he dressed?

A94 Battle dress blouse, motorcycle breeches and motorcycle boots.

Q95 Was it the same clothing he was dressed in the night before?

A95 Yes, sir.

..../9

Cross-Examined by Defending Officer

Q96 You told us that you placed Gnr Mason under arrest?

A96 Yes.

Q97 Did you personally place Gnr Mason under arrest?

A97 I arrested him in the out of bounds cafe.

Q98 Tell us what you did or said when you placed him under arrest?

A98 I, in company with L/Cpl Parker, ordered him to accompany me to police HQ and as he had no means of identification he was under close arrest.

Q99 You told him he was under close arrest?

A99 Yes.

Q100 You are sure of that?

A100 Yes. I told him he was under arrest. I was speaking to him in Italian because he was speaking to me in Italian.

Q101 Do you know for sure whether you told him he was under arrest?

A101 No, sir.

Q102 Was he eventually placed under arrest?

A102 Yes.

Q103 Who eventually placed him under arrest?

A103 I placed him under arrest in the cafe.

Q104 Were you quite close to him?

A104 Yes.

Q105 When you went into the cafe did you notice any alcoholic stimulants in the vicinity of the accused?

A105 There were two glasses on the table.

Q106 Did you smell alcohol at all?

A106 No.

Questioned by Court

Q107 It is now the 11th of January 1945 - you mentioned seeing the accused on the morning of 1 Nov 44 at 0900 hours. You seem to have a specially good memory to be able to give the court the actual number, his name, his initials and the unit to which he is supposed to be attached. Can the court presume that you have refreshed your memory in some manner before coming into court?

A107 Gnr Mason was the subject of a 252 which I made out. Eventually, there were five charges before I left the HQ. I studied this to make sure of the facts.

Q108 Your answer is you are able to give that information because you had access to the necessary documents before entering the court?

A108 Yes.

..../10

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Third Witness for Prosecution (Cont'd)

Q109 Were the documents that refreshed your memory the documents which you prepared yourself previously?

A109 Yes, MFB 252.

In the opinion of the court it is unnecessary to comply with RP 83(B).

The witness withdraws.

Fourth Witness for Prosecution: 2693729 CSM MacCallum P W, 67 Sec Special Investigation Branch, Military Police, having been duly sworn, is examined by the Prosecutor:

Q110 Give your particulars to the court, please.

A110 No 2693729 CSM MacCallum P W, 67 Sec Special Investigation Branch, Military Police.

Q111 What do you know about this case?

A111 On 6 Nov 44 I saw Gnr Mason at 98 Gen Hosp, Bari.

Q112 Who is Gnr Mason?

A112 He is here now in the court (indicates accused to court).

Q113 Yes - - - ?

A113 I explained fully to him who I was and the nature of the inquiries I was on. I said to him " I am a WO of the SIB, MP, and I am making inquiries into the loss of an FLS truck No Z5319159 together with 18 sacks of official mail and regimental necessities of two British soldiers stolen from Pescara on 15 Oct 44. I said to him as a result of these inquiries "I have reason to believe you know something about this matter". I cautioned him by saying "You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence".

Q114 Before he said anything - at that time did you make any threats or any promises or hold out to him any hope of reward or promise of immunity?

A114 None whatever.

Q115 What did he say?

Defending Officer to Court

I object. I have reason to believe there are some other factors that can be brought out to show that the statement that was then obtained was not given freely, voluntarily and without compulsion. I submit the statement should not be allowed to be given in evidence until proven that the statement was properly solicited.

Prosecutor to Court

I do not admit the allegations the Defending Officer has made but the answer alleged to have been given is not of sufficient importance to warrant me making a stand on it. I will not ask that the question be answered.

Examined by Prosecutor

Q116 After your interview did you have occasion to see the accused again?

A116 Yes, on 15 Nov 44 at the Ortona guard room.

Q117 What happened on that occasion?

A117 I was then known to him and I again cautioned him in the manner previously stated and told him further inquiries had been made into the loss of this truck and that I had reason to believe that he knew something about the disappearance of the mail.

Q118 The words of warning used - were they the same, exactly, as previously mentioned?

A118 Quite exactly, yes.

Q119 At that time did you make any threats or promises or hold out any inducements or hope of reward if the accused made a statement?

A119 Absolutely none whatever.

Q120 Would you say that statement was made voluntarily or under compulsion?

A120 Absolutely voluntarily.

Q121 Was there anything you did or said or any circumstances surrounding the incident which would put the accused under fear or a sense of compulsion?

A121 None whatever.

Q122 Did he make any reply?

A122 He made a reply.

Q123 What reply did he make?

Defending Officer to Court

I object at this point on the same grounds; if what the CSM is telling the court is in the nature of a confession. We can produce evidence to show it was not entirely voluntary. The court must first find whether the statement was voluntary.

Prosecutor to Court

I agree that the procedure outlined by my friend is correct.

Examined by Prosecutor

Q123 (Cont'd) Was anyone else with you during this last conversation you have mentioned?

A123 Sgt Burt of my detachment.

Q124 Anybody else?

A124 No, just Sgt Burt and I.

Questioned by Court

Q125 How long have you been with the Special Investigation Branch?

A125 Since October, 1941.

Q126 You have had many opportunites then of interviewing people who might be concerned with serious matters?

A126 Yes.

..../12

Cross-Examined by Defending Officer

Q127 SM MacCallum, in your first interview you had with the accused at 98 Gen Hosp, Bari, the first interview, you have told the court you had with him, was not a Sgt Tapell present with you at that time?

A127 Yes.

Q128 And is he not also a member of the Special Investigation Branch?

A128 Yes.

Q129 Do you know if prior to this Sgt Tapell had seen the accused?
A129 Maybe - I don't know.
Q130 Did you not, SM MacCallum, previous to gaining a statement from the accused at Bari threaten him with severe measures if he did not give you a statement?

A130 No.

Q131 You are positive of that?

A131 Yes.

Q132 Did you not at that time tell the accused that you had been in conversation with the Carabinieri and that you knew certain facts surrounding the case of a vehicle and mail which were missing and intimate to him that he might as well tell everything?

A132 No.

Q133 At the Ortona guard room some days later you also told the court you were present with Sgt Burt and the accused?

A133 Yes.

Q134 Did you not take the accused to a little room with no other persons present but yourselves?

A134 That is quite correct.

Q135 Was not, at that time, the accused in your custody?

A135 Temporarily.

Q136 Did you not at some time previous to gaining any statement from the accused, Gnr Mason, strike him twice across the face?

A136 No.

Q137 Did you use any words or threat towards him?

A137 I did not.

Q138 Did you intimate to him, or say to him, that unless he answered you satisfactorily you might take other measures?

A138 Never at any time.

Q139 You did not mention his family or what you might do in connection with his family?

A139 No.

Q140 How long did you keep him in that room?

A140 About one-quarter of an hour.

Q141 You are sure it was not longer?

A141 Yes.

Q142 During that time no one else was present but you, Sgt Burt and the accused?

A142 That is all.

Q143 When did the accused give you the statement which you were about to say that he did make in the light of those fifteen minutes? Early or late?

A143 Fairly early I would say.

Q144 How early?

A144 As soon as I cautioned him.

Q145 Did he make a statement.

A145 Yes.

Q146 Was it a long statement?

A146 No.

Q147 How long did it take to give the statement?

A147 Ten minutes, or less.

Q148 You kept him in this room fifteen minutes?

A148 I estimate about fifteen minutes.

Witness stands down.

Fifth Witness for Prosecution: 2695053 Sgt Burt J, 67 Section, Special Investigation Branch, having been duly sworn, is examined by the Prosecutor:

Q149 Do you know the soldier C957 Gnr Mason WH, RCA?

A149 I do, sir.

Q150 Where is he?

A150 Sitting there (indicates accused to court).

Q151 Did you have occasion to see him in November, 1944?

A151 I did, on 15 Nov 44, accompanied by SM MacCallum at the Ortona guard room.

Q152 What happened on that occasion?

A152 SM MacCallum spoke to Gnr Mason. He told him that further inquiries had been made into the case of a truck being stolen with mail. He said he believed he knew something about it. SM MacCallum cautioned Gnr Mason.

Q153 Give the words as nearly as you can remember of the caution?

A153 "You have been cautioned that you are not obliged to say anything unless you wish to do so. Anything you do say may be taken down in writing and given in evidence".

Q154 Was a reply given?

A154 Yes.

Q155 At the time did you hear of any threat, promise or inducement or any hope of reward or advantage held out to the accused if he did make a statement?

A155 No, there was no threat used.

Q156 Was anything done which would put the accused in fear?

A156 No, not while I was present and I was present the whole time.

Q157 Would you say that the statement was made voluntarily or under compulsion?

A157 I would say the statement was made voluntarily.

Q158 You have stated he gave an answer - was there any hesitation before he gave it?

A158 Not a great deal. He seemed to think for a minute or two and then he made an answer.

Q159 During the period he was thinking was anything being said to him?

A159 No.

Q160 Will you give the answer that the accused made?

Objection by Defending Officer.

Court directs no answer.

Q161 How long have you been in the Special Investigation Branch?

A161 Two years.

Q162 And have you had occasion to interview military personnel on other occasions with respect to alleged offences?

A162 On several occasions - I would say numerous occasions. We are always dealing with military personnel.

Q163 Have you a working knowledge of the legal requirements of obtaining a statement from a witness?

A163 Yes, I have learned the Judge's Rules at one time. We have a knowledge of law which helps to guide us and take evidence from accused people and ordinary witnesses.

~~Q164~~ Cross-Examined by Defending Officer

Q164 Do you remember quite clearly the day the events that occurred when yourself, SM MacCallum and the accused were together in the guard room?

A164 15 Nov 44.

Q165 You remember quite clearly what took place?

A165 I remember being in the Ortona guard room on that day.

Q166 This interview that was spoken of - was that statement made in a room where you and SM MacCallum and the accused were alone together?

A166 It was a bedroom for the people in the guard room to sleep.

Q167 No one else was there?

A167 No.

Q168 How long would you say this interview lasted?

A168 One-half an hour.

Q169 The statement that you claim was given - was it a lengthy statement?

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A169 No, SM MacCallum took it down in his notebook.

Q170 And it was quite short?

A170 Yes, quite short.

Questioned by Court

Q171 Why did you and CSM MacCallum go to see Gnr Mason in the first place?

A171 As the result of certain information and in the course of my normal duty.

In the opinion of the Court it is unnecessary to comply with RP 83(B).

The witness stands down.

Defending Officer to Court

I propose to call the accused on statements that were alleged to have been taken from him.

The accused C957 Gnr Mason WH, RCA, att fap Cdn Sec GHQ 1 Ech AFHQ, having been duly sworn, is examined by the Defending Officer:

Q172 I want you to tell the court just what happened at the interview that you had with SM MacCallum at the 98 Gen Hosp, Bari, on that day in November?

A172 On 15 Nov 44, SM MacCallum came to 98 Gen Hosp to see me. He said he had got information from the Carabinieri that I had driven a truck into the ditch at Pratola and that it was a mail truck carrying ELS mail and had reason to believe that I knew more about it and told me that I would have to make a statement.

Q173 Did you volunteer a statement?

A173 No, I refused to make a statement.

Q174 Did the SM say anything else to you?

A174 The SM threatened that he would beat me all around the building if I didn't give him a statement.

Q175 Did he, at that time, use any violence?

A175 No.

Q176 Did you make a statement at that time?

A176 A small statement.

Q177 You are not very sure of the date, Gnr Mason, are you? You have given the date as 15 Nov 44 - is that correct?

A177 Not exactly. I wouldn't say exactly that was the date.

A178 Was that the approximate date? Do you remember when you were arrested?

A178 Yes.

Q179 Was it shortly after that or quite a while?

A179 About a week after that.

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Q180 Do you remember at a time after this interview you had with the SM at Bari having another interview with him?

A180 Yes.

Q181 Where did that take place?

A181 At Ortona.

Q182 Who was present.

A182 SM MacCallum and Sgt Burt.

Q183 What happened at that interview?

A183 SM MacCallum and Sgt Burt took me out of the barrack room and took me down into a small room. The SM threatened to beat me up - in fact he hit me twice - if I didn't give him a full statement.

Q184 Where did he strike you?

A184 In the face. He also said that he had written the GOC and that he had pemmission to do anything with me. He also said he would notify my family at home and if I didn't give a statement I would probably be shot. Several different threats he used besides that I can't remember.

Q185 How long do you thinkyou were in this little room with the two NCOs?

A185 About fifteen to twenty minutes.

Q186 In all that time did any other person come into the room?

A186 No.

Q187 Did you make a statement at that time?

A187 Yes.

Q188 Did you make it because you were afraid or ~~xxxx~~ do you honestly think it was a statement you made voluntarily?

A188 It was not voluntary.

Q189 Do you understand what a caution is?

A189 Yes.

Q190 Was a caution administered to you during that interview?

A190 No.

Q191 Are you sure of that?

A191 Yes.

Q192 Was a caution administered to you at Bari?

A192 Never.

Q193 Is it possible that the caution might have been administered and you don't remember?

A193 No. No caution was administered.

Q194 Did you have a later interview with CSM MacCallum?

A194 Yes.

Q195 Where?

A195 At Sulmona.

..../17

Cross-Examined by Prosecutor

Q196 On the first occasion you said that CSM MacCallum told you you had to make a statement?

A196 Yes.

Q197 What were his exact words?

A197 He said that he had information from the Carabinieri that I had driven a truck into the ditch at Pratola and that he knew I knew something about the mail and stolen vehicle and that I had to make a statement and that if I didn't make a statement he would beat me all around the room.

Q198 Was that the first statement?

A198 Yes.

Q199 You say you refused to make a statement on the first occasion?

A199 After him telling me all about this Carabinieri I made a small statement.

Q200 Is it not true you made a statement because you felt that he knew about it already?

A200 No.

Q201 Why do you say that after he told you about the Carabinieri you made a statement?

A201 After being threatened with being beaten up I made a statement.

Q202 Did he make any motions at you?

A202 Previous to his visit another Sgt came in and I told him nothing then he came back with this SM. He threatened to beat me up. I made a statement. I wasn't going to take a chance - there was two against one.

Q203 Who was the other person present?

A203 Another Sgt.

Q204 He used no violence to you at that time or no gestures to frighten you?

A204 No, he just threatened me.

Q205 On the second occasion at Ortona when CSM MacCallum and Sgt Burt were there, you say that somebody hit you. Who was that?

A205 SM MacCallum.

Q206 How many times?

A206 Twice.

Q207 What hand did he use?

A207 His left. He slapped me across the face with the back of his hand.

Q208 What was Sgt Burt doing at that time?

A208 Sitting on the bed.

Q209 What did you say?

A209 I said nothing.

Q210 You just stood there and let him do it?

A210 Yes.

Q211 Didn't you make any protest?

A211 No.

Q212 Why not?

A212 Because I knew it was no use.

Q213 What made you think it wasno use?

A213 Well - - - If I got up and hit him what would I have got?

Q214 Why didn't you ask Sgt Burt for his protection?

A214 He was probably just as bad.

Q215 That is the reason you didn't say anything?

A215 Yes.

Q216 What made you think Sgt Burt was as bad - you just assumed that he was a policeman, he must be bad?

A216 I never got up to do anything about it.

Q217 You have said that they threatened to notify your family?

A217 Yes.

Q218 Were you concerned about that?

A218 Yes.

Q219 You didn't think your family would find out anyway?

A219 I didn't think me family would find out about anything I did.

Q220 You said that someone told you you would probably be shot if you didn't make a statement?

A220 Yes.

Q221 Who?

A221 SM MacCallum.

Q222 Was Sgt Burt there?

A222 Yes.

Q223 Did you believe him?

A223 No, I didn't believe him.

Q224 In other words you thought he was putting up a big bluff if he said that?

A224 To a certain amount, yes.

Q225 Did either SM MacCallum or Sgt Burt say anything to cause you to make an untrue statement?

A225 Well - I wouldn't say yes or no. The questions were coming so fast.

..../19

Q226 I am talking about the occasion of 15 Nov 44 at Ortona. Did either of them say or do anything that would make you make a false statement?

A226 No.

Q227 And you say there was no caution administered on either of the two occasions?

A227 No.

Q228 Were the words used similar to these "You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence"? Were words similar to that used?

A228 No.

Q229 Nothing similar?

A229 There were no words used, nothing.

Q230 As a matter of fact what made you give the statement was the fact that they already had information about you, was it not?

A230 No.

Q231 What do you think the reason you gave the statement was?

A231 Because they threatened to beat me up.

Q232 That is the only reason?

A232 Yes.

Q233 Did you think of calling for help?

A233 I was in an English jail and I wouldn't get much help from them.

Q234 Don't you know that what we call the third degree is not allowed?

A234 I don't know whether it is allowed but it is being done every day.

Q235 Don't you know it is not allowed officially and if you complain strongly to us and expose people who are doing it they will be dealt with?

A235 Yes.

Q236 Then why didn't you make some attempt to complain?

A236 I know it now but I didn't know it before.

Re-Examined by Defending Officer

Q237 Tell us if you know whether there was any guard outside that room where you were with SM MacCallum and Sgt Burt at the Ortona jail?

A237 I was escorted down as far as the door and handed over to them.

Q238 This knowledge that you say you how have about the third degree being used - where did you acquire that?

A238 Just since this case.

Q239 Do you know or have you heard of other cases where the third degree is said to have been used?

A239 Yes.

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Questioned by Court

Q240 When you were in the hospital at Bari were you a bed patient there?

A240 No. I was in a cell at Bari.

Q241 How did you come to be confined in Pescara and end up in the Bari guard house?

A241 They sent me to a hospital in Bari.

Q242 Were you sick?

A242 Yes. I went sick in the Central Guard Room in Ortona.

Q243 When SM MacCallum saw you in the hospital in Bari you were in a cell by yourself?

A243 Yes.

Q244 When the SM hit you how hard did he hit you?

A244 Quite hard.

Q245 Did it leave any mark?

A245 No.

Q246 When you came out of the small room where was your escort?

A246 I didn't see any escort. The SM took me back to the guard room.

Q247 You said you went sick at Ortona?

A247 Yes.

Q248 Your reasons for reporting in the normal manner on sick parade is that you, with your knowledge of the army, know that when you use the proper channels you are taken care of. Is that correct?

A248 Yes.

In the opinion of the Court it is unnecessary to comply with RP 83(B).

At 12:30 o'clock, 11 Jan 45, the Court adjourns to re-assemble at 2:00 o'clock.

At 2:00 o'clock, 11 Jan 45, the Court re-assembles. The accused is brought before the Court.

Prosecutor to Court

I would like to state to the court the grounds on which I submit the stat ment which the accused is alleged tohave made is admissible in evidence. I refer the court to MML, p 90, at the foot of the page, para 74. I am quoting - "The rule as to confessions is that before a confession can be received in evidence, it must be proved affirmatively by the prosecution that it was free and voluntary"; that is, it is up to the witnesses for the prosecution to give evidence that the statement was voluntary. It is not for the accused to prove that it was not voluntary. Continuing, at para 75, "For this purpose a confession is deemed not to be free and voluntary if it appears to have been caused by any inducement, threat, or promise proceedingx from a magistrate or other person

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Prosecutor to Court (Cont'd)

in authority or concerned in the charge, and having reference to the charge against the accused person, whether addressed to him directly or brought to his knowledge indirectly; and if, in the opinion of the court, the inducement, threat, or promise gave the accused person reasona ble grounds for supposing that by making a confession he would gain some advantage, or avoid some evil in reference to the proceedings against him". It is for the court to say, to find as a matter of fact, whether the confession alleged to have been made in this case was, in fact, made voluntarily. In order to assist the court in what the criminal courts in England have done in circumstances in which they found themselves, in cases of this type, I refer the court to Archbold's Criminal Pleading Evidence & Practice 31st Edition, p 367, which reads, in part, as follows - "After the prisoner had answered a few questions, the superintendent stopped the officer from asking more, and arrested the prisoner. Wills J held that the answers were admissible, as the officer had held out no threat or inducement, and there was no compulsion, and nothing to force the prisoner into a position in which he would be likely to make an untruthful answer". Again, in the middle of p 369, "where one of the prisoner's employers, having called him up into his private room, said, 'I think it right that I should tell you that, besides being in the presence of my brother and myself, you are in the presence of two police officers; and I should advise you that, to any questions that may be put to you, you will answer truthfully, so that if you have committed a fault you may not add to it by stating what is untrue'; and having shown a letter to him, which he denied having written, added, 'Take care; we know more than you think we know', and the prisoner thereupon made a confession; it was held that such confession was admissible". I put that in in connection with your consideration of the fact that the CSM explained that he had certain knowledge which may have made the accused apprehensive. It is not a disqualifying factor. The mere fact that you point out that you have certain knowledge and the accused might think that you have more than you have does not make a statement inadmissible, for that reason only. A further quotation on p 373 states "Where a constable in the course of a conversation between himself and the prisoner respecting the subject-matter of the charge and immediately before apprehending the prisoner said to the prisoner, 'I must know more about it', it was held that the use of this expression by the constable did not render a statement thereupon made by theprisoner inadmissible". But, in summing up, Gentlemen, I point out that the references I have mentioned are only guides as to what was done in those particular cases. It is for the court to say, in this particular case, whether the accused did make a statement voluntarily or whether he was induced by any threats which would made the statement untrue for that reason. It is for the court to say, on the evidence as they have heard it, what is the particular fact in this case. I point out, in fairness to the accused, that if you have any reasonable doubt, that doubt should be given to the accused. On the other hand, the court may believe, or disbelieve, any, or all, of the evidence of any of the witnesses they have heard, and in considering the circumstances as a whole make a finding on what they think actually happened.

Defending Officer to Court

I am going to be very brief. I think the prosecutor has been very fair in his summation of the law, the decision of which rests with you. I would like to say a few words on that point. He has called your attention to the authorityy on English law on which our courts are based. I can do no better but hope that you will have recourse to Archbold in basing your decision. The

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Defending Officer to Court (Cont'd)

broad principle as Archbold has recited it at p 366 is simply that a confession to be admissible must be free and voluntary and unless it be shown affirmatively on the part of the prosecution that it was made by a person not being induced to make it by any undue measures it shall not be received in evidence against him.
The two NCOs concerned in the point in question were both individuals in authority because of their jobs. We are not arguing about a fine point as to where the information came from when the CSM prompted the accused that he had further facts. It goes deeper than that. We believe that you believe a show of violence was used which placed the accused in a sort of fear. The book uses the word 'terror' and also the words 'menace' and 'threat'. I believe our case comes within at least one of those three words - 'threat'. I firmly believe the statement of the accused. He has given it honestly and has withstood the prosecution's attempt to shake him. It is for the court to decide whether he has told the truth, in refusing to admit the confession in evidence. One or two examples of that are cited in Archbold at p 366, but they are definitely clear-cut decisions. The mere words "It will be better for you if you confess, it will be better for you if you tell the truth", have been held in a great many cases to have brought about confessions involuntarily. They are, therefore, inadmissible. In the last analysis, I think the case in question shows a special, a flagrant, use of violence and shows that no reasonable man can say that statement, and confession that followed it, was voluntary. You have noted the two NCOs who have given evidence before the court. It is a dangerous thing to say that a man has perjured himself but in view of my client's evidence on the point I can not fail to think that that is so in this case. I call your attention to the evidence given by these two NCOs with reference to the period when these individuals had the accused in the Ortona guard room. They both said a very brief statement was elicited at that time. When asked how long the interview lasted one used the words "ten to fifteen minutes" and another "one-half hour". No reasonable man would believe, in view of all circumstances, when there were two NCOs with a certain job to do, in a guard room alone with this man, whom in their own minds was guilty of committing some offence, that they would take all that time in getting a voluntary statement which took only a few minutes to record. Both of these gentlemen are well proportioned, able-bodied, big men, outwardly quite capable of carrying out any threat that they had used against the accused. Whether or not they did, the accused has said he was struck twice, the threats would be sufficient to make him be in reasonable fear believing in his own mind that they would carry out the threats. Be that as it may, I would again call the attention of the court on the question of a threat being used by a person in authority in the taking of a statement.

Court closed to consider admissibility of statement.

The Court is re-opened. The accused is brought before the Court.

President to Defending Officer

The Court dis-allows the objection of the Defending Officer.

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Fourth Witness for Prosecution: 2693729 CSM MacCallum, 67 Sec Special Investigation Branch, Military Police, having been recalled, is examined by the Prosecutor:

Q249 On 15 Nov 44 what was the reply of the accused to the invitation you gave him to make a statement?

A249 He said "Yes, I burned the mail. I can show you where I burned it. I didn't steal the truck".

Q250 As a result of that did anything happen?

A250 He accompanied us that afternoon and endeavoured to show us the spot where he had burned the mail in the Sulmona district.

Q251 With what result?

A251 He took us to the road which he believed was the road on which he burned the mail but he could not point out the exact spot where this burning took place.

Q252 Then what happened?

A252 We had to detain him for one night at the Carabinieri jail in Sulmona. He was brought to the office of the Field Security in Sulmona. I cautioned him and said to him that I was of the opinion that he could tell us a good deal more about the matter.

Q253 What did he say in reply to your question?

A253 He said "Yes, I will tell the truth to the best of my knowledge. I can not remember too clearly". I asked if he wished to make an explanation in writing and he said he did.

Q254 On this occasion, on the 16th of November, was any threat, promise or inducement made to the accused in order to have him make a statement on that day?

A254 None whatever.

Q255 Did he make a statement?

A255 Yes. He made a statement in writing to Sgt Burt in my presence.

Q256 Was there anyone else present?

A256 Sgt McKee.

Q257 Was anything done before the accused made the statement?

A257 He was cautioned again by Sgt Burt.

Q258 Verbally or in writing?

A258 It was written down by Sgt Burt who then read it over to Gnr Mason who appeared to understand it and signed it.

Q259 The form of caution will later speak for itself. In order to assist the court as to whether or not this statement is admissible will you give a general idea of what it contained?

A259 He was told he need not say anything unless he wished to do so but anything he did say would be taken down in writing and used in evidence.

Q260 After the accused had signed the caution then what happened?

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A260 He proceeded to make a story at his own dictation which was taken down in writing by Sgt Burt.

Q261 Were you present during the whole statement?

A261 I was.

Q262 During the taking of the statement were any questions put to the accused by anybody present at that time?

A263 No questions other than possibly to remove any doubt as to times and places which he mentioned in the statement.

Q264 After the statement was completed what took place?

A264 It was read over to him by Sgt Burt then handed to Gnr Mason who perused it and agreed to it and signed it.

Q265 At the time of the signing by the accused who were present?

A265 Myself and Sgt McKee and Sgt Burt.

Q266 Did anyone else have occasion to sign the statement?

A266 Only the accused and Sgt Burt, myself and Sgt McKee

Prosecutor to Court

I am formally tendering this statement - - - - -

Defending Officer to Court

I object on the ground that this statement was also obtained involuntarily and that until it has been decided by the court whether it was obtained voluntarily or involuntarily it should not be admitted at this time. In fairness to the accused the procedure that we have followed before, in the large part, will have to be done over again.

Cross-Examined by Defending Officer

Q267 You say that the statement was dictated by the accused?

A267 Yes.

Q268 Sgt Burt wrote it down ?

A268 Yes.

Q269 What do you understand by dictation?

A269 An entirely voluntary statement given quite voluntarily.

Q270 How long was the statement - roughly?

A270 About four pages.

Q271 And every word of that, except perhaps one or two clarifications, came from the lips of the accused with no prompting on your part or on the part of Sgt Burt or Sgt McKee?

A271 Yes.

Q272 You are positive of that?

A272 Yes.

Q273 Is it not true that you in fact prepared a good part if not most of that statement basing your information on the two previous statements you had obtained from the accused and also rounding it out with information you had received from the Carabinieri and perhaps

some Italians you might have interviewed?

A273 Quite definitely not.

Q274 How long did you say this statement took in its presentation?

A274 About three-quarters of an hour.

Q275 And all that time the accused was talking freely, everything coming forth from his lips voluntarily?

A275 Yes.

Q276 You didn't threaten him in words or acts?

A276 No.

Q277 Where did this take place?

A277 In the Field Security office in Sulmona.

Q278 Sgt McKee - what is his position?

A278 IC of the detachment at Sulmona.

Q279 Were any others present besides those you mentioned?

A279 No.

Q280 You have mentioned possible points of ambiguity. What would be a possible point of ambiguity?

A280 We may have asked whether it was Sulmona or Pratola where the kit was missing.

Q281 You did not at any time suggest to the accused pertinent facts surrounding the alleged facts against him? You did not at any time put words in his mouth?

A281 No.

Q282 When you cautioned the accused what did he say?

A282 "Yes, I will tell the truth to the best of my knowledge but I can not remember too clearly".

Q283 Are you quite sure you heard the caution?

A283 I am quite positive.

Q284 Who administered it?

A284 I did.

Q285 Who did the writing?

A285 I point out that he was twice cautioned. I cautioned him myself. He was again cautioned by Sgt Burt who took down his written statement.

Q286 After this statement had been written down were you present at the time?

A286 Yes.

Q287 And who supplied the pencil for the signature?

A287 It is quite possible one of the others may have.

Q288 Was the accused told to sign it?

A288 It was put to him in the usual procedure.

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Q289 Was he told to sign it?

A289 He was invited to sign it.

Q290 Who said that to him?

A290 I did.

Q291 What did you say?

A291 Do you care to sign it.

Q292 What did he say?

A292 He agreed to sign.

Q293 And what did he do?

A293 He signed it.

Q294 Where?

A294 Twice on the first page, signed the next page and the next page and the final one.

Q295 In other words what you are trying to inform is, SM MacCallum, is that this man entirely voluntarily having given the statement, after having been invited to sign it, an ordinary man of the ranks, proceeded to put his signature on the first page, the second page, etc.?

A295 We advised him to read it over carefully and if he was satisfied with it to initial each page.

Q296 What do you mean by advising to initial or sign the first page etc. What did you say to him?

A296 We were quite fair with him.

Q297 Did you or did you not tell him where he was to sign the statement?

A297 We told him where to put his signature and he was quite happy about it.

Q298 Do you think an ordinary man, whether he be in the army or out, without any knowledge of military procedure would sign a statement on every page - would sign after an opening caution, would sign at the foot of the first page, the second page, etc, without being told? Do you think he would?

A298 I should think so.

In the opinion of the court ~~xxxxxx~~ it is unnecessary to comply with RP 83(B).

The witness withdraws.

Fifth Witness for Prosecution: 2695053 Sgt Burt J, 67 Section, Special Investigation Branch, having been re-called, is examined by the Prosecutor:

Q299 On 15 Nov 44 when you and CSM MacCallum ~~xxxxxxx~~ visited the accused you have stated that the accused made a verbal statement?

A299 That is right.

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Q300 Tell the court what that statement was?

A300 He said, "Yes, I burned the mail. I can show you where I burned it, but I didn't steal the truck".

Q301 Following upon that did you do anything?

A301 We went up to Sulmona, SM MacCallum, Gnr Mason and myself, where we went around in a truck and Gnr Mason showed us a side road and he said that this looked like the road where he burned the mail. We searched but couldn't find any trace of what grass would be like after burning mail. He was pretty certain that was the road.

Q302 Did you have occasion to speak to the accused after 15 Nov 44?

A302 On 16 Nov 44 the accused was brought from the Carabinieri guard room at Sulmona to the Field Security office there and SM MacCallun again spoke to him. He said "I still think you can tell us more about this Mason". Gnr Mason replied "Yes, I will tell the truth to the best of my knowledge. I can't remember everything too clearly". SM MacCallum asked him if he would like to put it down in writing. He said "Yes" and was then cautioned by SM MacCallum in the first place. I was instructed by SM MacCallum to get ready to take the statement down in writing. The statement was started off with an opening caution "I am not obliged to say anything unless I wish to do so but anything I do say may be taken down in writing and used in evidence". When I wrote that down I read it over to Gnr Mason and he signed it.

Q303 Did you ask him to sign it?

A303 Yes. I asked him if he understood the caution and if he did to sign. I took the statement down at Gnr Mason's dictation.

Q304 Entirely in your own handwriting?

A304 All except the signature.

Q305 During the taking of the statement were any questions asked?

A305 Only to clear up questions of ambiguity, such as times, places and dates.

Q306 At any time on 16 Nov 44 was any threat, promise or inducement or hope of reward made or held out to the accused?

A306 The statement was made voluntarily. He was not forced. He was told the statement was voluntary.

Q307 After the statement had been taken down then what happened?

A307 I read it over to Gnr Mason and asked him to read it and if he was satisfied to sign it. He signed the statement and seemed to be quite satisfied with it.

Q308 Did he look at it first?

A308 Yes. I took it that he was reading the statement.

Q309 How long a period had elapsed from the time he was handed the statement until signing it?

A309 Approximately three or four minutes.

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Q310 Was there anything said during that period?

A310 No. He was allowed to read it and he never asked any questions about it. I asked him if he was satisfied and he said "Yes". I asked him to sign it and he signed it.

Q311 How many times did he sign the statement?

A311 At the bottom of each page and at the end of the statement after the caution.

Q312 Anyone else sign on the statement?

A312 CSM MacCallum, Sgt McKee and myself.

Cross-Examined by Defending Officer

Q313 Sgt Burt - you remember quite clearly the words that Gnr Mason made on each of the occasions when you were present and a statement was gained from him?

A313 Yes.

Q314 Have you at one or more times since November, which is considerably a period in the past, rehearsed the evidence that you were to give at any pending investigation investigation, court-martial or court of inquiry pertaining to the statements that you have said Gnr Mason made?

A314 Prior to my leaving HQ at Taranto I read over my statement to refresh my memory.

Q315 When was that?

A315 Last Friday.

Q316 Can you as of your own knowledge now tell the court that you remember, apart from having access to any document at all, what the accused said on those dates? Can you without having refreshed your memory?

A316 Perhaps not word for word. I had a good idea.

Q317 When was the last time prior to coming here that you have been on an investigation of any kind?

A317 Right up to coming here.

Q318 In other words you were on inquiries early in January and throughout December, as usual?

A318 Yes.

Q319 Would you be able to tell the court now that you had a statement that a man in a similar position to this man had made, say on 31 Dec 44?

A319 Yes.

Q320 Would you be able to tell the court about a statement from a similar accused made on 15 Dec 44, which is about a month ago?

A320 There are only certain cases upon which you have to make a certain report because you know that something is going to happen about that case. It is not every day we are dealing with a soldier.

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Q321 If it is an important case do you immediately go over the statement in your mind and fix it firmly in your mind?

A321 If it is an important case, yes.

Q322 If the case comes up a month or two months later you are able to recall it?

A322 Yes.

Q323 Have you not since this case first came up gone over with CSM MacCallum and Sgt McKee both, or either one of them alone, and rehearsed your evidence making sure that it jibed?

A323 No, I didn't meet them until I came to Foggia. He said do you remember your evidence and I said yes.

Q324 How does it happen that your evidence is absolutely identical?

A324 We were both there together.

Q325 You have not, at some time, rehearsed the evidence?

A325 No.

Q326 I believe you said the caution was read over to the accused and signed by the accused before the statement was taken down?

A326 Yes.

Q327 Are you positive of that?

A327 Yes.

Q328 Was the caution signed after the statement itself was signed?

A328 The caution was xxxx written down and signed by the accused before the statement was taken down.

Q329 Did you, in fact, read the statement to the accused yourself?

A329 Yes, I read it over to him and handed the statement to him to read if he wanted to.

In the opinion of the court it is unnecessary to comply with RP 83(B).

The witness withdraws.

<u>Sixth Witness for Prosecution:</u> 3249133 Sgt McKee D, 419 Field Security Section, Intelligence Corps, having been duly sworn, is examined by the Prosecutor:

Q330 Tell the court what happened on 16 Nov 44?

A330 SM MacCallum sent me and Sgt Burt to the Carabinieri jail to bring Gnr Mason back to my office and billet.

Q331 Who is Gnr Mason?

A331 (Indicates accused to court.

Q332 What happened in your billet?

A332 When we got back SM MacCallum was responsible for him, he took him over. There was some conversation went on and I believe at this point SM MacCallum warned Gnr Mason that he was not obliged to say anything but that if he did it would be used in evidence against him. In other words, he was given a caution.

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Q333 Then what happened?

A333 SM MacCallum and Sgt Burt proceeded to take the statement from Gnr Mason.

Q334 How was that statement taken?

A334 It was written down.

Q335 By whom?

A335 It was written down by Sgt Burt at Gnr Mason's dictation.

Q336 On that morning were any threats or promises made or any inducements or hopes of reward held out to the accused to have him make the statement?

A336 I didn'thear any.

Q337 What happened after the statement was written down?

A337 It was duly signed by myself, Gnr Mason, SM MacCallum and Sgt Burt

Q338 After it was written and before it was signed was anything done?

A338 Yes. I remember Sgt Burt asking Gnr Mason if he wanted to read it over.

Q339 Did he?

A339 I think I can remember him taking the statement and perusing it.

Q340 Did anyone else read it over or sign it?

A340 I can't remember whether any one else read it or not.

Q341 You are not in the Provost Corps?

A341 No.

Q342 Has Field Security work anything to do with taking statements from soldiers?

A342 In very, very isolated instances.

Cross-Examined by Defending Officer

Q343 Have you ever taken a statement from a soldier yourself or from anybody?

A343 Yes, I have. Not from a soldier but I have from a civilian.

Q344 If you were taking a statement from a soldier would the procedure resemble that in the case of a civilian?

A344 Well - - I have only dealt with Italian civilians.

Q345 How do you get a statement from an Italian civilian?

A345 I ask them if they are willing to make a statement to me and if they are I proceed.

Q346 Do you know whether or not that is proper in taking statements from our own soldiers?

A346 I should think the proper procedure is to issue a warning first of all.

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Q347 Where were you standing in this room that you were in when the statement from Gnr Mason was gained in relation to theothers in the room?

A347 The room was an ordinary sitting room with a little wine table. We were more or less sitting around it.

Q348 You are quite aware of everything that went on?

A348 I was wide awake.

Q349 Do you know as a matter of fact that a caution was administered to Gnr Mason that morning?

A349 Yes.

Q350 You are positive?

A350 Yes. I signed my name to that effect.

Q351 How long would you estimate you were in that room together?

A351 As I recall now,it is almost two months ago, I should say one and one-half hours possibly.

Q352 And the statement that was gained from the accused - about how long would it be?

A352 I should say possibly within the time limit of one and one-quarter hours.

Q353 How long in pages of words?

A353 I can scarcely remember. There were several pages if I remember correctly.

Q354 Are you sure who wrote it down?

A354 Yes.

Q355 Do you know as a matter of fact now if that statement was read over to the accused?

A355 I would not say definitely. I am pretty sure that it was. I can not remember definitely.

Q356 Do you remember the moment in that room when the statement was complete and all that remained to do was to sign it?

A356 Yes,

Q357 Did the accused volunteer himself to pick up the pen or pencil and sign that statement?

A357 No one forced him to do it.

Q358 Did any one show him where he was to sign?

A358 I can not remember that actually.

Q359 Do you know now where he did sign?

A359 Yes, at the endof the statement and various other places.

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Q360 Do you know whether he signed in those various other places on his own initiative?

A360 Nobody forced him to.

Q361 If anyone was to say to sign here would you call that force?

A361 No. I am afraid there would have to be a menace behind it.

Q362 In your knowledge it is possible that somebody told him in that room where he was to sign that statement?

A362 I suppose it is possible that someone pointed out theplaces to sign.

Q363 Do you know if someone did?

A363 I can not recall it.

Q364 Do you know, Sgt McKee, if in the course of this interview and the writing down of the statement whether or not the CSM wrote down considerable of that statement ?

A364 The CSM? I don't think so.

Q365 Do you know?

A365 No, he certainly did not.

Q366 So that every word of that statement to all intents and purposes was a reproduction of what the accused let fall from his own lips?

A366 Yes.

Q367 You are sure of that?

A367 Yes.

Questioned by Court

Q368 Do you know CSM MacCallum and Sgt Burt?

A368 In the course of my duty I have met them on several occasions.

Q369 When did you last see them before you arrived here for this case?

A369 At the time of this incident.

In the opinion of the court it is unnecessary to comply with RP 83(B).

The witness withdraws.

The accused C957 Gnr Mason WH, RCA, att fap Cdn Sec GHQ 1 Ech AFHQ, having been re-called, is examined by the Defending Officer:

Q370 I am confining myself to the issue of the objection pertaining to the admissibility of this statement.
Do you recall quite clearly the events that took place in the Field Security room at Sulmona on or about 17 Nov 44?

A370 Yes.

Q371 Tell the court in your own words just what happened on that day in that room?

A371 The night before that they put me in the Carabinieri jail and told me they were going to leave me there until I signed the statement.

Q372 Who told you that?

A372 The CSM.

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Q373 Yes - - -?

A373 The next morning they took me to this room. They had two statements already taken under force. With those statements and with information from other places around there he made out this other statement.

Q374 It is very important, Gnr Mason, that you be quite explicit, quite clear. Do not assume that we know things. The court knows nothing about this.
You say he made out this statement - what do you mean, exactly?

A374 Sgt Burt wrote the statement down with the other two statements. I helped with some but I was forced to say it.

Q375 Howwere you forced to say it?

A375 He said he would keep me there under close arrest until the statement was made.

Q376 Do you recall him saying that?

A376 Yes, I do.

Q377 Where?

A377 In The Field Security office at Sulmona.

Q378 Was any violence shown on that day?

A378 No.

Q379 Were any threats made?

A379 He threatened that he would beat me up; that I'd get the shit kicked out of me.

Q380 Do you remember exactly what he said?

A380 No.

Q381 Are you positive that at Sulmona he made threats?

A381 Yes.

Q382 And the threats were roughly what?

A382 He threatened he would beat me.

Q383 Were the other two Sgts present at that time?

A383 Yes.

Q384 You say from the other two statements, in part, this statement was made up?

A384 Yes.

Q385 How do you know that?

A385 They had them there.

Q386 Did you see them?

A386 Yes.

Q387 In what were they contained?

A387 In a small note book. He also said he wouldmake up one statement and that he would tear the other two statements up if I signed the one statement.

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Q388 He definitely told you that?

A388 Yes.

Q389 Did he in fact tear up the other two statements?

A389 Yes.

Q390 In your presence?

A390 Yes.

Q391 And did you see him actually write down in a new statement what he had in a note book and actually copy from the note book to the statement?

A391 I wouldn't say from the note book to the statement.

Q392 Did you see him looking at the hote book?

A392 Yes.

Q393 Who was doing the writing?

A393 Sgt Burt.

Q394 Who had the note book?

A394 The CSM.

Q395 How did Sgt Burt embody what was in the note book?

A395 They were both talking together and he was taking out things that were in the note book questioning me.

Q396 Up to this time had any caution been given to you?

A396 No.

Q397 Was anything ever said to you in that room, such as "You don't have to say anything unless you care to do so", or words to that effect?

A397 I was never cautioned.

Q398 Do you remember seeing a document after your interview drawn up by Sgt Burt?

A398 The statement? Yes, sir.

Q399 Did you read it?

A399 No, sir.

Q400 You are sure of that?

A400 I am sure.

Q401 Did any one of those three NCOs read it to you?

A401 No.

Q402 Are you positive of that?

A402 Yes.

Q403 How long would you say this statement was?

A403 I would say about two pages.

Q404 Did you read it through?

A404 I never read it at all.

Q405 Did you as a matter of fact make a statement or utter the words that came in that statement?

A405 No, I did not.

Q406 Did you make any statements to them on that day?

A406 I said a few words to them but I never dictated a statement. I just answered questions I was asked.

Q407 About how many questions would there be?

A407 He asked me quite a number of questions.

Q408 What do you understand by the word dictation? Did you dictate that statement on that day?

A408 No. I answered a few questions that he asked me.

Q409 Were you afraid of these Sgts - physically afraid?

A409 Yes.

Q410 At Sulmona?

A410 Yes.

Q411 The Sulmona interview was after Ortona?

A411 The next day he had me interviewed.

Q412 Did you honestly believe in your own mind in that Sulmona room that if you did not sign that statement that they would carry out their threats?

A412 Yes.

Q413 When it came to signing the statement what did you do?

A413 I didn't want to sign it. He said if I didn't sign it he would keep me there until I did sign it.

Q414 Are you positive of that?

A414 I am positive.

Q415 Then what happened?

A415 I signed the statement.

Q416 Where did you sign it?

A416 I signed first after the caution and at the bottom of each page.

Q417 Was the caution read to you when you signed it?

A417 No, it was not read to me.

Q418 Did you read it?

A418 I never read it.

Q419 Were you told where to sign?

A419 Yes, SM MacCallum gave me a pencil and told me where to sign. He said " You sign here and here and here".

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Q420 He gave you the pencil?

A420 Yes.

Q421 You said you don't remember exactly how long a statement that was but you mentioned something about two pages?

A421 I signed three or four different places. I don't remember exactly how many pages there were.

Q422 Despite the threats why did you sign without making some protest?

A422 I didn't want to stay in that jail under close arrest, for one reason.

Q423 But what was on your mind, were you depressed at that time?

A423 Yes. I was fed up with them keeping me for so long. I got fed up and just signed it.

Q424 Did you believe that the threats they had made against you and the previous violence they had shown plus the episode of that particular day was enough to make you tell a lie?

A424 There were so many questions and coming so fast that I do not remember exactly what is in the statement.

Q425 You don't know right now whether or not you answered all the questions put to you truthfully or not?

A425 I could not say.

Cross-Examined by Prosecutor

Q426 You said that SM MacCallum threatened you, that he said he would keep you in close arrest until you made a statement. Is that correct?

A426 Yes.

Q427 Did you think he could do that?
A427 He probably could.
Q428 ~~xxxxxxxxxxxxxxxx~~. What did you think the Cdn authorities would think after they heard you had been apprehended and did not hear from you for some considerable time?

A428 They probably never notified the Cdn authorities at all. I was in a British guard room.

Q429 You knew that you would be staying in custody for some time on account of your AWL, so it did not make a great deal of difference did it?

A429 Yes, it was a wop jail, lousy and everything else.

Q430 You have said that - two or three different things you said - you gave a lot of this statement and the rest was filled in by SM MacCallum, and later you said that all you said was in answer to questions?

A430 The other two statements he forced me to sign. With them two statements, and other information he picked up, he forced me to sign this statement.

Q431 Did you sign a statement previous to this?

A431 Yes, two statements.

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Q432 What did they look like?

A432 Just ordinary statements wrote down in a small note book.

Q433 Who wrote them?

A433 I believe the SM.

Q434 You don't remember?

A434 Yes, the SM took one in Ortona and one in Bari.

Q435 Did you sign them?

A435 Yes.

Q436 What date was that?

A436 Whatever the date was at the hospital - - I don't know what date it was.

Q437 You have said that SM MacCallum threatened to beat you up. Was Sgt McKee and Sgt Burt there at the time?

A437 Yes.

Q438 Do you know that Sgt McKee is not a member of the military police?

A438 Yes, I know he is a member of the Field Security.

Q439 Is there any reason why he should not tell the truth on this case in the court today?

A439 I don't know. They seem to be pretty good friends.

Q440 You say they are entirely wrong?

A440 Yes, everything I signed was by force.

Q441 And you never filled in another word except in andwer to a question?

A441 That is right, it was all question and answer.

Q442 And some of it was transcribed from SM MacCallum's note book to this statement?

A442 From the note book and what they knew that is how they made this other statement. I know it was in the note book, one at Ortona and one at Bari.

Q443 Is it not possible that SM MacCallum might have been checking dates and times with those you were giving him from his note book?

A443 He said "I will tear these statements up if you will sign this one". It was a loose leaf note book and he took them out of it.

Q444 Were the two statements he tore up the same words as had been mentioned before that you had said?

A444 I never read them over again - I don't know.

Q445 You don't know what was in the statements?

A445 No, - I know my signature was on the bottom.

Q446 You say you were never cautioned at any time on 16 Nov 44? 32

A446 Never at any time. I was cautioned by one Sgt in the hospital in Vasto.

Q447 But not on the 16th of November, 1944?

A447 No.

Q448 You put your name at the end of a formal caution, did you not?

A448 After the whole statement was completed, yes.

Q449 You never read the caution?

A449 No.

Q450 They told you it was the caution?

A450 No. After the statement was over, he said sign here and here and here and that was all there was to it.

Q451 Why did you say you would get the shit kicked out of you?

A451 I knew what was coming.

Q452 Why did you use those words if they were not said on that occasion?

A452 They were not said.

Q453 Why did you not read over what was said in the caution?

A453 I was fed up with the questioning and everything - I just signed it.

Q454 So the reason you signed the statement is because you were fed up?

A454 Yes.

Q455 Which was it, because you were fed up, or because you were forced to sign it?

A455 Both.

Q456 In what way were you forced?

A456 He said I would be locked up until I did sign it.

Q457 You can not, as a result of all these alleged threats, and the other circumstances, say whether or not it was enough to tell a lie?

A457 I can't say that. There were so many questions asked me that I can't remember.

Q458 You usually tell the truth?

A458 Yes.

Q459 Can you think of any reason why Sgt McKee, not being a police officer, would come into this court and swear that you were, in fact, cautioned?

A459 I can't see where it has anything to do with it at all.

Q460 Has he any grudge against you?

A460 I don't know him.

Q461 Can you think of any reason why he would perjure himself?

A461 No.

Re-Examined by Defending Officer

Q462 On the question, Gnr Mason, asked by the prosecutor, whether you, in fact, thought the SM could carry out his threat of keeping you under arrest, you say it was a British jail. But, apart from that, when he hit you on the other occasion, in Ortona, did he hurt you?

A462 Yes, some.

Q463 You didn't say anything to him?

A463 No.

Q464 And whenyou have told this court that you felt that if you didn't sign that he would kick the shit out of you, you felt at that time - what?

A464 I felt that he would.

Q465 What do you mean by "kick the shit out of you"?

A465 Beat me.

Q466 Had he threatened at any other time that he would hit you?

A466 Yes.

Questioned by Court

Q467 You made the statement under oath that you first signed under the caution. How did you know it was the caution if you didn't read it?

A467 I didn't know it was the caution.

Q468 Why did you make the statement in court then?

A468 I signed where I was told to sign.

Q469 You made a statement under oath that you signed under the caution and yet you also make the statement that you were never cautioned.

A469 I didn't know it was a caution, I was told where to sign.

Q470 You made a statement that 'I signed under the caution'. I am asking a direct question, how did you know it was the caution if you didn't read it?

A470 There are so many questions coming here I don't know what to say.

Q471 You made the statement yourself.

A471 I knew nothing about the caution before.

Defending Officer to Court

May, with the permission of the court, ask a question to the court that might clarify this point. On the matter of caution, I think the prosecutor will agree with me on this, the mere signing of the caution would not be sufficient without the caution being properly administered. Apart from that since I have come to be acquainted with this case as defending officer I have had access to the summary of evidence and the purported confession. I told the accused that I saw the original confession. I told him where I had seen his signatures. I think that, in view of the fact that the word caution has been used so ~~naturally~~ largely, he naturally says he signs it here. He also said that a caution was never read to him at any time and that none was given at Sulmona.

Questioned by Court

Q472 Did you have any opportunity at all to read the statement or the caution before you signed it?

A472 Yes, I had an opportunity to read the statement.

Q473 Did you read it?

A473 No.

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Q474 Did anyone read the statement to you?

A474 No.

In the opinion of the court it is not necessary to comply with RP 83(B).

Prosecutor to Court

The only additional reference I would give the court in connection with the admissibility of this statement in particular are the provisions of the Judge's Rules which appear in MML, p 91, at the bottom of the page. The court may glance at them and it will be noted that at the bottom of p 92 it provides that "Provided that such rules are observed there can be no question as to the admissibility of the statement. Whether non-observance of them renders a statement inadmissible is perhaps doubtful; but the better view appears to be that a statement is in law admissible notwithstanding non observance of the rules, if the prosecution satisfy the court that it was not in fact induced by any fear of prejudice or hope of advantage as explained in the preceding paragraphs." I submit the argument I previously made applies with that modification to this particular point.

Defending Officer to Court

The only thing I would like to point out is in dealing with an argument which the prosecutor as brought forth in cross-examination with the accused. It had come up at least twice before that. It is as to his knowledge of Cdn soldier's rights when placed under arrest. A question was asked by the prosecutor, in so many words, "Did you not know that you could not be kept here without Cdn officials being notified?". This man had already suffered actual violence by a WO, having been struck twice. Any assistance would have come too late. Gnr Mason was dealing with a matter of fact and he thought in his own mind that he would be hit again. I submit that he was labouring under fear of being submitted to violence if he did not answer the questions. I think his evidence has been straight forward and honest on this point. It is not a very happy situation when you have three people give evidence entirely different from the evidence of one man, for with respect to prima facie it is likely that one man's evidence would be discounted where three gave evidence against one. In this case, due to the entirely honest, straight-forward way the accused has given his evidence, I submit that his evidence is honest and reliable. If the court accepts that I can not see how any other conclusion can be drawn but that he suffered violence from NCOs and, at the time of his confession, was in danger and under threats.

At 4:30 o'clock, 11 Jan 45, the Court adjourns to 9:30 o'clock, 12 Jan 45, to consider the admissibility of the statement.

At 9:30 o'clock, 12 Jan 45, the Court re-assembles. The accused is brought before the Court.

President to Accused

The Court wishes to advise you that having considered the law in MML and Archbold and the Opinion & Ruling of the JAG Branch, CMHQ, No 26, on 29/Observations/1 d/1 Jan 44, it has decided to admit the written statement made by you in the Field Security office, Sulmona, on 16 Nov 44.

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Fourth Witness for Prosecution: 2693729 CSM MacCallum P W, 67 Sec Special Investigation Branch, Military Police, having been re-called, is examined by the Prosecutor:

Q475 I produce to you a document - tell the court what it is?

A475 This is a statement made by Gnr Mason. I recognize it as the original one. It is dated 16 Nov 44 and was made at Sulmona.

Q476 There purport to be signatures on p 1, one on p 2, one on the bottom of p 3 and one at the end of the second para on p 4. Do you know who made those signatures?

A476 Gnr Mason.

Q477 Whose are the other signatures at the foot of the whole statement?

A477 Mine, Sgt McKee and Sgt Burt.

Q478 Were you present when all signatures were made?

A478 Yes, I witnesses all signatures.

Q479 I tender this to the court. The correct procedure, I think, is for me to read it. (Marked Exhibit "A" - Prosecutor reads statement to Court).
After this statement was given was anything done?

A479 Gnr Mason accompanied us in the vicinity of Sulmona and tried to show us where he had the cage taken off the truck.

Q480 Were you able to find it?

A480 No, we didn't find the cage.

Q481 After that where was the accused taken?

A481 He was taken back and placed in the charge of the NCO in the Ortona guard room.

Q482 What date would that be?

A482 16 Nov 44.

Q483 What day did you first see the accused?

A483 6 Nov 44.

Q484 What was he wearing?

A484 Motorcycle boots and breeches and battle dress jacket.

Q485 What was he wearing on other occasions when you saw him subsequently?

A485 The same.

Q486 Did the breeches and boots appear to be different or similar?

A486 They appeared the same.

Q487 Did you ever have occasion to do anything with those breeches and boots?

A487 Yes, I was present when they were shown to Sgmn Glover.

Q488 How did they get to Sgmn Glover?

A488 They were taken from Gnr Mason by - -

Q489 Were you there?

A489 I was not present when they were taken.

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Q490 Tell exactly what you saw. Who had the breeches?

A490 Sgt Burt produced a pair of motorcycle boots and riding breeches in my presence to Sgmn Glover at the HQ Sigs.

Q491 Was the accused present at that time?

A491 No.

Q492 What did Sgmn Glover do?

A492 He took the breeches in his hands and examined them.

Q493 That was on 17 Nov 44?

A493 Yes.

Cross-Examined by Defending Officer

Q494 In the statement just read is the sentence "When I was returning to Pratola with the civilians I stopped at Pescara and drew some petrol from Americans". Is that the statement of the accused?

A494 Yes.

Q495 Do you know for sure that was the way the accused said it exactly?

A495 Exactly as he said it.

Q496 Exactly as he said it?

A496 Yes.

Q497 Did he use the word petrol?

A497 I should say he did.

Q498 In other words you are saying heused the word petrol?

A498 Yes.

Q499 And the word petrol appears in at least another place in this statement and where it does appear is that the word the accused used at the time?

A499 He said petrol in the statement.

Q500 Do you know for sure?

A500 I should say that is the word.

Q501 In the sentence I read to you before "When I was returning to Pratola with the civilians I stopped at Pescara and drew some petrol from Americans". Did the accused volunteer that statment himself?

A501 Yes.

Q502 Did you not tell the accused himself where he had got the petrol and the quantity on information you had obtained from Americans ?

A502 No, he gave the statement voluntarily.

Q503 Also in the statement are the names of several Italian villages - Aschuli is one and Pratola is another. Did the accused volunteer those names himself?

A503 Yes.

Q504 You didn't tell him the names of the villages he was in?

A504 No.

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Q505 Never once?

A505 No.

Q506 Did the accused tell you himself he was in Rome?

A506 Yes.

Q507 Do you know what a bullock is?

A507 Yes.

Q508 What is it?

A508 A bovine, I think.

Q509 Did the accused volunteer that word himself?

A509 He said bullock.

Q510 He mentioned bullock?

A510 Yes.

In the opinion of the court it is unnecessary to comply with RP 83(B).

The witness withdraws.

Fifth Witness for Prosecution: 2695053 Sgt Burt J, 67 Section, Special Investigation Branch, having been re-called, is examined by the Prosecutor:

Q511 In your former testimony you gave evidence as to a statement taken in Sulmona on 16 Nov 44. I produce to you a document. Can you tell me what that is?

A511 The statement made by the accused, Gnr Mason, on 16 Nov 44, at Sulmona.

Q512 There are two signatures on the first page, one on the second, one on the third and one on the fourth page, all purporting to be made by 'W Mason'. Who signed that?

A512 Gnr Mason, the accused.

Q513 The three signatures on the bottom of the statement, who are they by?

A513 CSM MacCallum, Sgt McKee and myself.

Q514 Were you present when all those signatures you have mentioned were signed?

A514 I was.

Q515 In whose writing is this statement?

A515 That is my handwriting.

Q516 What was the day you first saw the accused?

A516 15 Nov 44.

Q517 What was he wearing on that day?

A517 A pair of motorcycle boots and riding breeches and a battle dress blouse.

Q518 You have already said you saw him on the 16th of November?

A516 Yes.

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Q517 How was he dressed on that day?

A517 He was dressed in the same clothes.

Q518 Did you see him at any time later than that?

A518 On 17 Nov 44 I went to the Ortona Guard Room. The NCO of the guard went up to Gnr Mason. I told him I wanted the riding breeches and boots. He brought me back a pair of motorcycle boots and riding breeches and told me he took them from Gnr Mason.

Q519 Did you see him take them from Gnr Mason?

A519 No.

Q520 Did you see Gnr Mason after the breeches had been taken from him?

A520 Not until the summary of evidence held at Rome.

Q521 Where were you when the NCO went to see Gnr Mason?

A521 In the office of the guard room at Ortona. Gnr Mason was detained upstairs. I didn't go with the NCO when he took these riding breeches and boots from him.

Q522 How long was the NCO gone from the time he left until he came back with the breeches and boots?

A522 Five to ten minutes.

Q523 Did you make any arrangements with respect to other boots and breeches?

A523 I saw a Lt of the MP. He arranged to have a pair of boots and trousers sent up.

Q524 The breeches and boots that were handed to you on 17 Nov 44 were of what type?

A524 The boots were WD boots. We know them as motorcycling boots - the long, black leather knee boots. The riding breeches were khaki colour and WD issue.

Q525 Had you ever seen those breeches before?

A525 Only when I first saw Gnr Mason - he was wearing boots and breeches similar to the ones I took possession of.

Q526 What did you do with the boots and breeches handed to you by the NCO?

A526 I took them to Vasto where, in the presence of CSM MacCallum, I showed them to Sgmn Glover of 15 L of C Sigs. Sgmn Glover examined the breeches and the boots.

Q527 What was finally done with the breeches and boots?

A527 They were handed over to an officer of 15 L of C Sigs.

Q528 Was anyone else present when they were handed over to the officer?

A528 Sgmn Glover and CSM MacCallum.

Q529 You can not say for certain that the breeches that were handed to you by the NCO IC guard room were those which the accused had been wearing the day before?

A529 They were similar.

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Cross-Examined by Defending Officer

Q530 You stated that you did not take the breeches and motorcycle boots from the accused. Did you, at any other time, make a statement that you had so taken them?

A530 Not that I had. I made a statement that I had taken possession of them.

Q531 Did you not on 9 Jan '45 in the presence of Capt Bourne, the prosecuting officer, state that"on 17 Nov 44 I took these breeches and boots from the accused". Did you make that statement?

A531 Yes.

Q532 The sentence after the next "The breeches and boots I took from the accused were shown to Sgmn Glover in thepresence of CSM MacCallum". Did you or did you not make that statement?

A532 Yes.

Q533 I call that to the attention of court, at p 5. When the breeches were shown to Sgmn Glover who actually had them in his hand when they were shown to Sgmn Glover?

A533 As far as I recall they were on a table.

Q534 Who had placed them on the table?

A534 Sgmn Glover after he looked at them.

Q535 Who gave them to Sgmn Glover originally?

A535 They were put on the table and Sgmn Glover sent for; he was told to examine the breeches.

Q536 Who put them on the table originally?

A536 I wouldn't like to say that, sir.

Q537 Your evidence so far has been that you got them from the guard room. Who brought them down to Sgmn Glover?

A537 They were put in a truck at the guard room.

Q538 What happened to them after that?

A538 The truck came from Ortona to Vasto. They were took out of the truck and carried to the table.

Q539 Did you hand them to CSM MacCallum first?

A539 I am almost certain I put them on the table.

Q540 As far as this statement written by you and signed by the name of Mason - was every word in the statement written by you?

A540 All except the signatures.

Q541 Did every word of the statement come from Gnr Mason?

A541 He dictated the statement, I wrote it down.

Q542 In this statement are names of small Italian villages, one of which is Aschuli. Did the accused volunteer the name of that town?

A542 I can not recall that name at all. If it is there he must have said it.

Q543 Do you know if he did or not?

A543 I say he did say it.

Q544 There is another town by the name of Pratola Peligna. Did the accused volunteer that name himself?

A544 Yes. He lived there for a few days.

Q545 Did you ever see him in that town?

A545 No.

Q546 You suggested that certain things to clear up ambiguity were suggested to the accused. Will you give the court a specific example?

A546 I would like to see the statement.

Q547 If a man writes a statement he should be able to remember. Other things you remember very clearly. This is one little thing I am asking you. You had a man give a statement. You say certain points of ambiguity arose on which the accused was corrected. I want to know one example.

A547 I didn't say there were any qyestions asked him at all.

Q548 You said apart from the signatures and ambiguities the rest of the statement came entirely from the accused. You wrote the statement, give us an example of one of the amgibuities?

A548 There were more than one - something about clothing being sold at Sulmona. He was asked was it Sulmona. He said "Yes".

Q549 In the same instance of the clothing. Did he volunteer that he had sold clothing himself? Didn't you suggest to the accused that he had sold clothing?

A549 No. I am positive of that.

Q550 There is a statement here also stating that when he left Pratola he stopped in Pescara and drew 8 gallons of petrol from Americans. Is that the accused statement, word for word?

A550 I can not recall whether it was in his statement or not. If I could see the statement - - - -

Q551 It says "When I was returning to Pratola with the civilians I stopped at Pescara and drew some petrol from Americans". "I think it was 8 gallons". Is that the accused, word for word, and is that your writing?

A551 That is my writing and that is what he said word for word.

Q552 Did the accused use the word petrol?

A552 Yes.

Q553 You are sure he didn't use the word gas, or gasoline?

A553 The man used the word petrol.

Q554 There is a statement here as well, pertaining to the truck having been in the river "The Marechiallo suggested getting a man with some bullocks to pull the truck out of the river". Can you remember that statement being made?

A554 Not exactly - -

Q555 In other words, you do not remember the whole statement?

A555 I do not remember the whole statement.

Q556 You don't remember most of the sentences. Without looking at the statement you could not say right off the bat the accused said that could you?

A556 I could not, no.

Q557 Why did you in answer to a question of the prosecuting officer say that you had never made a statement that you had never taken those breeches or boots from the accused?

A557 There is some ambiguity in that.

Q558 Do you think it is reasonable to read the other portions in this statement "When I saw the accused on the 15th of November 1944 he was wearing motorcycle breeches and motorcycle boots. On the 17th November I took these breeches and boots from the accused". Is it reasonable to read the other portions to do that? This man is on trial, you are not. Why, when I asked you if you had ever taken breeches from the accused did you say no?

A558 It is quite reasonable to say that, - after all a NCO IC of a guard room is a responsible person. If he gets a direction from a senior NCO that he wants breeches and boots from a certain person in the guard room it is reasonable for that NCO to believe that he is not going to get it from a store.

Q559 If it is true that the NCO had got them and given them to you, why did you you not say that? You denied having made that statement of taking them?

A559 That is all I remember.

In the opinion of the court it is unnecessary to comply with RP 83(B).

The witness withdraws.

Second Witness for Prosecution: 6022196 Pte Carter R, 1/4 Bn Essex Regt att L of C Sigs, having been re-called, is examined by the Prosecutor:

Q560 Did you have a pair of breeches on the night of 15 Oct 44 in the rear of the EIS truck on the night that the said vehicle was stolen?

A560 No, the only clothes I had were those that I was wearing.

Q561 Were there any other pants in the vehicle that you know of?

A561 I only know that Sgmn Glover had his full kit. I don't know what was in it.

In the opinion of the court it is unnecessary to comply with RP 83(B).

The witness withdraws.

Defending Officer to Court

At this point I move that the prosecution has failed to establish a prima facie case on the second charge against the accused. The second charge in the charge-sheet, laid under AA 40, reads "When on active service, conduct to the prejudice of good order andmilitary discipline, in that he, in the Field, in Italy, on or about 31 Oct 44, was improperly in possession of 1 pair of breeches, the property of 2601250 Signalman Glover F C". The defence feels that the evidence that the prosecution has adduced on the second charge has been circumstantial evidence only as far as a finding of guilty connecting the accused with this charge is concerned. I admit that it/fairly

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strong circumstantial evidence. On 31 Oct 44 the accused was arrested by L/Cpl Simmons and at that time he was wearing a pair of breeches, but the accused was not seen by any witness for the prosecution that appeared before this court until CSM MacCallum say him on 6 Nov 44. There has been incomplete evidence showing that the breeches shown by CSM MacCallum to Sgmn Glover were the breeches which L/Cpl Simmons saw the accused wearing at the time of his arrest. It a well known maxim of English law that in English law circumstantial evidence may be sufficient. I submit in this connection looking at other circumstances that have come before the court that a finding of guilty against the accused on the second charge would be improper. The prosecution has not made out a prima facie case, which I feel might have been done. No primary evidence or an attempt to identify the breeches in court by producing the breeches was made. One witness for the prosecution said no attempt was made to bring those breeches into court. The exhibit should be produced. I would like to stress one other thing, that is, particularly on the second charge, the evidence brought forward by at least two witnesses for the prosecution has been unsatisfactory, namely, CSM MacCallum and Sgt Burt. During the greater part of three sessions they have stood by their guns and stated that everything was done in accordance with English law, with respect to this case. For the greater parts of three warnings they have withstood my verbal attempts to show that they perjured themselves. Sgt Burt said that he had never made a statement saying he had taken breeches from the accused. Evidence taken down by Capt Bourne, in his presence and in the presence of the accused, on 9 Jan 45, definitely states that he did make that statement and further emphasized it by stating the breeches he took from the accused were shown to CSM MacCallum. In that connection I am not fully aware of the reasons and actually it is the job of the court and not mine as to why it is not felt that the confession was admissible. Be that as it may, I do feel that the statement in Archbold has a great effect in the minds of the court where Archbold states that a confession, unless it was calculated to make an accused tell a lie then it should be admitted. What the JAG has had to say in these cases has influenced the minds of the court in order to determine whether it is admissible or not. I would like to point out that Archbold is not entirely without confliction. On p 370 he states "The only questions in these cases really are (1) was any promise of favour, or any menace or undue terror made use of, to induce the prisoner to confess? (2) if so, was the prisoner induced by such promise or menace, etc, to make the confession sought to be given in evidence?". Archbold is not without confliction on ambiguity. I would like to point out to the court that whether or not the court believes that CSM MacCallum did make some improper statements or not, personally I feel there are good grounds to suggest that he did. Before you is an accused man, a Cdn, who has served with the Cdns since enlistment. True some Cdns have spent some time in England and have acquired English characteristics in referring to certain objects, but I submit it is entirely unlikely that the accused would not have used such a word as petrol. A Cdn invariably says gas, or gasoline. For CSM MacCallum to say, backed up by Sgt Burt, that where the words occur in the statement they are the exact words of the accused I submit it is entirely unlikely. In connection with the names of Italian villages. Some are rather difficult to say and very, very unlikely known by their proper name to the accused. In this connection I am not suggesting that words were forced down the throat of the accused. I am suggesting they were gained from further information from CSM MacCallum and placed in the statement. I would like to suggest there was no reason to deny the fact that they had from time to time written various into that statement. I suggest from the length of the statement and from the grammar used, and other extenuating circumstances, the court should readily xxy see that the statement is not a voluntary, free statement of the accused. I think it is too much to admit such were so. On this motion that there is no prima facie case on the second charge, therefore, the accused need not stand on his defence for the second charge. I would point out that, firstly, the evidence is circumstantial and, secondly, that it is unreliable, and if there is reasonable doubt as I feel there is, and on the law, that the accused should be given the benefit of it.

Prosecutor to Court

Gentlemen - I agree with the defendingofficer when he says the evidence on the second charge is circumstantial. It came as a surprise to me when the evidence was not as I thought it was. There is a slight gap in the evidence. It has not been proven by direct evidence of an eye witness that the pants taken from the guard room and which were shown to Sgmn Glover were in fact taken from the accused. However, I submit that I have proved other facts which are sufficient to support the charge. First, it has beenproven that on 15 Oct 44 a pair of trousers in a vehicle belonging to Sgmn Glover were taken by somebody. They were the only pair of trousers in the vehicle - if there were more than one pair of trousers in the vehicle both belonged to Sgmn Glover. That is one point. Secondly, a point which has been proven by the confession of the accused, which is evidence against him; in his confession he states "As far as the clothing I am wearing now is concerned, the breeches and the leggings are part of the clothing which was in the truck". What I must do is, by circumstantial evidence, to prove that the truck to which the accused refers is the same truck that Sgmn Glover refers to. If I do that there is no question but that the accused was in improper possession of a pair of breeches belonging to Sgmn Glover. Circumstantial evidence on that point is that the vehicle was taken on 15 Oct 44, in Pescara. The accused admits being in Pescara that night and admits driving off in a vehicle but he can not remember exactly where it was obtained. In that vehicle which was taken from Sgmn Glover was a quantity of official mail, which is described. In the confession the accused describes sacks of mail, I submit, in similar terms. On that vehicle was a cage - the accused admits that the vehicle he took had a cage on it. The accused admits ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ in his confession that the cage was taken off by a blacksmith. The vehicle lost by Sgmn Glover, when found, had the cage removed by a hacksaw, as it is thought. The accused left the vehicle near Pratola Peligna and subsequently the vehicle was found in the village of Pratola Peligna. The vehicle that was found had had the tactical signs and numbers painted out to some extent - the accused admitted having the identity marks painted off the vehicle that he had taken. I submit, Gentlemen, that these circumstances are so strong that there can be no doubt but what the vehicle to which Sgmn Glover refers is the same vehicle to which the accused refers. Therefore, the pants that were in the vehicle are the same and, therefore, must be the pants of the witness, Sgmn Glover. I submit that there has been a prima facie case made out on the charge in question.

Court is closed to consider submission of Defending Officer.

Court is re-opened. The accused is brought before the Court.

President to Defending Officer

The Court wish to announce that the submission of the Defending Officer is dis-allowed on the second charge.

D6 The Accused: C957 Gnr Mason W H, RCA, att fap Cdn Sec GHQ 1 Ech AFHQ, is examined by the Defending Officer:

Q562 How long have you been in the Army?

A562 Four years on 17 Jan 45.

Q563 How long have you been overseas?

A563 I arrived in Italy in 1944, 4th of April.

Q564 When did you arrive in the UK?

A564 In April 1941.

Q565 Shortly after you enlisted?

A565 Yes.

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Q566 How old were you on enlistment?

A566 Seventeen.

Q567 How old are you now?

A567 Twenty-one.

Q568 Have you always been in the artillery?

A568 Yes.

Q569 Have you seen front line service with the artillery?

A569 Yes.

Q570 Were you in action?

A570 Yes, with the 3rd Fd Regt in the Gothic Line.

Q571 Were you in action at any other time?

A571 No.

Q572 Have you ever been court-martialled before?

A572 No.

Q573 What were you doing in civilian life?

A573 I worked in a garage. I was an apprentice for a short time.

Q574 Were you working at the time you enlisted?

A574 Yes.

The Prosecutor declines to cross-examine the witness.

In the opinion of the Court it is unnecessary to comply with RP 83(B).

Prosecutor to Court

Gentlemen - in view of the fact that there is no JA, and in fairness to the accused, I would like to point out three general principles: The first is that the accused is innocent until proved guilty. Secondly, the burden of proof is on the prosecution, and thirdly, the accused is entitled to any reasonable doubt the court may have in their minds. By reasonable doubt is meant what an ordinary man deems as such.
With respect to the first charge, I submit that the evidence there is also circumstantial. Similarly, as I have already pointed out, the evidence with respect to the second charge is circumstantial and similarly the evidence is circumstantial with respect to the third charge. I have already pointed out what this circumstantial evidence is, and I submit that the same circumstances apply to the first, second and third charges. It must be shown that the vehicle to which Sgmn Glover refers is the same vehicle the accused had and that the breeches and mail referred to in the charges are the same as those referred to by the accused in his statement. With respect to circumstantial evidence I refer the court to the top of p 82, MML, which shows that the circumstances must not only be consistent with the guilt of the accused but also inconsistent with any ~~[illegible]~~ other rational conclusion than that the accused is guilty. I do not propose to repeat the list of these circumstances. If the court is satisfied that the prosecution has proven all allegations of fact contained in the particulars of the first, second and third charges, and it is up to the court to make that finding as a matter of fact, then it is for the court to say whether or not the doing of these things in each charge was improper. The mere fact that he did them is not enough - it must be improper, and that is a

matter for the court to say. Having done them, and the court having found they are improper, then the court must say whether or not such things being done improperly amount to conduct to the prejudice of both of good order and of military discipline, and the court, as officers, have a right to look to their military knowledge in determining whether or not these things do amount to conduct both to the prejudice of good order and military discipline.

Defending Officer to Court

With the full agreement of the accused I am not, at this time, going to make an address before the finding. I would like to say that the prosecutor has been very fair in his summation of the evidence that he has produced, both now and on a former motion, and the accused and myself feel that the finding you will make will not be influenced by anything I am going to say at this time but that the small address I give will be observed after the finding.

At 12:00 o'clock, 12 Jan 45, the Court adjourns to re-assemble at 2:00 o'clock, 12 Jan 45.

At 2:00 o'clock, 12 Jan 45, the Court re-assembles. The accused is brought before the Court.

E1 Defending Officer: Capt G C Piercey, 8 Bn, 2 CBRD, CAC, having been duly sworn, gives evidence as follows:

"I am Capt G C Piercey, 8 Bn, 2 CBRD, CAC. On the 9th day of January, 1945, I was asked by the AJAG of Cdn Sec GHQ 1 Ech AFHQ to see W/Cmdr Bournemouth of HQ MAAF, CMF. In accordance with this request I saw W/Cmdr Bournemouth and he told me that he was a security officer and a member of the RAF att to HQ MAAF. It was his business, he said in words to that effect, to ascertain how great was the destruction of certain mail that he had reason to believe the accused, Gnr Mason, could tell him about. He said he was interested in the case solely from the point of view of security and that it would help him in his work a great deal if I would see the accused, explain to him W/Cmdr Bournemouth's mission and ask him if he would be willing to s him and answer his questions. He told me to tell the accused that if he did so anything the accused told him would be strictly considered confidential as between the accused and himself and his lawful superiors and that nothing he said to W/Cmdr Bournemouth would be communicated in any way to army officials at Cdn Sec GHQ 1 Ech AFHQ of any member of this court-martial or that it would in any way influence his trial. I then saw Gnr Mason, the accused, and on explaining to him the mission of W/Cmdr Bournemouth he said immediately he was willing to see him and would tell him all he could about the matter. Immediately after that W/Cmdr Bournemouth had an interview with Gnr Mason in my presence. There were no others present. The W/Cmdr asked Gnr Mason several questions pertaining t mail alleged to have been in a British army ELS vehicle on, or about the night of 15 Oct 44. I should qualify that by saying the mail contained in particular certain air force mail. The accused answere all the questions of W/Cmdr Bournemouth quite honestly, in my opini and without hesitation and at the end of the interview the W/Cmdr explained to me his opinion that he had obtained all the information that the accused was able to give him.

E3 Defending Officer in Mitigation of Punishment

The few words I have to make are in mitigation of punishment. It will be more or less going over what the court has heard before. I would like to point out that on evidence the prosecution has adduce largely based around the confession alleged to have been obtained the accused, the court has seen fit to accept it. I think I am no going beyond my rights when I say that the court believes like I believe. In fact, it is my opinion the court believes most of wha

the accused said himself on the stand that he had been subjected to some violence at the hands of witnesses who are present here. Therefore if the court believes that and in their own rights they have seen fit to admit the confession on a ground of law as it has been made known to them, I suggest that the accused has already suffered some punishment for theoffences the court has found him guilty of in that he as a Cdn soldier, a Cdn citizen and a British subject, has not had British fair play in that an accused man in giving a confession should not be threatened and should not suffer violence. He should give a confession in a purely voluntary manner. I feel the court do feel in their hearts that the accused is telling the truth - that he suffered a great deal of persecution and probable violence. Therefore, I say again that he has suffered some punishment. He has not had all the rights of a British subject in the proceedings that arose after his arrest. The accused feels very fully that since this court-martial began he has had a very, very fair trial. Be that as it may, I suggest that in the proceedings that arose prior to this trial everything was not as it might have been. The NCOs in whose custody he was when the confession was elicited, I feel quite surely, used considerable force and offered several threats when they obtained some of the statements gained from him. Secondly, I would ask the court in determining the punishment this soldier should receive to consider the length of time the accused has been in custody to date, namely, since 31 Oct 44, making two full calendar months and some ten days up to his trial. Thirdly, I ask the court to consider that since his arrest, or rather since he has been brought to trial, that he has done what he possibly could to mitigate the seriousness of his offence, which he admits is serious, in responding quickly to our air force brothers when they were seeking information. He was not coerced by myself or by any one representing the army and he gave the information quite voluntarily when asked. He told, to the best of my knowledge, the facts as he knew them when asked. Fourthly, I ask the court to consider the youth of the accused. His army age is 23 years, but, on the evidence of the accused, apparently he gave false information when he enlisted. He was 17 when he enlisted and is now 21 years of age. I ask the court to consider that as true. He was employed at the time of his enlistment - his enlistment was voluntary. Although his conduct sheet is not what one would wish, in view of years of length of service and the fact that he has been with an artillery unit in action should have some weight with the court in assessing sentence. The accused is fully aware of the seriousness of the offences he has committed. I can assure you of that. Since I was asked to take his defence for this court-martial he has been reluctant to ask any advice at all on his part. He, in his heart, is most grateful that he was not charged with much more serious offences, which, if a conviction was obtained on them, would possibly carry a longer term of sentence. I explained to the accused that if he had been charged with theft and possibly under some more serious act relating to mail that he would have received long sentences and certainly some that would have very serious consequences on his future. He is fully aware of that and appreciates the fact that he is fortunate to be charged under AA 40. In view of all these facts I have no hesitation, personally, to ask the court in considering the sentence that should be given this man that they take into consideration his youth, the suffering, perhaps even persecution, that he has received already, and the fact that he volunteered information to the best of his ability to help out, and award to him the sentence he rightfully deserves, not one as a sort of warning to others. Thank you very much.

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Ex "A" Affidavit Gunner Mason

EXHIBIT "A"

Sulmona.
16.11.44.

Statement of: No. 6.957. Gunner. MASON. William,
R.H.A.
3. Field Regiment.
Canadian Royal Artillery.

Who states:-

I have been cautioned that I am not obliged to say anything unless I wish to do so but that anything I do say will be taken down in writing and may be given in evidence. W Mason

About the 24th of September 1944, I went absent from my Unit. I was alone. I was not happy in my Unit. Unfortunately I am a heavy drinker and this gets me into trouble. I was absent about fifteen days when I met an American soldier named "Tim" in the street at Pescara. This would be about seven o'clock on the evening of the 15th October, 1944. He told me he was an absentee. We drank a bottle of gin, which he had with him. We must have got pretty drunk because I can remember going off in a truck with "Jim" but I cant remember where we got it. We drove on the Rome road I think, but I dont remember how far we drove but we slept a part of the night in the cab. I woke up about six o'clock the following morning and found that "Tim" had gone. I was at the side of the road and I think I was near Popoli. I drove the truck to a little village on the hill and had 2 litres of wine. During the time I was drinking this wine, I had a blacksmith

W Mason

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take the cover of the back of the truck also, a cage. I then left this village and came to Sulmona, and then went to Pratola Peligna where I spent the afternoon at Di Simone Iolanda's house. Then went back to ASCHOLI where I stayed in the truck all night with a girl I had picked up on the road. I do not know her name. When I visited Sulmona I went to a side road where I found mail which was in the truck. The mail was in small sacks, some a little larger than others, and as nobody had touched it I should say that the full number of sacks were there. Some people passing by noticing the empty sacks asked me for them and I gave them away. I do not know any of these people. As far as I can remember there were no billags in the truck which contained clothing and some equipment. I remember selling some of the clothing to people whom I dont know in the street at Sulmona. There were still some articles of clothing and equipment in the truck when I left Sulmona and went to Pratola to Di Simone Iolanda's house. Some boys took the articles from the truck. I returned to Sulmona and it is possible that a few boys may have been in truck at a side door. Then as already stated I went to ASCHOLI. About this date I went off to Rome, I got petrol from different camps on the road. I was drinking most of the time and I remember going into Rome about eight o'clock one morning. During the day I picked a girl up and stayed one night in a hotel with her. I dont know the name of this hotel or the street it is in. I set off

W. Mason

again and after a few days I arrived back in Pratola where I stayed one night at Rocco and the other nights at Di Simone's. During this time I was going to Porto Recanati and some civilians asked if they could come along as they wanted to buy some grain. They collected a little bit of money and gave it to me. I was at Porto Recanati two or three times but the civilians only went with me once. When I was returning to Pratola with the civilians I stopped at Pescara and drew some petrol from Americans. I think it was eight gallons. As far as the shooting is concerned, I remember firing a shot or two in the air to frighten some boys who were climbing all over the truck. There was a rifle and a pistol in the truck when I landed at Rome. The pistol was in the dashboard compartment, where I had put it for safety. In the morning I found that the pistol had been stolen but the rifle was still on the truck. About the 28th October 1944 sometime during the evening I left Pratola and at the bad bridge over the river I took the corner too sharp and one of the back wheels missed the bridge and the truck slipped sideways into the river. I was accompanied by an Italian patriot named Di Simone and another patriot whom I don't know. The rifle was in the truck at the time the truck went into the river. I got wet and went back to Di Simone's house, got a change of clothing and stayed the night. The following morning I went back to the truck and the Marechiallo of the Carabinieri spoke to me and

W. Mason

I gave him my particulars. The marechiallo suggested getting a crane with some bullocks to pull the truck out of the river. I was prepared to pay a thousand lire to have this done. I was not present when the car was pulled out. The truck was pulled up to a local garage where a bicycle repairer tried to get it in running order. The battery was out of order and I stayed the night at Di Simone. Next morning at eight o'clock I set off with the truck, and after going about two miles I ran out of petrol. I left it at the side of the road and hitch hiked into Pescara. That night I was arrested by the military police in a cafe. I was accompanied by Di Simone the soldier.

As far as the clothing I am wearing now is concerned, the breeches and the leggings are part of the clothing which was in the truck. I dont know what has become of the canvas canopy of the truck, all I can say is that it was lying in the rear of the vehicle and some one must have stolen it. I had the numbers of the vehicle painted out by the blacksmith who removed the cage. I have thought very hard to try and recall the places where I turned the mail and had the cage removed but I simply cant remember. I was in a stupor most of the time through drink. I have read over the above statement, made quite voluntarily, and it is true.

W. Mason

Statement taken and signatures witnessed by me in the presence of G. T. M. Mac Ballum 64 Section A.P.B. and Sgt. Fee Lee 419 Port Security Section. F. T. T. at Sulmona on 16-11-44

J. Burt Sgt.
64 Section. A.P.B.

T. M. Mac Ballum Offr.
64 P.B.P. Cont.

Fee Lee Sgt.

EXHIBIT

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
C 957	Gunner	MASON, W.H.	RCA "A"

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	AA Sec 15 (1)	17 times.
For	AA Sec 40	5 times.
For	AA Sec 10(4)	2 times.
For	AA Sec 19	4 times.
For	AA Sec 11	3

Date of first entry in Field Conduct Sheet 15 Nov 41

Date of last entry in Field Conduct Sheet 16 Aug 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. [redacted]

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for from 2045 hrs 31 Oct 44 to days in military custody, *i.e.*, [redacted] days in open arrest, 72 days in close arrest; of which NO days were spent in hospital.

5. The present age of the accused is 23 yrs 10 Months

6. The date of his attestation is 17 Jan 41

7. [redacted]

8. The accused is in possession of† CVSM & C

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	N/A	
In the war substantive rank of	N/A	
In the acting rank of	N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

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Wt 55900/1802 20,000 3/44 61-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 11th day of January 1945

AAC Cdn Sec G.H.Q.

EXHIBIT C

MFM 6
(AFB 122)
40/P&S/136 (3438)

No C 957 Name MASON, W.H. Sqn. Battery or Company | Corps RCA | Date of enlistment 17 Jan 41 | OC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Gnr		AWL 1200 hrs 12 Nov 41 to 2000 hrs 12 Nov 44 (8 hrs)		Forfs 1 dys pay	15 Nov 41		
Field		Gnr		AA Sec 40		7 days FP	5 Apr 42		
Field		Gnr		AA Sec 15(1) AWL 3 days 4½ hrs AA Sec 10 (4)		14 days FP 14 days pay FRI 149(1)(b)	30 Jan 43		Forfs 4 dys pay FRI 149(1)(a)
Field		Gnr		DRUNKENNESS (1st offence)		Admonished	26 Jan 43		
Field		Gnr		AA Sec 15(1) AWL 1330-1530 hrs 22 Feb 43 (2 hrs)		Forf 3 dys pay FRI 149(2)	22 Feb 43		
Field		Gnr		DRUNKENNESS (2nd offence)		Fine $5.00	22 Feb 43		
Field		Gnr		AA Sec 15 (1)		14 days F.P. 14 days pay FRI 149(2)	6 May 43		Forf 8 days pay FRI 149(1)(a)

(Over)

(PTO)

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Gnr		AA Sec 15(1) AWL 2300 hrs 15 Aug 43 to 0830 hrs 20 Aug 43		10 days FP Forf 15 dys pay	23 Aug 43		
Field		Gnr		AA Sec 15 (1) AWL 2300 31 Aug to 0745 hrs 1 Sep 43 (8 hrs 45 mins)		2 days FP 2 days pay FRI 149(1)(b)	1 Sep 43		Forf 1 days pay FRI 149(1)(a)
Field		Gnr		AA Sec 15(1) AWL 1 day 9 hrs 10 mins AA Sec 10 (4) AA Sec 19 Drunkenness (3rd Offence)		7 days FP 7 days pay FRI 149(1)(b)	6 Sep 42		Forf 2 dys pay FRI 149(1)(a) Forf 3 days pay FRI 149(1)(c)
Field		Gnr		AA Sec 15 (1) AWL 3 hrs 45 mins AA Sec 19 Drunkenness (4th Offence)		4 days CB Fined $15.00	30 Sep 43		
Field		Gnr		AA Sec 15 (1) AWL 7 dys 23 hrs 25 mins		16 days FP 16 days pay FRI 149(1)(b)	20 Oct 43		Forf 8 days pay FRI 149(1)(a) Forf 1 day pay FRI 149(1)(c)
Field		Gnr		AWL 13 hrs 30 mins		Forfs 7 days pay FRI 149 (2)			Forfs 1 days pay FRI 149(1)(a)

Cont'd Page 2

No C 957 Name MASON, W.H. Sqn, Battery or Company | Corps RCA | Date of enlistment 17 Jan 43 | 2C Badges | Service or Proficiency Pay | MFM 4 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Gnr		AWL 23 hrs 30 mins		21 days FP 21 days pay FRI 149(1)(b)	23 Nov 43		Forfs 8 days pay FRI 149 (1)(a)
Field		Gnr		AA 15 (1)		28 days FP Forf 37 days pay	14 Dec 43	Concurrent with award on 23 Nov 43	
Field		Gnr		AA 15 (1)		43 days forf of Pay Concurrent with award on 14 Dec 44.	6 Jan 44		
Field		Gnr		AA 15 (1) AWL 1 dy 11 hrs		21 days FP 23 days Forf pay	7-2-44		
Field		Gnr		AA Sec 11 & AA Sec 40		28 days FP 28 days pay	13 Mar 44		
Field		Gnr		AA Sec 11 AA Sec 40 AA Sec 11 (2nd Award)		28 days pay 14 days pay	21 Apr 44 22 Apr 44	(runn concurrent with 1st charge	

(Over)

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Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Gnr		AA 15 (1) AA 40		28 days pay	6 Jun 44		
Field		Gnr		AA 15 (1) AA 40		28 days FP 42 days pay	18 Jul 44		
Field		Gnr		AA 15 (1)		30 days pay	16 Aug 44		

CERTIFIED TRUE COPY

(D.M. Owen) Capt.,
for Officer i/c
Cdn Section GHQ 2 Ech AAI

EXHIBIT 2A

Summary of Evidence

In the case of C957 Gunner William Hilliard MASON, RCA, att fap Cdn Sec GHQ 1 Echelon AFHQ

The Commanding Officer directs the evidence be taken on Oath.

First Witness for Prosecution

2601250 Sgmn GLOVER, F.C., 163 DR Sec, 3 Coy, 15 L of C Signals having been duly sworn states:-

"On 15 Oct 44 I was the DR and driver in charge of ELS truck WD Z- 5319159 from Ancona to Pescara. The truck was a Dodge 15 cwt. On the back of the body of the vehicle there was welded a cage which was underneath the canopy of the vehicle and completely enclosed the back part of the vehicle from the front, sides, top and rear. There was a door opening from the back of the vehicle. This door was secured by a lock and chain. The cage was of iron mesh. In the course of my duty as DR in charge of the vehicle I carried essential official WD mail. I am not permitted to carry anything in addition to this mail except my kit, without the written authority of the signalmaster. ELS stands for Express Letter Service. Pte Carter, who is attached to our Unit, was acting as my armed escort on the night of 15 Oct 44. When we left Ancona that day we had 18 registered bags of essential WD mail. Each bag had attached to it a tag which showed the registered number of the bag, the office from which it had been despatched and the office to which it was addressed. 16 of the bags were to be delivered to the ELS Office at San Vito and 2 bags were to be delivered to AMC 13M at Pescara. We arrived at Pescara about 2215 hours and parked the truck in the station square outside the Signals billet. We were followed into the square by the truck from the AM Centre. Carter unlocked the back of the truck and gave me the 2 bags for the AM Centre, which I gave to the Corporal in charge of the vehicle. He gave me 2 bags in exchange, 1 addressed to Foggia and the other to Bari. These 2 bags were placed in the cage of my vehicle, still leaving 16 bags in the vehicle. While I was exchanging the bags Private Carter took his bedding into the billet. It was usual for him to sleep in the billet and for me to sleep in the back of the truck. Before he took his bedding in he gave me the key to the cage of the truck. When he returned I sent him to see if tea was ready and I began to arrange the bags in the back of the truck ready to make my bed. Carter returned later, giving me my mug and indicated that the tea was ready. I finished moving the bags, got out of the truck, locking the cage and went to the latrine and then to the cookhouse to get my tea. I thought Carter had got his tea and was by the front of the vehicle. This was our usual practice. Whilst I was getting my tea I noticed Pte Carter was in the cookhouse and as the result of what I said Pte Carter returned to the truck immediately. He came back and as a result of what he told me we both went out and I saw that the truck was missing. I was away from the truck from about 4 to 6 minutes. I had somebody report the matter to the CMPs by telephone and I proceeded with Signalman Headley in another truck to the CMP Office in Pescara and reported the loss and gave the necessary descriptions. The cage was locked when I left it. I gave no one permission to move or to take the truck. In the truck, in addition to the mail, was my complete army kit. Included in the kit was a pair of riding breeches and a pair of motorcycle boots. Also in the truck were items of Carter's kit. On the 15 Oct 44 there was no other mail in the truck other than official mail carried by ELS Service. There were one or two of my personal letters in my kit. I next saw the vehicle about 10 Nov 44 in RASC Workshops in Pescara. The tactical signs had been painted out but were still visible. The WD number on the tailboard was visible and corresponded to the number of my vehicle. I recognized the tactical signs as being the same as those on my vehicle. The vehicle had been damaged and the cage appeared to have been sawn through with a hacksaw. The canopy and the pipes supporting the canopy were also missing. All the tools were missing. On the 17 Nov 44 CSM MacCallum showed me a pair of riding breeches and motorcycle boots. Although the boots were my size I could not

.....2

First Witness for Prosecution (Cont'd)

definitely identify them. I recognize the breeches as mine because they were the same size and because there had been alterations to the inside of the inside of the legs. Pieces of battledress material had been inserted so as to make the breeches fit my legs. I could tell that they were mine by the colour of the cloth that had been put in and the shape of the alterations. I am certain they were my breeches. The breeches were handed to my Company Quartermaster as I had already been issued with new ones. I do not know where these breeches are now. My vehicle was on charge to 163 DR Section 3 Company 15 L of C Signals, which is a Unit of the British Army. I had signed for the vehicle.

The accused declines to cross-examine the witness.

H. Glover.

2601250 Sgmn Glover, F.C.

Second Witness for Prosecution (Cont'd)

6022196 Pte Carter R, 1/4 Bn Essex Regt att L of C Sigs, 3 Coy, having been duly sworn states:

"On 15 Oct 44 I was acting as escort on a 15 cwt ELS truck travelling from Ancona to Pescara. I do not know the number of the vehicle but it was a Dodge 15 cwt. Sgmn Glover was the driver and in charge of the vehicle. My duty is to guard the mail and I ride in the back of the vehicleOn that night we took 18 bags of mail from Anconato Pescara. It was registered and unregistered official WD mail. The bags were all different types and all different colours. Each bag had a label attached to it. We arrived at Pescara about 2215 hours on 15 Oct 44. The first thing I did was to unlock the cage handing out 2 bags for the Airmail Port Center. I handed Sgmn Glover 2 bags and he handed me 2 from the Airmail Port Center, still leaving 16 bags of mail. At this time we were parked close to the billet of the Carrier Pl of Sigs in Pescara. After this I took my bedding out of the truck and took it into the billet because it was our stopping place for the night. Sgmn Glover sleeps in the truck. There was a cage which enclosed the whole back of the truck from all directions. There was a door at the rear which was kept locked. Before going into the billet I handed the key to Sgmn Glover. After putting my bedding in the billet I came back to the truck. I then went back to see if the tea was ready. Finding that it was I got the drinking mugs of Glover and myself and handed Glover's mug to him. I then went for my tea. Glover did not follow behind me. Whilst I was in the cookhouse Sgmn Glover also came. As a result of what he said to me I went back alone to where I had left the truck and found it missing. I reported the matter to Sgmn Glover and we both came out and investigated but were unable to find the truck. From the time I left the truck until I saw Sgmn Glover in the cookhouse was 2 or 3 minutes. After Glover went to report the matter to the police I looked in the area for the vehicle but was not able to find it. The time the vehicle was taken would be about 2230 hours. I gave no one permission to take the vehicle. Besides, the official mail, Sgmn Glover's kit and a small part of my kit were in the cage of the vehicle. The only papers or documents that were in the vehicle that night were contained in mail bags which it was the duty of the ELS to carry. There was no private mail carried on the truck.

The accused declines to cross-examine the witness.

R. Carter

6022196 Pte Carter R

Third Witness for Prosecution

5778291 L/Cpl Simmons W, 231 Provost Coy, CM Police, having been duly sworn states:

"On 31 Oct 44 I was on duty at Pescara. About 2045 hours I was on town patrol duty accompanied by L/Cpl Parker of the CM Police and I was engaged in the checking of out of bounds cafes. I entered a cafe which was clearly marked out of bounds and there I saw an Italian patriot and a soldier sitting at a table. I checked the Italian patriot's identity. I then questioned the soldier, who is Gnr Mason, the accused. He replied in the Italian language and said "Io Italiano". I asked him to produce documents of identification and he answered "Niente documents". I was suspicious of him because he was dressed in motorcycle breeches and motorcycle boots. I ordered the Italian patriot and the soldier, Gnr Mason, to accompany me to my Company Detachment, Pescara. I placed the accused under arrest around 2050 hours. On the way to Detachment HQ the soldier appeared unwilling to accompany me and kept stopping and saying "Aspette, aspette". Before we got to Detachment HQ he spoke in English with a Canadian accent. When he got to Detachment HQ he admitted that he was a Canadian. He stated that he had a motorcycle in the town but would not disclose where it was parked. When he got to Detachment HQ he gave me some particulars which later proved to be false. He was then conducted to the Carabiniere jail at Pescara and detained. The next morning, 1 Nov 44, at about 0900 hours, I again saw Gnr Mason and queried the particulars he had given me. He then gave me his particulars as No C957 Gnr Mason W, 92nd Bty, 3rd Fd Regt, RCA, 1 Cdn Div. When I last saw the accused on 1 Nov 44 he was wearing motorcycle breeches and motorcycle boots.

The accused declines to cross-examine the witness.

W. Simmons. L/Cpl.

5778291 L/Cpl Simmons W.

Fourth Witness for Prosecution

2693729 CSM MacCallum, P.W., 67 Sec Special Investigation Branch, Military Police, having been duly sworn states:

On information I had received on 6 Nov 44 I saw No C957 Gnr W Mason the accused (whom I recognize) detained at the 98th General Hospital in BARI. I said to him, "I am a Warrant Officer of the Special Investigation Branch, Military Police. I am making inquiries into the loss of an ELS truck No Z5319159 and 18 sacks of mail, together with the regimental necessities of 2 British soldiers, stolen from Pescara on 15 Oct 44". As a result of these inquiries I had reason to believe he could tell me something about this matter. I cautioned him by saying, "You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence". I made no threat, promise or immunity or held out no hope of reward to the accused at this time and I used no compulsion to cause him to make a statement. Mason replied, "I drove a lorry into the ditch at Pratola. I gave the Maresciallo there my particulars. That is all I know." I then carried out further inquiries in the Pratola, Pescara and Sulmona areas resulting in my again seeing Gnr Mason accompanied by Sgt Burt of my detachment on 15 Nov 44 at the Ortona Guard Room. Being then known to Mason I again cautioned him in the manner previously stated and said to him as a result of further inquiries I had made into the matter of the lost truck at Pescara I had good reason to believe he knew something about the disappearance of the mail. At the time I did not hold out any hope of reward or make any threats, promises or inducements to have him make a statement. It was entirely voluntary. He replied "Yes, I burned the mail. I can show you where I burned it, but I did not steal the truck". Gnr Mason then, accompanied by Sgt Burt and myself, went to Sulmona where he took us to a road near the town and pointed it out as the road on which he had burned the mail, although he could not point out the actual spot. By this time it was getting late in

Fourth Witness (Contd)

the day and he was detained for one night in the Carabiniere jail at Sulmona. Next morning he was brought to the office of the Field Security at Sulmona by Sgt Burt and Sgt McKee. I again administered a caution to Mason in the same manner as before and told him that I was of the opinion he could tell a good deal more about the matter of the missing truck and the mail. Gnr Mason replied "Yes, I'll tell the truth to the best of my knowledge because I can't remember clearly". I asked him if he would care to make his explanation in writing and he replied "Yes". At this time there was no threat or compulsion used nor was any hope of reward or promise of immunity held out to the accused. In my opinion, the statement was given voluntarily. In the presence of Sgt McKee and I a statement was taken down in writing from Gnr Mason at his dictation by Sgt Burt. The caution was administered by Sgt Burt to Gnr Mason - which Gnr Mason signed. At the conclusion of this statement Sgt Burt read it over to the accused. I also handed this statement to the accused who perused, read and signed it. I witnessed the signature to the statement. He was given the opportunity to make any alteration that he cared to. I counter-signed the statement. I produce a document which is the statement I have referred to above (document marked Exhibit "A"). I witnessed the signatures of the accused as follows: Two on the first page, one on the bottom of the second page, one on the bottom of the third page and one at the end of the statement on the 4th page. The three signatures at the bottom of the statement are those of myself, Sgt McKee and Sgt Burt. I saw Sgt McKee and Sgt Burt sign their signatures. No questions were asked the accused during the dictation of the statement other than those necessary to clear up any ambiguity with respect to times and places. After making the statement the accused volunteered to assist us in finding the cage which had been taken from this particular type of vehicle. We carried out searches in the villages surrounding the Sulmona district but were unable to find the missing cage which had been removed from that type of vehicle. After this Gnr Mason was conveyed back to the Ortona Guard Room where he was handed over to the NCO IC. When I first saw the accused on 6 Nov 44 and at all times subsequently he was wearing motorcycle breeches and motorcycle boots. On 17 Nov 44 Sgt Burt gave me a pair of motorcycle breeches and motorcycle boots which were similar to the ones worn by the accused. I showed them to Sgmn Glover the same day. After Glover had looked at them they were handed to his OC in Glover's presence.

The accused declines to cross-examine the witness.

P W MacCallum. CSM.
2693729 CSM MacCallum P W

Fifth Witness for Prosecution

2695053 Sgt Burt, J., 67 Section, Special Investigation Branch, having been duly sworn states:

I recognize the accused as C957 Gnr Mason W.H. On 15 Nov 44 I saw the accused in the Town Guard Room at Ortona. I was with CSM MacCallum. CSM MacCallum explained to the accused that he had been making further inquiries about the case and thought that the accused could give further information. He was cautioned by CSM MacCallum in words approximately as follows: "You have been cautioned. You are not obliged to say anything unless you wish to do so and anything you do say will be taken down in writing and may be given in evidence". Mason replied, "Yes, I burned the mail. I can show you where I burned it, but I did not steal the truck." The above statement was made voluntarily by the accused. Mason then accompanied us to Sulmona and showed us the side road where he alleged he had burned the mail, but there were no marks or trace of the mail having been burned. He was then taken back to Sulmona and placed in the Carabiniere Guard Room overnight. On the 16 Nov 44, in company with Sgt McKee, I went to the Carabiniere Guard Room to collect Mason and take him down to the Field Security Office in Sulmona. When we were in the office CSM MacCallum said to Mason "I still think you could tell us more about

Fifth Witness for Prosecution (Contd)

this." Mason replied, "Yes, I'll tell the truth to the best of my knowledge. I can't remember everything too clearly." CSM MacCallum then asked him if he would care to make a statement in writing. He replied "Yes". Then I wrote a caution and read it over to him and he signed it. Then he made a statement. The statement was taken down in writing by me at Mason's dictation. I read over the statement to him. Mason was then allowed to read it over and after being asked if he wished to make any alterations he signed it. This statement (Exhibit "A") is the statement of the accused above referred to. The signature after the words "I have been cautioned that I am not obliged to say anything unless I wish to do so but that anything I do say will be taken down in writing and may be given in evidence." is that of the accused. The above words are the words that I wrote down and read to the accused before he made the statement. The signatures at the bottom of pages 1, 2, 3 and at the end of the statement are those of the accused. The signatures at the foot of the whole statement are those of CSM MacCallum, Sgt McKee and myself. I saw all the signatures made. There were no threats, promises or inducements made in connection with the obtaining of the statement and it was given voluntarily. Sgt McKee and CSM MacCallum were present when the statement was made. The writing apart from the signatures is mine.
When I saw the accused on the 15th of November 1944 he was wearing motorcycle breeches and motorcycle boots. On the 17th November I took these breeches and boots from the accused. He was given a blanket and I made arrangements to have new trousers and boots sent to him. The breeches and boots I took from the accused were shown Sgmn Glover in the presence of CSM MacCallum. Sgmn Glover looked at the boots and breeches. The boots and breeches were later handed to an officer of the 15 L of C Signals in the presence of Sgmn Glover. The breeches and boots which the accused was wearing when I first saw him appeared to be the same ones that I showed to Sgmn Glover.

The accused declines to cross-examine the witness.

J. Burt.

2695053/Sgt Burt J.

Sixth Witness for Prosecution

3249133 Sgt McKee D., 419 Field Security Section, Intelligence Corps, having been duly sworn states:

On the 4th of November 1944, from information I received I proceeded to Pratola Peligna. In the morning I found a 15 cwt Dodge vehicle, No.Z5319189, outside a blacksmith's shop in Pratola Village. I took the vehicle back to my billet at Sulmona where it was claimed by Sgt Rushman. When I found the vehicle it had no canopy and no supporting pipes and there was no cage fitted onto the back of the vehicle. It was possible to read the number of the vehicle where it was painted on the back. I recognize the accused as Gnr Mason. On 16 Nov 44 Sgt Burt and myself brought Mason back to my billet and office in Sulmona from the Carabiniere Jail where we handed him over again to CSM MacCallum. On the 16 Nov 44 Mason volunteered a statement of the whole incident. I think it was CSM MacCallum who first cautioned him. I saw the accused sign on two places on the first page of the statement (Exhibit "A") and at the foot of the second, third and fourth pages. The other signatures at the foot of the fourth page are those of CSM MacCallum, Sgt Burt and myself. Sgt Burt took the statement down in writing at the dictation of the accused. There was no threat, promise or inducement made by any that were present in connection with obtaining the statement.
I produce the following documents relating to the accused: (a) Record of Declaration of a Court of Inquiry assembled on the 20 Oct 44 showing the accused to have absented himself from 0800 hours 28 Sep 44, (b) Certificate in accordance with Army Act Section 163(1)(jj) showing the accused to have been arrested at 2045 hours 31 Oct 44.

Sixth Witness for Prosecution (Contd)

The accused declines to cross-examine the witness.

3249133 Sgt McKee D.

Question to the accused:-

"Do you wish to make any statement or to give Evidence upon Oath? You are not obliged to say anything or give Evidence unless you wish to do so, but whatever you say or any Evidence you give will be taken down in writing and may be given in Evidence.

Answer:-

"No, sir.

I hereby certify that the above Summary of Evidence was taken in the presence of the accused on the 9th day of January, 1945, and that Rules of Procedure 4(c),(d),(e) and (f) have been complied with.

Dated this 9th day of January, 1945.

(J A Bourne) Capt
Legal Officer
Cdn Sec GHQ 1 Ech
Officer detailed to take Summary of Evidence.

Ex "C"

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SEC. 163(1) (ii)

I CERTIFY THAT

NO. C.957 RANK Gnr NAME MASON W.

of the 3 FIELD REGT R.C.A.

was arrested at PESCARA at 2045 Hrs.

on the 31st day of OCTOBER 1944

Signature of P.M., A.P.M., or other Officer whose custody the above named person was taken on arrest. } W. McLeman

Rank Lieut

Appointment (if any)

COMMANDING IC Detachment 221 Provost Company CMP

DATE 9 Nov 44

5

For "B"
[illegible] Capt

RECORD of the Declaration of a Court of Inquiry assembled at in the field on the 20th day of October 19 44 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. C 957 Gnr MASON, WH

DECLARATION

The Court declare, that C 957 Gnr MASON, WH 3 Cdn Fd Regt RCA, illegally absented himself without leave while on active service in the field at 0800 hrs 24 Sep 44 and that he is still so absent, that on the 16 Oct 44 he was deficient and is still deficient, the following articles (see appendix), valued at Eight Pounds, thirteen shillings, and eleven pence.

Names of President and Members:

Capt LG Vickers, RCA	President
Lieut RP Murphy, RCA	Member
Lieut RD Elsdon, RCA	Member

Signature of Commanding Officer JS Ross, Lt Col RCA

Certified true copy G Davidson
Signature of Officer having custody of original record.
(GG Davidson) Capt RCA
Adjutant 3 Cdn Fd Regt

4

PRICE LIST 16/10/44

Kit shortages of C 957 Gnr MASON, WH

Items	Designation	Price £	s	d
1	Blouse, battle dress		12	9
1	Boots, ankle, prs		13	8
2	Drawers, cellular, short, prs		2	4
1	Greatcoat, drab	1	8	6
1	Jersey, pullover		4	2
2	Shirts, angola, drab		11	10
2	Socks, worsted, prs		1	9
1	Trousers, battle dress, prs		11	4
1	Bags, kit, universal		2	7
1	Braces			11
1	Brass, cleaning			1½
1	Brush, button, brass			8
1	Brush, clothes		1	9
1	Brush, hair		1	4
1	Brush, shaving			8½
1	Brush, shoe, blacking			6
1	Brush, shoe, polishing		1	4½
1 B	Brush, tooth			4
1	Caps, comforter			11
1	Combs, hair			2
2	Discs Identity with cord		1	4
1	Dressings, field			9½
1	Fork, NS			3½
1	Holdall			8
1	Housewife, complete			7
1	Knife, clasp		2	8
1	Knife, table			6
1 Razor,	safety, with blade			4
1	Spoon NS dessert			4
2	Towels, hand		1	11
1	Attachments, brace			10
1	Bags, ration			2½
1	Belts, waist		4	
1	Bottle, water		2	11
2	Braces, WE		3	8
1	Carriers, waterbottle		1	11
1	Covers, breech, rifle		1	3
1	Covers, Mess tin rect		1	6
1	Haversack,		8	6
1	Pack		8	6
1	Pouch, basic		6	3
2	Straps, shoulder, haversack		3	2
2	Straps, supporitng, web		1	4
1	Tins, Mess, rect		2	
1	Capes anti-gas		13	2
1	Trousers, KD		3	4
1 Shirts	Bush		10	
	Total	£8	13s	11d

Certified copy of original

J G Davidson 3

(J G Davidson) Capt RCA
Adjutant 3 Cdn Fd Regt

I hereby acknowledge receipt of one copy of the Summary of Evidence and the Charge Sheet in connection with my forthcoming Court-Martial.

I desire the services of an officer to defend me at my trial.

I do not require 7 days' notice of the fact that an officer with legal qualifications will prosecute at my trial.

Dated this 10th day of January, 1945.

W H Mason

C957 Gunner W. H. Mason.

2

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

H.Q.C.55-K-1667 CONFIDENTIAL

N.F.B. 5078
15M-4-43 (9026)
H.Q. 301-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MCGRATH. JAMES B.84116 PTE.

CONFIDENTIAL
H.Q.C. 55-K-1667

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				J.A.G	NEW FILE	C.R.	APR 19 1945
APR 20 1945				Admin	As requested action pl	[illegible]	20.4.45
				J.A.G.	returned pls	[illegible]	5.5.45
				Admin	As requested, pls return	[illegible]	24/5/45
				JAG	Memo pls.	[illegible]	25/5/45
				Admin	With minute (2)	[illegible]	4/6/45
JUN 7 1945							
JUN 25 1945	25.6.45	PA	[illegible]	Admin	Per Requisition C.R. JUN 1 9 1945		
JUL 19 1945	14/8/45	[illegible]	[illegible]	Admin	PER B.F. JUL 20 1945		
JUL 23 1945	23/7/45	R.G.	[illegible]	J.C.M.	Per Requisition C.R. JUL 23 1945		
AUG 1 9 1945	14.8.45	PA	[illegible]	Admin	PER B.F. AUG 14 1945		
JAN 5 1946	5/1/46	PA	[illegible]	C.M.B.R.	Per Requisition C.R. NOV 30 1945		
JAN 11 1946	11-1-46	Pa	[illegible]	Admin	Per Requisition C.R. JAN 9 1946		
				C.M.B.R.	With Papers C.R. FEB 3 1946	OK	
FEB 4 - 1946				J.A.G.	To note pls	Wan	4/2/46
FEB 5 - 1946				C.M.B.R.	—	E.J.	4.2.46.
FEB 7 - 1946	6-2-46	Pa	[illegible]	Adm 3	To note please	Wan	6 Feb 46
JUL 19 1946	9/7/46	PA	WAS	LDRB	Per Requisition C.R. MAY 9 1946		
MAR 19 1947	19/3/47	[illegible]	[illegible]	[illegible]	PER REQUISITION OF FEB 17 1947		

NOTICE

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2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

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TO SECTY DND OTTAWA

TO DOC PAC CMD VANCOUVER BC

TO OC NO 11 DD VANCOUVER BC

GRS 241 BT

KD 59 RESTD RELETS KS 674(A) DATED 14 AND 25 JAN 46 STOP

FOLLOWING SUS PRESENTLY HELD NO 29 MDB FORT HENRY BARRIEFIELD

ONT WILL CEASE ATT THAT UNIT AND SOS NO 3 DD TO NO 11 DD

WEF 30 JAN 46 STOP

K.1517 PTE MILNER J R CMBR RELEASE 27 FEB 46

K.51689 PTE ATCHISON A P CMBR RELEASE 1 FEB 46

K.50605 PTE MCGRATH D E CMBR RELEASE 6 FEB 46

K.42491 PTE KENNY W E CMBR RELEASE IMMEDIATE

K.57467 PTE TURNER A R CMBR RELEASE IMMEDIATE

K.49924 PTE PLOWE F E CMBR RELEASE 17 FEB 46

STOP THESE SUS WILL BE DESPATCHED UNDER ESCORT AND WILL ARRIVE

VANCOUVER B C 0645 HRS 3 FEB 46 VIA CPR STOP REQUEST COMMANDING

HAVE ESCORTS DETAILED TO MEET THIS TRAIN ON ITS ARRIVAL AT

TRAINSIDE STOP REGIMENTAL DOCUMENTS OF EACH SUS WILL BE HANDED

OVER TO NCO I/C OF THIS DRAFT ON ARRIVAL STOP AFA 3104 IN EACH

CASE WILL BE FORWARDED UNDER SEPARATE COVER DIRECT TO COMMANDING

PACIFIC STOP ADDRESSED COMMANDING PACIFIC REPEATED OC NO 11 DD AND

DEFENSOR.

BT 291219 R CY B

C::::::::::KSIN 1 ST LINE AS 1 GRS PHE RPT KS

C::::::::::K.49924 PTE PLOWE RPT PLOWE

CR(C) PA on file

C 55- M-1667

Adm 3(b)2

T-36-10-202 Vol.3(AJAG)
T-20-B-763
T-20-B-604 T-20-M-6039
T-20-M-6392 T-20-M-10519

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
30th January 1946.

CENTRAL REGISTRY Army
CONF. SEC.
5489
FEB 2 1946
File 6-55-M-1667
Chgd. to
Referred to CMBR

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Remission of Sentences - SUS ex ITALY and U.K.

B-73259	Pte. BELL, W.C.E.	- 1029(9)
B-85885	Pte. BUCKLE, F.	- 1029(9)
B-44286	Pte. HOWARD, W.W.J.	- 1029(9)
B-84116	Pte. McGRATH, J.	- 1029(8)
B-78715	Pte. WELLER, G.L.	- 1029(8)

Reference K.S. 674(A) dated 10th December 45 and 28th December 45.

2. Herewith completed Appendices "G" to C.A.R.O. 5913 and AFnA 3104 referring to the marginally-named SUS.

3. Discharge under the provision of C.A.R.O. 1029 as indicated after the name in each case was effected 4 Jan 46 and remission of sentence, effective date of discharge, granted.

P J Delyman
for (C.C. Mann)
Brigadier
D.O.C. M.D. 2.

COPY TO : The District Officer Commanding, (FOR INFORMATION)
Military District No. 3,
KINGSTON, Ontario.

noted
GCR

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY C.M.

HQ File No.
District File No. T-20-M-6039

PART I

No. B-84116 Rank Pte. McGRATH, J.
Unit. No. 2 District Depot, C.A. (formerly RCASC (HQ 1 Cdn. Inf. Bde)

PART II

Date of Trial 17 Jan. 45 (FGCM)
Charge(s) (1) AWL (AA Sec. 15(1) (2) Conduct to the Prejudice etc. (AA Sec. 40)
(3) Conduct to the Prejudice etc. (AA Sec. 40)
Sentence 2 yrs. Imprisonment with Hard Labour
Date of Sentence 19 Jan. 45
Confirmation - (a) Authority : J.D.B. Smith, Brig. Comd 1 Cdn Inf Bde
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act (~~xxxx

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B 84116 Pte McGrath, J. Unit RCASC (HQ 1 Cdn Inf Bde)

Sentenced to 2 years imprisonment with H.L. on 19 Jan 45

Age on, and date of enlistment 23yrs, 13 Sep 39 Term of service 4 yrs, 8 months 27 days

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20012) Wt.46072/276 100,000 2/42 A.& E.W.Ltd. Gp.698 Forms/A.3104, 15

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	No remission. Returns to Canada in custody under escort	(C. S. BOOTH) Brigadier, D.A.G. Canadian Military Headquarters. 14 Mar 1945	
2 Jan 46	Remit effective date of discharge.	(A.E. Potts) Major-General D.O.C. M.D. No.2.	

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. When on Action service absenting himself without leave, in the field, 1st Charge AA Sec 15(1) In the Field, absented himself, without leave from 1045 hrs. 9 Jun 44, until surrendering himself to O/C Police at Naples at 1730 hrs 3 Oct 44. Total Period of 116 days, 6 hrs 45 min.	9 June 44	17 June 45
2nd Charge AA Sec 40 WOA S., conduct to the prejudice of good order & military discipline, in that he, in the Field, on 9 Jun 44 made improper use of a WD vehicle, failed and subsequently in that he took WD Vehicle No 451825 Em unauthorized trip without permission.	9 June 44	17 June 45
3rd Charge AA Sec 40 WOA S., conduct to the prejudice of good order and military discipline, in that he, in the Field, on 9 Jun 44 did break & enter hut and personal belongings the property of Capt. T R Wild, RAMC & S/Sgt Pembroke, F. and O 31886 Cpls Carter, & Jones.	9 June 44	17 June 45
Signature of Officer making entry. S/L	T.P. O'Gorman Capt (T.P. O'Gorman) Captain 1 Cdn Inf Bde	

If further space required, an additional slip should be pasted here.

VIII.—Second Trial.

Signature of Officer making entry.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
23 Jan 45	I do not know the accused as he has been under arrest from the time I joined the HQ.	(H K Macintosh) Major, BM 1 Cdn Inf Bde

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
24 Jan 45	I recommend that the sentence be served in full.	(J D B Smith) Brigadier, Comd 1 Cdn Inf Bde

T-36-10-282 Vol.3(AJAG)
T-20-B-765
T-20-B-604 T-20-M-6039
T-20-H-6392 T-20-W-10519

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
2nd January, 1946.

The Officer Commanding,
No. 2 District Depot, C.A.,
Stanley Barracks,
TORONTO, Ontario.

GENERAL REGISTRY Army
525
JAN 5 1946
SEC.

Remission of Sentences - SUS ex ITALY and U.K.

B-73239	Pte. BELL, W.G.E.	- 1029(9)
B-85885	Pte. BUCKLE, F.	- 1029(9)
B-44286	Pte. HOWARD, W.W.J.	- 1029(9)
B-84116	Pte. McGRATH, J.	- 1029(8)
B-78715	Pte. WELLER, G.L.	- 1029(8)

Reference K.S. 674(A) dated 10th December 45 and 28th December 45.

2. The District Officer Commanding, Military District No. 3, has advised that the marginally-named SUS were despatched to No. 2 District Depot, C.A. for discharge under the provision of C.A.R.O. 1029 as indicated after each name and remission of balance of sentence.

3. The District Officer Commanding, M.D. 2, has remitted the balance of the sentence now being served by the marginally-named SUS effective the date of discharge and hereby authorizes discharge as indicated above.

4. Enclosed herewith Appendix "G" to C.A.R.O. 5915 effecting remission.

5. May Promulgation of the remission be made to the said respective SUS effective the date of discharge, Parts IV and V of the said form completed and the form then returned to this Headquarters, please.

(P.J. Flynn)
Major
A.J.A.G. M.D. 2.

COPY TO : The Secretary, (FOR INFORMATION)
Department of National Defence,
OTTAWA, Ontario.

The District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

IN REPLY PLEASE QUOTE

No. T.20-M-6039 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

ARMY Headquarters, Military District 2,
159, Bay Street, Toronto, Ontario.

31 Dec 1945

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

JAN 2 1946
File
Chgd. to CMBR 30 11-45
Referred to CMBR

B-84116 Pte. McGRATH J.
SUS ex Italy.

Reference HQC 55-M-1667 (CMBR) dated 27 Dec 45.

2. Advice has been received that the marginally named SUS is being transferred to 2 D.D. from #89 M.D.B. on 2 Jan 46 for discharge and remission of sentence effective date of discharge.

3. Enclosed herewith are proceedings of F.G.C.M. referring to the marginally named SUS.

4. AFA 3104 is being retained at this Headquarters and will be returned after remission has been effected.

for (A. E. POTTS)
Major-General
D.O.C. M.D.2

c.c. D.O.C.
M.D.3

N.D. 23
200M—10-44 (5769)
HQ 1772-101-23

Noted.
AAG
Cpt.
5 Jan 46. CMBR-3

RECORDED AT CMHQ IN AB 160 45-38

CFA96 (In lieu of AFA3) 40/P & S/1698 (40/6) 4/38B

FIELD GENERAL COURT-MARTIAL

RECEIVED 18 FEB 1945 C.M.H.Q.

Convened by Order of Brigadier J.D.B. Smith Comd 1 Cdn Inf Bde Dated 17 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 84116	Private		James	McGRATH	RCASC (Hq 1 Cdn Inf Bde)

PROCEEDINGS REVIEWED
16 FEB 1945
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date(s)*) 19 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2H-6

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed. THE COURT ADVISES THEMSELVES THAT AN ACCUSED WHO IS NOT AVAILABLE TO SERVE COMES TO THE EVIDENCE OF THE SERVICE AND LT COL WATSON A.C.L. WAITING MEMBER TAKES HIS PLACE AS A

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY THE COURT. P OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95 for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F.G.C. Darton	RCR
Member	Captain	S.R. Walker	HPER
Member	Lt.	~~A.W. Wood~~ W.C. Watson	~~as Hqrs~~ RCR.
~~Judge Advocate~~			
Prosecutor	Capt.	D.W.H. Jenkins	48th Highrs
Defending Offr	"	G.J.M. Cassan	RCASC

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused B84116 PE. J. McGRATH RCASC. before arraignment make(s) (no) (~~a~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C D.N.B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

G.45 A5/75

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(B).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, [illegible] and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ~~ALL~~ FIRST & SECOND CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No. (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be asked to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (~~them~~) again, and the trial is continued by using paras B1 to B5 of Record Form E above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B 84116 Pte James McGRATH, RCASC, H.Q. 1 Cdn Inf Bde a soldier of the Canadian Army Overseas, Central Mediterranean Forces, placed on Active Service is charged with:

1st Charge
A.A. Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the field, absented himself without leave from 1045 hrs 9 Jun 44 until surrendering himself to CM Police at NAPLES at 1730 hrs 3 Oct 44.
(Total absence of 116 days, 6 hrs, and 45 minutes)

2nd Charge
A.A. Sec 40

WHEN ON ACTIVE SERVICE
CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

In the field, on 9 Jun 44 made improper use of a WD vehicle, petrol and lubricants in that he took WD vehicle No. 4518258 on an unauthorized trip without permission.

3rd Charge
A.A. Sec 40

WHEN ON ACTIVE SERVICE
CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he,

In the field, on 9 Jun 44 did lose by neglect kit and personal belongings the property of Captain T.R. Wood, P 16469 CSM Pendock, F. and C 31556 Cpl Earle, J.L.

4th Charge
A.A. Sec 19

WHEN ON ACTIVE SERVICE
DRUNKENNESS

in that he,

In the field, on 4 Jan 45 when on fatigue duty was drunk.

H K MacIntosh
(H K MacIntosh) Major
BM 1 Cdn Inf Bde

In the field
16 Jan 45

To be tried by Field General Court Martial.

J.D.B. Smith
(J D B Smith) Brigadier
Comd 1 Cdn Inf Bde

In the Field
17 Jan 45

CFA95 (In lieu of AFA3)
40/PAR/1697 (2968)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 84116	Private		James	McGRATH	RCASC(HQ 1 Cdn Inf Bde)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~been~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 17 Jan 45 endorsed by me, [redacted] "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [redacted]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	F.G.C. Darton (Must be named. RP 106.)	RCR (Unit.)

MEMBERS.

Captain	S.R. Walker	HPER
Lt. (Rank.)	A.W. Webb (Named or detailed. RP 106.)	48 Highrs (Unit.)

WAITING MEMBER.

Lt. (Rank.)	W.C. Watson (Named or detailed, if any. RP 106.)	RCR (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 17 Jan 45

J.B. Smith (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(J D B Smith) Brigadier
Commanding Comd 1 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 577)

I certify that I have this morning examined No B.24114

Rank P.TR. Name McGRATH J. of 48 I.C.I.B.

and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station Field

Date 19 JAN 45

D. S. Wadner Capt
(Medical Officer)

~~[illegible]~~:

~~[illegible]~~

1st. witness for prosecution. Capt. J.L. Wood, HQ 1 Cdn Corps having been duly sworn states

~~I can't offhand remember the date,~~

The morning of June 9th my batman B-84116 Pte McGrath I failed to report to awaken me at approximately 1030 hrs that morning I saw Pte McGraw leave the camp area driving my baggage vehicle, a Ford 8 cwt. The unit was due to move at noon on the 9th and when I went to find McGrath and my baggage vehicle they were not anywhere in the camp area. After completion of the move I reported Pte McGrath absent without leave and the W.D. vehicle as stolen. I didn't see Pte McGrath again until this taken of summary of evidence for this court. The W.D. vehicle No 451825.8 was recovered (~~[illegible]~~) by the transport Cpl. (Cpl. Bennett) on the 25th of June. My kit was not in it when it was recovered, I value my kit at approximately (£60) Sixty Pounds.

2nd. How long had ~~this~~ the accused been serving you as a batman-driver when this incident occurred.

Ans: He first came to my employ as a batman in September 43 (approx. 8 months)

2nd: And it was your custom to carry all your kit in your vehicle. ⊗ ①

Ans: Yes

Que: Will you please identify the accused
Ans: I identify the accused Re (2)

Que: Can you ~~say~~ furnish the court with a detailed list of your deficiencies
Ans: I couldn't furnish an exact list but could certainly list the more important items of kit.

~~Que~~

Defence declines to cross exam.
R.P. 83(3) Complied with

2nd Witness for prosecution:
C-31556 Cpl. Earle, J. L., AB 1 Con Inf Bde having been duly sworn states:

~~All I know Sir is I was working at Supply point at the [illegible] and Capt Woods informed me that Pte Mc Gath had gone A.W.O.L. and that he had taken the 8 cwt. and when I returned~~

When I left Brigade I stored my surplus kit on the 8 cwt. and when I returned to Brigade there was no sign of my kit anyplace and no sign of the truck. When the truck was returned the only article of kit I could find was my empty kit bag.

Que: You had been at Bde. how long.
Ans: (January 1944) about 6 months
Que: and during that time the accused had been batman driver to Capt Wood
Ans: Yes
Que: It was the custom to use his vehicle as the kit vehicle
Ans: Yes. (2)

Que: ~~It was in the vehicle~~ Was it in the vehicle the last time you saw it. (3)

Ans: It was.

Que: Would anyone have authority to remove that kit.

Ans: Not to my knowledge.

Que: Was this vehicle the sole property of the BRASCO Staff

Ans: To the best of my knowledge

Que: Would anyone else have the authority to order this vehicle out.

Ans: Not to my knowledge

Que: Do you identify the accused

Ans Yes.

Cross-examination by defence

Que: How long had you been living at the supply point ~~(22 May to 22 June)~~

Ans: approx. one month (22 may to 22 June)

Que: How far would you say the supply point was from Bde H.Q. on the 9th of June.

~~Ans~~: I cannot answer exactly I believed it

Ans: to be forty miles (40)

Que: Were you in the habit of leaving your kit that far from you.

Ans: I left my surplus kit.

Que: Who do you consider responsible for the safe keeping of your kit.

Ans: The driver

Re-examination by Prosecution

Que: You are the supply Cpl. and was it your custom to live at supply point

Ans: Yes

Que: Was it your custom to visit main Bde

Ans: It depended on where we were (3)

~~Que: Was it~~

Que: Had you the permission of your Officer to carry your kit in the vehicle

Ans: Yes.

Certified Rules of procedure 83 (b) has been complied with

3rd witness for the Prosecution:

C-4333 Cpl. Bennett, H.Q. Can Inf Bde having been duly sworn states:—

On the 21st of June 1944 I was detailed by Capt Makepeace the transport Officer to go to St. Vito and pick up a Ford. 4x2 8 cwt., this 8 cwt had been found by a. 49 Coy C.M.P. It was left on a road near St. Vito. On the 22nd of June was the day I picked it up. I checked the truck over to see it was the right one; I recognized it as a Bde vehicle having driven it several times myself. There was two rifles and a T.M.C. in the vehicle when it was picked up by the C.M.P's. also a barrack room box empty and a letter addressed to Pte. Davidson. The tactical sign 81 had been made into a 31 and the Maple Leaf erased completely. I took the truck and drove back to Piedmonte.

Que: Can you identify the accused

Ans: I indentify the accused.

Cross examination by Defence.

Que: Were the two rifles and T.M.C and Barracks box in the vehicle when it was returned to your Coy.

Ans: Yes.

Que: Were they the property of anyone in your Coy.

Ans: That I can't say.

Certified R.P. 83 (b) has been complied with

(5)

4th Witness for the prosecution:

L-12043 Sgt. Huggett, J (Lome Scots), having been duly sworn states:

On the 4th of Jan. 1945 I was acting as Comp C.S.M. in the morning I had the wiring of Bde. H.Q. to do. The the electrician Pte Hazelthen asked if I would let Pte McGrath help him with the wiring. I had been given permission by Capt. Gorman to use Pte. McGrath under escort on any jobs. So I sent him, with the electrician as the escort. At approx. 1100 hrs. I went up to Cpl. Post's room which was also occupied by civilians and found Pte. McGrath without his escort with a glass of Vino in his hand. I ordered him to put the glass of Vino down and told him to report to his quarters. He did not make any sign to move and started to argue with me. I immediately summoned two escorts and ordered them to take Pte. McGrath to his quarters. They did with slight struggle. He was drunk.

Cross-Examination by the Defence

Que: At what time did the accused commence work.

Ans. 0900 hrs.

Que: Was the accused drinking when you entered the room.

Ans. Yes.

(5)

Que: ~~How do you determined whether~~

How did you determine the accused was drunk.

Ans: He was argumentative and his speech

was slightly incoherent.

Que: Was it necessary for you to assist him

Ans: No

Que: Did you lay a hand on him

Ans: Not at that time

Que: Was there any struggle between you and the accused.

Ans: Later on in the afternoon at approx. 1330 hrs. I found Pte McGrath in the hallway with his escort causing an argument about wanting to get his hat which was left at the Officers mess where he had been working. I told the accused and escort to go back to the room; that I would get his hat; he caused much argument and would not go back on his own. I summoned another escort and told them to take him back to his quarters. They appeared to be afraid of him so I put an arm-lock on him and forced him back to his room.

Que: ~~Would you tell~~ Was he still drunk at this time:

Ans: Yes.

Certified R.P. 83 (b) has been complied with.

~~No closing address by Defending Officer.~~ Ex

submission by the defending officer that the prosecution does not establish a prima facie case against the accused on the third charge :-

"It has been proven, I think, that the safe keeping of a soldiers kit is his own responsibility." "Cpl. Earle failed to take his surplus kit with him when he was employed and billeted some twenty miles away from where he left it." "Capt. Woods estimates the value of his kit to be £60/-/- but is unable to give an itemized report of its contents to the Court." "I submit that no evidence has been produced to prove the charge laid against the accused.

This was disallowed for the following reasons:-

① The 8 cwt referred to was a baggage vehicle as proved in evidence

② The accused was batman driver to Capt. Wood and it therefore was his responsibility to look after his officers kit.

③ Kit must have been on the vehicle with a move coming only an hour or so after the accused went absent with the vehicle.

Trial accordingly proceeded.

H.

Prosecutor's address to the Court on the conclusion of the evidence

Mr. President and members. In speaking to the charge of losing by neglect. It has been clearly established that the accused was the Batman Driver of Capt. Wood. In this capacity it is obvious that he is responsible for the kit of this officer. It has been clearly stated also that the kit of this officer was at all times material to this case stored on the vehicle in question.

It is also obvious that a driver is responsible, not only for his vehicle but for it's legal load. Witnesses have proven that the vehicle was the carrying and storage place of various peoples kits and I submit to the court that in the light of evidence submitted they have no alternative but to find the accused guilty.

On the charge of drunkenness tho it is simply a matter of accepting or not accepting the evidence of Sgt. Huggett. As no evidence was submitted to the contrary I submit that the court must find the accused guilty of the charge.

(8)

Defending Officer declines to make any closing address.

F-3 9

Mitigation Plea of Defending O.

Although the accused has had a clean record for some time previous to this, he has not been granted a furlough for over two years.

Prior to his going absent without leave, he was doing the jobs of three men. Batman - driver, cook and running of an I.C.W.T. and also acting as Coy. D.R.

During this time a D.R. was sent to the Coy. from the Reinforcement Center and on arriving he was immediately granted seven days leave while the accused carried on his many duties.

These facts are submitted, not as excuses for the accused's misconduct, but to show

that his actions were not premeditated, but rather the impetuous actions of one who feels he has been wronged.

I would like to remind the Court that he gave himself up to the C. M. P. and admitted his guilt to the charges in which he knows himself to be guilty

C. J. McPearson Lt

Summary of Evidence in the case of B84116 Pte James McGrath (RCASC), ~~attached~~ ~~to~~ HQ 1 Cdn Inf Bde, Canadian Army Overseas (CMF).

By order of the Commander 1 Cdn Inf Bde all evidence will be taken on oath.

First Witness for the Prosecution

Capt T. R. Wood (RCASC), Staff Capt "Q" 1 Cdn Corps, having been duly sworn states: At all times material to this case, I was ~~Brade~~ BRASCO 1 Cdn Inf Bde. At 0630 hrs 9 Jun 44 my batman-driver B84116 Pte James McGrath failed to report to wake me. At approximately 1045 hrs 9 Jun ~~45~~ 44 I saw B84116 Pte James McGrath leave the bivouac area in WD vehicle No 45 182258. I had made it a practice to carry all my kit in this ~~48~~ veh. Bde HQ was moving this day and at noon I searched the camp area for B84116 Pte McGrath and my baggage vehicle.

Ex A.

I failed to find either and up until the time that the Headquarters moved, he did not return. On 23 Jun 44, WD vehicle No 4518258 was recovered by the transport corporal of HQ 1 Cdn Inf Bde, Cpl Bennett F.T. I checked the vehicle to see if my kit was there but found it missing. I had personal kit to the value of Sixty Pounds ($60-0-0) when I last saw it.

Questions by Officer taking Summary

(1) When B/34116 Pte James McGrath left the bivouac area at 1045 hrs 9 Jun 44 did he have your permission or the permission of anyone else to leave?

Answer - No

(2) Was anyone besides yourself qualified to give such permission

Answer - No

(3) Did Pte McGrath see you as he was leaving or did you make any effort to stop him.

No. I don't think Pte McGrath saw me and I made no effort to stop him. He was some distance from me and as he was responsible for the maintenance of the

vehicle I thought he might be making a road test.

(4) When did you next see B84116 Pte James McGrath after 1045 hrs 9 Jan 44?

Answer This date, 11 Jan 45, at the taking of this Summary of Evidence. I have not seen him at any time ~~at any time~~ from 9 Jan 44 until this date.

(5) Was B84116 Pte McGrath with the vehicle when Cpl Bennett recovered it?

Answer No he was not, according to the report given me by Cpl Bennett.

(6) Do you recognize the accused as B84116 Pte James McGrath?

Answer Yes, I do.

The accused was asked if he wished to cross examine the witness and replied that he did not wish to do so.

Second Witness for the Prosecution

C 31556 Cpl Carle J L (RCASC) ~~Supply Cpl attached to~~ Supply Cpl HQ 1 Cdn Inf Bde having been duly sworn states: I am, and have been at all times material to this case, Supply Cpl on the BRASCO's staff at HQ 1 Cdn Inf Bde, I was living at 1 Cdn Inf

Div Supply Point on 12 Jun 44. Capt T R Wood informed me that B84116 Pte McGrath James (RCASC) HQ 1 Cdn Inf Bde was AWL and that he had taken W D vehicle No 4518258 Ford 4x2, 8 cwt, on which I had stored my kit. I returned to HQ 1 Cdn Inf Bde the following day and found that my kit bag, which had been stored on the above mentioned vehicle, was missing. On 23 June 44 the vehicle was recovered and I checked it to see if my kit bag was there. The only article I found was my empty kit bag. The following articles of kit were missing

Boots ankle - 1 pr
Shoes PT - 1 pr
Cape anti-gas - 1
Trousers battle dress - 1
Spectacles W D - 2 pr
Sweater pullover - 1
Anklets web - 1 pr
Pack large with straps supporting - 1

These articles had been in my kit bag when I had last seen it some time before 12 Jun 44.

J Lorne Earle
Cpl.

The accused was asked if he wished to cross examine the witnesses. He said he did not wish to do so.

Third Witness for the Prosecution

P16468 CSM (WO II) Pendock F Camp Sergeant Major HQ 1 Cdn Inf Bde, having been duly sworn, states: I am and have been, at all times material to this case, Camp Sergeant Major at HQ 1 Cdn Inf Bde. I was on leave from 4 Jun 44 to 12 Jun 44. On returning to HQ 1 Cdn Inf Bde I was informed by Capt T.R. Wood that B84116 Pte McGrath, James had gone AWL taking 8 cwt WD No 45-18258 with him. I immediately checked to see if my kit, which had been left in the vehicle, had been left behind, but found it missing. The missing articles of kit are as follows.

Officers Bed Roll - 1
Complete Web Equipment - 1
Capes anti-gas - 1
Shoes PT - 1 pr
Boots Ankle - 1 pr
Blankets - 4
One Camera (value 75 shillings)
One writing case (value 40 shillings)
One fountain pen (value 50 shillings)

On recovery of the vehicle I checked it to see if any of my kit was left on it. There was nothing of mine left.

Pendock

The accused was asked if he wished to cross examine the witness. He said that he did not wish to do so.

Fourth Witness for the Prosecution

B5089 Pte McManus E L (CMSC) ~~(H&S Highrs)~~ records clerk HQ 1 Cdn Inf Bde having been duly sworn states: I am B5089 Pte McManus E L (CMSC) ~~(H&S Highrs)~~ records clerk HQ 1 Cdn Inf Bde. From the records in my custody I present Certificate under Section 163 (2)(g) of the Army Act signed by Capt G C D Scott Lowe, officer commanding 510 Provost Coy CM Police. Capt Scott Lowe certifies that B84116 Pte McGrath J of "81" Coy RCASC att 1st Infantry Bde HQ 1st Cdn Div surrendered himself to No 1575764 L/Cpl Boor H at Naples on 3/10/44 at about 1730 hrs as an absentee without leave. This certificate is marked Exhibit A. I now recognize the accused as B84116 Pte McGrath J (RCASC) HQ 1 Cdn Inf Bde

E.L. McManus

The accused was asked if he wished to cross examine the witness. He said that he did not wish to do so.

Fifth ~~Fourth~~ Witness for the Prosecution

C4333 Cpl Bennett, F T transpo Cpl at HQ 1 Cdn Inf Bde having been duly sworn states: — I am and have been, at all times material to this case, tpt cpl at HQ 1 Cdn Inf Bde. On 21 June 44 I was detailed by the Bde T pt Offr Capt P du G Makepeace to go to San Vito and pick Ford 4x2, 8 cwt WD No 4518258. I reported to the OC 49 Coy CMP on 22 June 44 and picked up the vehicle. In the vehicle was one TMC and two rifles, a barrack-room box, an empty tit bag and a letter addressed to Pte Davidson W.R. I started the vehicle up. It seemed to be in good shape except for faulty brakes. The tactical number "81" had been cut away so as to look like 31. The maple leaf had been erased. I took the vehicle back to Bde HQ arriving back 23 Jun 44. I turned it over to Capt T.R. Wood.

Question by Officer Taking Summary

(1) Did you recognize Ford 4x2, 8 cwt WD No 4518258 when you saw it at 49 Coy CMP?

Answer Yes, I recognized it as BRASCO's vehicle on strength HQ 1 Cdn Inf Bde. Previously I had driven it quite a bit myself.

(2) Did you know that it had been away from HQ 1 Cdn Inf Bde?

Yes Capt T R Wood had reported the absence of B84116 Pte McGrath James and the vehicle in question to the T.O.

I had been informed subsequently and knew that that was the vehicle I was looking for when I was sent to 44 Coy CMP.

(3) Did the CMP tell you how they had come into possession of the vehicle?
Yes they told me they picked it up at a location which I have forgotten some distance from the camp from which it had been taken.

(4) Was any person with the vehicle at the time it was found?
No as far as I can remember the CMP said they had found it alone. Pte McGrath was not with it or at ~~CMP~~ 44 Coy CMP HQ when I picked it up.

J. J. Bennett

The accused was asked if he wished to cross-examine the witness. He said that he did not wish to do so.

Sixth Witness for the Prosecution

L12043 Sgt Huggatt J., Lorne Scots, HQ 1 Cdn Inf Bde having been duly sworn states: I was acting camp sergeant-major on 4 Jan 45. The accused B84116 Pte James McGrath was under close arrest in my custody 4 Jan 45. I released him under escort of L13015 Pte Hazelham J J (Lorne Scots) to help with the electric wiring of the camp. At approximately 1100 hrs I visited my corporal's room

which was also used by civilians. I found the accused without escort with a glass of "vino" in his hand. I ordered him to put down the vino and return to his quarters under my escort. He drank the vino and commenced an argument with me. I summoned two privates as escorts and ordered them to take the accused to his quarters, which they did with a slight struggle. The accused was drunk at this time. He was slightly unsteady on his feet and his speech was incoherent.

J Huggett. Sgt.

The accused was asked if he wished to cross examine the witness. He said that he did not wish to do so.

The accused was asked." Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence." The accused declined to make any statement or to give evidence on oath.

Certified that Rules of Procedure 4 (c)

(d) (e) and (f) have been complied with.

Taken down by me in the presence and hearing of the accused this 14th day of January 1945 "In the Field"

T. P. O'Gorman Capt
(HPCR) HQ 1 Cdn Inf Bde
Officer Taking Summary of Evidence.

"In the Field"
Italy

EXHIBIT "A"

Certificate under Section 163 (i) (j) Army Act

I CAPT. GCD SCOTT LOWE Certify that No B84116 Rank PTE "81 COY" R.C.A.S.C. ATT. 1st INFANTRY BDE.

Name McGRATH J. of the H.Q. 1st CDN. DIV.

surrendered himself to No 573764 Rank A/C Name BOOR H

at NAPLES on the 3/10/44 at about 17.30 hrs as a ~~deserter~~/absentee without leave.

Commanding Do Provost Coy. C.M.P. Police

(Commanding Officer of the person or portion of His Majesty's Forces to whom surrender was made).

Ex. A. to Summary

PS52 90TB 5M 7-44

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B 84116	Private	MCGRATH, James	RCASC(HQ 1 Cdn Inf Bde) FIELD

1. The following is a fair and true summary of the entries in the ~~regimental and squadron, battery or company~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See Regs. 677, R.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	~~NIL~~ A.A. Sec 15 NIL times	3 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ 0

~~There are no entries in the conduct sheets of the accused~~ 0

2. ~~The accused has not been previously convicted, or~~ 0

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or ~~the accused at the present time is under sentence (or~~ 0 ~~beginning on the~~ 0 ~~day~~ 0

4. The accused has been in confinement, awaiting trial on the present charges, for 0 ~~days~~ ~~days, and~~ ~~44~~ 107 days in military custody, making a total of ~~107~~ days, of which ~~2 months & 3~~ 0 63 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 0 33

6. The date of his ~~enlistment~~ 0 attestation specified in his ~~record of service~~ attestation paper is 0 13 Sep 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs, 8 months 27 days

8. The accused is entitled to deferred pay or gratuity in respect of 4yrs, 8 months, 27 days

9. The accused is entitled to reckon 4 yrs, 8 months, 27 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~no military decoration or military award (or is in possession of or~~ 0 ~~entitled to (state any military decoration or award)~~ GVSM & Clasp

~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental~~ 0 ~~rank of~~ 0

~~(In the case of an officer.) The accused holds in the army the rank of~~ 0 ~~dated~~

~~and in his regiment (or corps or department) the rank of~~ 0 ~~dated~~

(71828) W.L.15652/144 125,000 6/41 A.S.R.W.Ltd. Gp.458

Ex. B.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B 84116 Rank Private Name McGRATH, James of RCASC (HQ 1 Cdn Inf Bde) Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	6 Feb 43	A.A. Sec 15 (1)	168 days detention	Nil
	In the Field	A.A. Sec 15 (1)	Forfeits 185 days pay under FRI 149(1) (a)	
		A.A. Sec 15 (1)	Forfeits 5 days pay under FRI 149 (1) (a) 1	

64

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of January 1945

T. P. O'Gorman Capt
(T P O'Gorman) Captain
Staff Learner, Officer in Charge of Records

Date of Promotion.

In the rank of years.

In the rank of years

In the rank of years.

(Convictions—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court martial the information may be collected from such records as are available and the paragraph concerned amended accordingly.*)

No. B 84116 Name McGrath, James | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 13/9/39 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/125 (3438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1. | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16/8/40	Pte		AA 15 (1) WOAS AWL 2200 hrs 16/8/40 till 2000 hrs 19/8/40	Sgt Varney	14 days CB	20/8/40	Major S.H. Coombs	Forfeits 3 days pay FRI 149 (1) (a)
Field	17/12/41	Pte		AWL from 1200 hrs 17 Dec 41 to 0700 hrs 18 Dec 41. Time absent 19 hrs. Sec 15 (1)	Sgt Varney Cpl Reid, A.	3 days CB	18/12/41	Captn a GE Bimmons	Forfeits 1 days pay FRI 149 (1)(a)
Field	5/6/42	Pte		WOAS AWL from 0900 hrs 5 Jun 42 to 0600 hrs 8 Jun 42. Absent 39 hrs AA 15 (1)	Sgt Hargrove	Forfeits 14 days PAY FRI 149-1 (e)	12 Jun 42	Major Simmons	Forfeits 3 days pay FRI 149 (1)
Field	2 Aug 42	Pte		Sec 15 (1) AA AWL from 1530 hrs 2 Aug 42 till 0830 hrs 4 Aug 42. Absent 41 hrs.					

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sec 15(1) AA AWL from open arrest from 0830 hrs 4 Aug 42 till 1000 hrs 13 Aug 42. Absent 9 days 30 minutes.	L/Cpl Niblett Sgt Potten Captain Macpherson	168 days detention	6 Feb 43	FGCM Major Zeigler President	Forf 185 days pay under PRI 149 (1)(a) Forf 5 days pay under PRI 149 (1)(c) 1
				Sec 15 (1) AA AWL from open arrest from 1130 hrs 13 Aug 42 till 1710 hrs 1 Feb 43. Absent 172 days, 5 hrs, 40 minutes.					

Certified true copy. T.P. Glennan Capt
[redacted] OFFICER I/C RECORDS
HQ 1 CDN INF BDE

File here Loose Sheets of Record.

THIRD + FOURTH

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ~~ALL~~ CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No. (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1) No.
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the Third charge(~~s~~).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the Third charge(~~s~~). ~~and allowed on the ..... charge(s), but the accused is (are) found Not Guilty on charge(s), but~~ that, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans No statement or evidence. Do you intend to call witnesses on your behalf? Ans No. Are they witnesses as to character only? Ans N.A.
(1. RP 115. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(~~s, if any~~), of Not Guilty, and states to the accused that the finding(~~s~~) of the Court on the Third charge(~~s~~), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. ~~The accused having been found Guilty on one or more of the charges, The proceedings are concluded by using Record Form E below.~~ THE PROCEEDINGS ARE CONTINUED ON RECORD FORM B.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(~~s~~)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(~~s~~), and in mitigation of punishment?(1) Ans Yes. Plea in Mitigation by Defending Offr.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would effect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566. Overseas RO 309, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 5559 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 17 day of May 1946

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B84116 Pte. James McGrath RCASC (Hq. 1 Can. Inf. Bde)

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. 15(1)	Guilty	Guilty	
2nd A.A. 40	Guilty	Guilty	
3rd A.A. Sec. 40	Not Guilty	Guilty	
4th A.A. Sec. 19	Not Guilty	Not Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ — (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 107 days, of which 63 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for a period of two (2) years.

(Sgd) ~~Judge Advocate, if any~~ — 19 Jan 1945 Date awarded. (Sgd) Dalton Mapp President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and Sentence Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 11 Jan 45 (Sgd) J D B Smith (J D B Smith) Brigadier

Commanding Comd 1 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B84116 Pte James McGrath	23 Jan 45	T. P. O'Gorman Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-84116 Pte James McGrath RCASC (HQ 1 Cdn Inf Bde)

Charge.	Plea.	Finding.	
(Insert "alternative" where applicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. 15~~2~~(1)	Guilty	Guilty	
2nd A.A. Sec 40	Guilty	Guilty	
3rd A.A. Sec 40	Not Guilty	Guilty	
4th A.A. Sec 19	Not Guilty	Not Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ beginning on (date) ~~XXXXXXXXXXXXXX~~.(1) "FD"

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 107 days, of which ~~XXX~~ 83 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for a period of two(2) years.

(Sgd) ..... Judge Advocate, if any. "FD" 19 Jan 1945 Date awarded. (Sgd) "F.G.C. Darton" President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Findings and Sentence Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) "JBS"

(1. AA 57A. Delete if not used.)

Date 22 Jan 45 (Sgd) "J.B. Smith" (J B SMITH) Brigadier Commanding Comd 1 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-84116 Pte James McGrath	23 Jan 45	"T.P.O. Gorman, Capt"

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY [D. W. Gillespie] Capt Sec 2 Coh AFHQ

RECORDED AT CMHQ IN AB 100. 45-38

CFA96 (In lieu of AFA5) 40/P & S/1608 (2604)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier J.D.B. Smith Comd 1 Cdn Inf Bde dated 17 Jan 45

1 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 84116	Private		James	McGRATH	RCASC (HQ 1 Cdn Inf Bde)

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy "FD" on (date(s)) 19 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed. The court satisfy themselves that Lt. AW Webb is not available to sit on this trial owing to the exigencies of the service and Lt. WG Watson RCR is appointed to act as member in his place. Lt. Watson RCR waiting member takes his place as a member of the court. "FD"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3) "FD"

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ "FD"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ~~XXXXXXXXXXXXXXXXXXXX

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 39, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ~~ALL~~ First & Second CHARGES. "FD"

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning "FD" of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ~~XXXXXXXXXXXXXXXX~~ charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on~~ ~~XXXXXXXXXXXXXXXX~~ "FD" ~~XXXXXXXXXXXXXXXX~~ charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of "FD" Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him ~~thereof~~ again, and the trial is continued "FD" by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using "FD" Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ~~ALL~~ Third & Fourth CHARGES. "FD"

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1) "FD"

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the third charge(~~s~~).(2) The Court "FD" is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the third charge(~~s~~), ~~and allowed on the XXXXXXXXXXXXXXXXXXX charge(s)~~, and that, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty on the other charge(s).~~ "FD"

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans No statement or evidence. Do you intend to call witnesses on your behalf ? Ans No. Are they witnesses as to character only ? Ans N.A.

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(~~s~~), ~~of acquittal~~, of Not Guilty, and states to the accused that the finding(~~s~~) "FD" of the Court on the third charge(~~s~~), being subject to confirmation, will be promulgated later.(1) "FD"

~~OR The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~ "FD"

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~ The proceedings are continued on Record Form B "FD"

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(~~s~~)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport "FD" to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(~~s~~), and in "FD" mitigation of punishment ?(2) Ans Yes. Plea in Mitigation by Defending Officer (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2) "FD"

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B 84116 Pte James MCGRATH, RCASC, H.Q. 1 Cdn Inf Bde a soldier of the Canadian Army Overseas, Central Mediterranean Forces, placed on Active Service is charged with:

1st Charge
A.A. Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the field, absented himself without leave from 1045 hrs 9 Jun 44 until surrendering himself to CM police at NAPLES at 1730 hrs 3 Oct 44.
(Total absence of 116 days, 6 hrs, and 45 minutes)

2nd Charge
A.A. Sec 40

WHEN ON ACTIVE SERVICE
CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

In the field, on 9 Jun 44 made improper use of a MD vehicle, petrol and lubricants in that he took MD vehicle NO. 4518298 on an unauthorized trip without permission.

3rd Charge
A.A. Sec 40

WHEN ON ACTIVE SERVICE
CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he,

In the field, on 9 Jun 44 did lose by neglect kit and personal belongings the property of Captain T.R. Wood, P 16469 CSM Pendock, F. and C 31556 Cpl Earle, J.L.

4th Charge
A.A. Sec 19

WHEN ON ACTIVE SERVICE
DRUNKENNESS

in that he,

In the field, on 4 Jan 45 when on fatigue duty was drunk.

(H X MacIntosh) Major
BM 1 Cdn Inf Bde

In the field
16 Jan 45

To be tried by Field General Court Martial.

(J D B Smith) Brigadier
Comd 1 Cdn Inf Bde

In the field
17 Jan 45

"FGCM"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
4(/PAM)1097 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 84116	Private		James	McGRATH	RCASC (HQ 1 Cdn Inf Bde)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 17 Jan 45 endorsed by me [redacted], " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [redacted]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F.G.C. Darton	RCR

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	S.R. Walker	HPER
Lt.	A.W. Webb	48 Highrs

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt.	W.C. Watson	RCR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 17 Jan 45

J.B. Smith Brigadier
(Signed personally. RP 105 fn 2.) (Rank.)
(J D B Smith) Brigadier
Comd 1 Cdn Inf Bde
Commanding Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"FGCD"

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 577)

I certify that I have this morning examined No. A.24116

Rank. Pte. Name McGARRIGT of. 1. C. I. B.

and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station Field.

Date. 18. Jan. 45.

W. S. Woolner Capt
(Medical Officer)

"FD"

1st witness for prosecution:- Capt. F.R. Wood Hq 1 Cdn Corps having been duly sworn states.

The morning of June 9th my batman B.84116 Pte McGrath J. failed to report to awaken me at approximately 1030 hrs that morning. I saw Pte McGraw leave the camp area driving my baggage vehicle, a Ford 8 cwt. The unit was due to move at noon on the 9th and when I went to find McGrath and my baggage vehicle they were not anywhere in the camp area. After completion of the move I reported Pte McGrath absent without leave and the W.D. vehicle as stolen. I didn't see Pte McGrath again until this taken of summary of evidence for this court. The W.D. No.4518258 vehicle was recovered by the transport Cpl. (Cpl Bennett) on the 25th of June. My kit was not in it when it was recovered. I value my kit at approximately (£60) Sixty pounds.

Que. How long had the accused been serving you as a batman driver when this incident occurred.
Ans. He first came to my employ as a batman in September 43 (approx 8 months).
Que. And it was your custom to carry all your kit in your vehicle.
Ans. Yes.

Que: Will you please identify the accused.
Ans: I identify the accused.
Que: Can you furnish the court with a detailed list of your deficiencies.
Ans: I couldn't furnish an exact list but could certainly list the more important items of kit.

Defence declines to cross exam.

R.P. 83(B) complied with "FGCD".

2nd Witness for Prosecution:- C.31556 Cpl Earle, J.L. H.Q. 1 Cdn Inf Bde having been duly sworn states:-

When I left Brigade I stored my surplus kit on the 8 Cwt. and when I returned to Brigade there was no sign of my kit anyplace and no sign of the truck. When the truck was returned the only article of kit I could find was my empty kit bag.

Que: You had been at Bde how long.
Ans: (January 1944) about 6 months.
Que: and during that time the accused had been batman driver to Capt Wood.
Ans: Yes.
Que: It was the custom to use his vehicle asthe kit vehicle.
Ans: Yes.

Que: Was it in the vehicle the last time you saw it.
Ans: It was.
Que Would anyone have authority to remove that kit.
Ans: Not to my knowledge.
Que. Was this vehicle the sole property of the HRA&CC staff.
Ans: To the best of my knowledge.
Que. Would anyone else have the authority to order this vehicle out.
Ans: Not to my knowledge.
Que: Do you identify the accused.
Ans: Yes.

Cross-examination by defence.

Que. How long had you been living at the supply point.
Ans. Approx. one month (22 May to 22 June)

Cont'd Page 3.

Que: How far would you say the supply point was from Bde H.Q. on the 9th of June.
Ans: I cannot answer exactly. I believed it to be forty miles(40)
Que: Were you in the habit of leaving your kit that far from you.
Ans: I left my surplus kit.
Que: Who do you consider responsible for the safe keeping of your kit.
Ans: The driver.

Re-examination by Prosecution.

Que: You are the supply Cpl. and was it your custom to live at Supply point.
Ans: Yes.
Que: Was it your custom to visit Main Bde.
Ans: It depended on where we were.

Que: Had you the permission of your Officer to carry your kit in this vehicle.
Ans: Yes.

Certified Rules of procedure 83(b) has been complied with.

3rd Witness for the Prosecution:- C-4333 Cpl Benett FF. H.Q. 1 Cdn Inf Bde having been duly sworn states:-

On the 21st of June 1944 I was detailed by Capt Makepiece the transport Officer to go to St. Vito and pick up a Ford. 4 x 2 8 cwt., this 8 cwt had been found by a 49 Coy CMP. It was left on a road near St-Vito. On the 22nd of June was the day I picked it up. I checked the truck over to see it was the right one; I recognized it as a Bde vehicle having driven it several times myself. There was two rifles and a TMC in the vehicle when it was picked up by the CMP's, also a barrack room box empty and a letter addressed to Pte Davidson. The tactical sign 81 had been made into a 31 and the Maple Leaf erased completely. I took the truck and drove back to Piedmonte.

Que:- Can you identify the accused.
Ans:- I identify the accused.

Cross examination by Defence:-

Que: Were the two rifles and TMC and Barracks box in the vehicle when it was returned to your Coy.
Ans: Yes.
Que: Where they the property of anyone in your Coy.
Ans: That I can't say.

Certified R.P. 83 (b) has beencomplied with.

4th Witness for the prosecution L.12043 Sgt Huggett, J. (Lorne Scots) H.Q. 1 Cdn Inf Bde having been duly sworn states:-

On the 4th of Jan. 1945 I was acting as Comp. CSM in the morning I had the wiring of Bde H.Q. to do. The the electrician Pte Hazelhan asked if I would let Pte McGrath help him with the wiring. I had been given permission by Capt Gorman to use Pte McGrath under escort on any jobs. So I sent him, with the electrician as the escort. At approx. 1100 hrs I went up to Cpl Post's room which was also occupied by civilians and found Pte McGrath without his escort with a glass of Vino in his hand. I ordered him to put the glass of Vino down and tell him to report to his quarters. He did not make any sign to move and started to argue with me. I immediately summoned two escorts and ordered them to take Pte McGrath to his Quarters. They did with slight struggle. He was drunk.

Cont'd Page 5.

Cross-Examination by the defence.

Que: At what time did the accused commence work.
Ans: 0900 hrs.
Que: Was the accused drinking when you entered the room.
Ans: Yes.
Que: How did you determine the accused was drunk.
Ans: He was arguementive and his speech

"FGCD" -5-

-6- "FGCD"

was slightly incoherent.

Que: Was it necessary for you to assist him.
Ans: No.
Que: Did you lay a hand on him.
Ans: Not at that time.
Que: Was there anystruggle between you and the accused.
Ans: Later on in the afternoon at approx, 1330 hrs. I found Pte McGrath in the hallway with his escort causing an argument about wanting to get his hat which was left at the Officers mess where he had been working. I told the accused and escort to go back to the room; that I would get his hat, he caused much argument and would not go back on his own. I summoned another escort and told them to xxx take him back to his quarters. They appeared to be afraid of him so I put an arm-lock on him and forced him back to his room.
Que. Was he still drunk at this time.
Ans: Yes.

Certified R.P. 83 (b) has been complied with.

"FGCD" -6-.

D-4 -7-

Submission by the defending officer that the prosecution does not establish a prima facie case against the accused on the Third Charge:-

" It has been proven, I think, that the safe keeping of a soldiers kit is his own responsibility." "Cpl Earle failed to take his surplus kit with him when he was employed and billeted some twenty xxxxx miles away from where he left it." "Capt Woods estimates the value of his kit to be £60/-/- but is unable to give an itemized report of its contents to the Court". " I submit that no evidence has been produced to prove the charge laid against the accused.

This was disallowed for the following reasons:-

1 - The 8 cwt referred to was a baggage vehicle as proved in evidence.
2- The accused was Batman driver to Capt Wood and it therefore was his responsibility to look after his officers kit.
3 - Kit must have been on the vehicle with a move coming only an hour or so after the accused went absent with the vehicle.

Trial according by proceeded.

"FGCD" -7-.

Prosecutor's address to the Court on the conclusion of the evidence

Mr President and members. In speaking to the charge of Losing by Neglect. It has been clearly established that the accused was the Batman Driver of Capt Wood. In this capacity it is obvious that he is responsible forthe kit of this officer. It has been clearly stated also that the kit of this officer was at ~~xxx~~ times material to this case. ~~xxxxxx~~ stored on the vehicle in question.

It is also obvious that a driver is responsible, not only for his vehicle but for its legal load. Witnesses have proven that this vehicle was the carrying and storage place of various peoples kits and I submit to the court that in the light of evidence submitted they have no alternative but to find the accused guilty.

On thecharge of drunkeness that it is simply a matter of accept ing or not accepting the evidence of Sgt Huggatt. As no evidence was submitted to the contrary. I submit that the court must find the accused guilty of the charge.

-8- "FGCD"

Defending officer declines to make any closing address "FGCD".

E 3 -9-

Mitigation Plea of Defending O.

Although the accused has had a clean record for some time previous to this, he has not been granted a furlough for over two years.

Prior to his going absent without leave, he was doing the job of three man. Batman - driver, care and running of an 8 c.w.t. and also acting as Coy. D.R.

During this time a D.R. was sent to the Coy. from the reinforcement center, and onarriving he was immediately granted seven days leave while the accused carried on his many duties.

These facts are submitted not as excuses for the accused's misconduct, but to show

"FGCD"

-2-

that his actions were not premeditated, but rather the impetuous actions of one who feels he has been wronged.

I would like to reminde the Court that he gave himself up to the OMP and admitted his guilt to the charges in which he knows himself to be guilty.

"CJM Cassan Lt".

"FGCD"

Summary of evidence in the case of B 84116 Pte James McGRATH (RCASC) H.Q. 1 Cdn Inf Bde, Canadian Army Overseas (CMF)

By order of the Commander 1 Cdn Inf Bde all evidence will be taken on oath.

First witness for the prosecution Captain T.R. Wood (RCASC) Staff Captain "Q" 1 Cdn Corps having been duly sworn states: At all times material to this case, I was BRASCO 1 Cdn Inf Bde. At 0630 hrs 9 Jun 44 my batman driver B 84116 Pte James McGrath failed to report to wake me. At approximately 1045 hrs 9 Jun 44 I saw B 84116 Pte James McGrath leave the bivouac area in WD vehicle No. 4518258. I had made it a practice to carry all my kit in this 8 cwt. Bde HQ was moving this day and at noon I searched the camp area for B 84116 Pte McGrath and my baggage vehicle. I failed to find either and up until the time that the Headquarters moved, he did not return. On 23 Jun 44 WD Vehicle No. 4518258 was recovered by the transport corporal of HQ 1 Cdn Inf Bde, Cpl Bennett, F.T. I checked the vehicle to see if my kit was there but found it missing. I had personal kit to the value of sixty pounds (£60-0-0) when I last saw it.

Questions by officer taking summary.

(i) When B 84116 Pte James McGrath left the bivouac area at 1045 hrs 9 Jun 44 did he have your permission or the permission of anyone else to leave?

Answer- No.

(ii) Was anyone besides yourself qualified to give such permission?

Answer- No.

(iii) Did Pte McGrath see you as he was leaving or did you make any effort to stop him?

Answer- No. I don't think Pte McGrath saw me and I made no effort to stop him. He was some distance from me and as he was responsible for the maintenance of the vehicle I thought he might be making a road test.

(iv) When did you next see B 84116 Pte James McGrath after 1045 hrs 9 Jun 44?

Answer- This date, 11 Jan 45 at the taking of this summary of evidence I have not seen him at any time from 9 Jun 44 until this date.

(v) Was B 84116 Pte McGrath with the vehicle when Cpl Bennett recovered it?

Answer- No, he was not according to the report given me by Cpl Bennett.

(vi) Do you recognize the accused as B 84116 Pte James McGrath?

Answer- Yes, I do.

Signed: Captain T.R. Wood

The accused was asked if he wished to cross examine the witness and replied that he did not wish to do so.

Copy of Ex. A.

Second Witness for the Prosecution

C 31556 Cpl Earle, J.L. (RCASC) Supply Cpl HQ 1 Cdn Inf Bde having been duly sworn states; I am and have been at all times material to this case, Supply Cpl on the BRASCO's staff at HQ 1 Cdn Inf Bde. I was living at 1 Cdn Inf Div Supply point on 12 Jun 44. Captain T.R. Wood informed me that B 84116 Pte McGrath James (RCASC) HQ 1 Cdn Inf Bde was AWL and that he had taken WD vehicle No 4518258 Ford 4x2, 8 cwt, on which I had stored my kit. I returned to HQ 1 Cdn Inf Bde the following day and found that my kit bag, which had been stored on the above mentioned vehicle, was missing. On 23 Jun 44 the vehicle was recovered and I checked it to see if my kit bag was there. The only article I found was my empty kit bag. The following articles of kit were missing:

Boots ankle - 1 pr
Shoes PT - 1 pr
Cape anti-gas - 1
Trousers battle dress - 1
Sweater pullover - 1
Spectacles WD - 2 pr
Anklets web - pr
Pack large with straps supporting - 1

These articles had been in my kit bag when I had last seen it some time before 12 Jun 44.

Signed J. Lorne Earle, Cpl

The accused was asked if he wished to cross examine the witness. He said he did not wish to do so.

Third Witness for the Prosecution

P 16469 CSM (WO II) Pendock, F. Camp Sergeant Major HQ 1 Cdn Inf Bde, having been duly sworn states: I am and have been, at all times material to this case, Camp Sergeant Major at HQ 1 Cdn Inf Bde. I was on leave from 4 Jun 44 to 12 Jun 44. On returning to HQ 1 Cdn Inf Bde I was informed by Captain T.R. Wood that B 84116 Pte McGrath, James had gone AWL taking 8 cwt WD No 4518258 with him. I immediately checked to see if my kit, which had been left in the vehicle, had been left behind, but found it missing. The missing articles of kit are as follows:

Officers Bed roll - 1
Complete web equipment - 1
Capes anti-gas - 1
Shoes pt - 1 pr
Boots ankle - 1 pr
Blankets - 4
One camera (value (75 shillings)
One writing case(value 40 shillings)
One fountain pen (value 50 shillings)

On recovery of the vehicle I checked it to see if any of my kit was left on it. There was nothing of mine left.

Signed: F. Pendock, CSM

The accused was asked if he wished to cross examine the witness. He said that he did not wish to do so.

Copy of
Ex A.

Fourth witness for the Prosecution

B 5089 Pte McMane, E.L. (CMSC) records clerk HQ 1 Cdn Inf Bde having been duly sworn states: I am B 5089 Pte McMane, E.L. (CMSC) records clerk HQ 1 Cdn Inf Bde. From the records in my custody I present certificate under Section 163(i) (j) of the Army Act signed by Captain G.C.D. Scott Lowe, officer commanding 510 Provost Coy CM Police. Captain Scott Lowe certifies that B 84116 Pte McGrath, J of "81" Coy RCASC att 1 st Infantry Brigade HQ 1st Cdn Div surrendered himself to No. 1575764 L/Cpl Boor, H. at NAPLES on 3/10/44 at about 1730 hrs as an absentee without leave. This certificate is marked Exhibit A. I now recognize the accused as B 84116 Pte McGrath, J (RCASC) HQ 1 Cdn Inf Bde.

Signed: "E.L. McMane"

The accused was asked if he wished to cross examine the witness. He said that he did not wish to do so.

Fifth witness for the Prosecution

On 21 Jun 44 I was detailed by the Bde

C 4333 Cpl Bennett, F.T. transport Cpl at HQ 1 Cdn Inf Bde having been suly sworn states: I am and have been, at all times material to this case, tpt Cpl at HQ 1 Cdn Inf Bde. Tpt Officer Captain P du G Makepeace ~~to detailed me on 21 Jun 44~~ to go to SAN VITO and pick Ford 4x2, 8 cwt WD No 4518258 . I reported to the OC 49 Coy CMP on 22 Jun 44 and picked up the vehicle. In the vehicle was one TMC and two rifles, a barrack room box, an empty kit bag and a letter addressed to Pte Davidson, W.R. I started the vehicle up. It seemed to be in good shape except for faulty brakes. The tactical number 81 had been cut away so as to look like 31. The maple leaf had been erased. I took the vehicle back to Bde HQ arriving back 23 Jun 44. I turned it over to Captain T.R. Wood.

Question by Officer taking summary.
(i) Did you recognize Ford 4x2, 8 cwt WD No.4518258 when you saw it at 49 Coy CMP?

Answer- Yes, I recognized it as BRASCO's vehicle on strength HQ 1 Cdn Inf Bde. Previously I had driven it quite a bit myself.

(ii) Did you know that it had been away from HQ 1 Cdn Inf Bde?

Answer- Yes, Captain T.R. Wood had reported the absence of B 84116 Pte McGrath James and the vehicle in question to the TO. I had been informed subsequently and knew that that was the vehicle I was looking for when I was sent to 49 Coy CMP.

(iii) Did the CMP tell you how they had come into possession of the vehicle?

Answer- Yes, they told me they picked it up at a location which I have forgotten some distance from the camp from which it had been taken.

(iv) Was any person with the vehicle at the time it was found?

Answer- No, as far as I can remember the CMP said they had found it alone. Pte McGrath was not with it or at 49 Coy CMP HQ when I picked it up.

Signed: "F.T. Bennett, Cpl"

Copy of Ex A.

The accused was asked if he wished to cross examine the witness. He said that he did not wish to do so.

Sixth Witness for the Prosecution

L 12043 Sgt Huggett, J., Lorne Scots, HQ 1 Cdn Inf Bde having been duly sworn states: I was acting Camp Sergeant Major on 4 Jan 45. The accused B 84116 pte James McGrath was under close arrest in my custody 4 Jan 45. I released him under escort of L 13015 pte Haselhan, J.J., Lorne Scots, to help with the electric wiring of the camp. At approximately 1100 hrs I visited my corporal's room which was also used by civilians. I found the accused without escort with a glass of "vino" in his hand. I ordered him to put down the vino and return to his quarters under my escort. He drank the vino and commenced an arguement with me. I summoned two privates as escorts and ordered them to take the accused to his quarters, which they did with a slight struggle. The accused was drunk at this time. He was slightly unsteady on his feet and his speech was incoherent.

The accused was asked if he wished to cross examine the witness. He said he did not wish to do so.

Signed; "J. Huggett, Sgt."

The accused was asked "do you wish to make any statemsnt or to give evidence upon oath?" "You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence." The accused declined to make any statement or to give evidence on oath.

Certified that Rules of proceedure 4(c)(d)(e) and (f) have been complied with.

Taken down by me in the presence and hearing of the accused this 14th day of January 1945 "In the field".

In the field
ITALY

Signed; "T.P. O'Gorman", Captain
(HPER) H.Q. 1 Cdn Inf Bde
Officer taking summary of evidence.

Copy of
Ex A.

Exhibit "A".

CERTIFICATE UNDER SECTION 163 (i) (j) Army Act.

I Capt. GCD ~~Lott~~ SCOTT Lowe Certify that No. B.84116 Rank Pte

Name McGrath J. of the. "81 Coy" RCASC. att 1st Infantry Bde. H.Q. 1st Cdn Vid.

surrendered himself to No. 1575764 Rank L/C Name BCOR H.

at Naples on the 3/10/44 at about 1730 hrs as a

ABSENtee without leave.

"GCD ~~Lott~~ Scott Lowe Capt"

Commanding 510 Provost Coy CM Police.

(Commanding officer of the person or portion of His Majesty's Forces to whom surrender was made)

Ex. A to summary.

"FGCD"

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B 84116	Private	McGRATH, James	RCASC(HQ 1 Cdn Inf Bde)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 637, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheet, punishments being given in the more serious offence in each entry; and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	~~NIL~~ A.A. Sec 15 NIL times	6 3 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

[redacted]

2. [redacted]

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for [redacted] 107 days in military custody, making a total of 107 days, of which ~~2 months & 5~~ 63 days were spent in hospital.

5. The present age of the accused according to his record of service is 33

6. The date of his attestation specified in his record of service is 13 Sep 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs, 8 months 27 days

8. The accused is entitled to deferred pay or gratuity in respect of 4yrs, 8 months, 27 days service.

9. The accused is entitled to reckon 4 yrs, 8 months, 27 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to [redacted] CVSM & Clasp [redacted]

(P1928) W.1582/148 125,000 6/41 A.A.R.W.Ltd. Gp.698

Sr. B.

"[redacted] "FGCD"

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B 84116 Rank Private Name McGRATH, James of RCASC (HQ 1 cdn Inf Bde) Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	6 Feb 45	A.A. Sec 15 (1)	168 days detention	Nil
	In the Field	A.A. Sec 15 (1)	Forfeits 185 days pay under FRI 149(1) (a)	
		A.A. Sec 15 (1)	Forfeits 5 days pay under FRI 149 (1) (c) 1	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of January 1945

T P O'Gorman Capt
(T P O'Gorman) Captain
Staff-Officer, Officer in Charge of Records

In the rank of years

In the rank of years

In the rank of years

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.*)

Date of Promotion

NB 84116 Name McCrath, James | Sqn. Battery, or Company | Corps RCASC | Date of enlistment 13/9/39 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/Pam/136 (3420)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1. | Signature OC Company, etc | Character Ex "C" "FGCD"

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16/8/40	Pte		AA 15 (1) WOAS AWL 2200 hrs 16/8/40 till 2000 hrs 19/8/40	Sgt Varney	14 days CB	20/8/40	Major S.H. Coombs	Forfeits 3 days pay FRI 149 (1) (a)
Field	17/12/41	Pte		AWL from 1200 hrs 17 Dec 41 to 0700 hrs 18 Dec 41. Time absent 19 hrs. Sec 15 (1).....	Sgt Varney Cpl Reid, A.	3 days CB	18/12/41	Captain CK Simmons	Forfeits 1 days pay FRI 149 (1)(a)
Field	5/6/42	Pte		WOAS AWL from 0900 hrs 5 Jun 42 to 0600 hrs 8 Jun 42. Absent 39 hrs AA 15 (1)	Sgt Hargrove	Forfeits 14 days pay FRI 149-1 (a)	12 Jun 42	Major Simmons	Forfeits 3 days pay FRI 149 (1)
Field	2 Aug 42	Pte		Sec 15 (1) AA AWL from 1530 hrs 2 Aug 42 till 0830 hrs 4 Aug 42. Absent 41 hrs.					

(PTO)

Ex "C" "FGCD"

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sec 15(1) AA AWL from open arrest from 0830 hrs 4 Aug 42 till 1000 hrs 13 Aug 42. Absent 9 days 30 minutes.	L/Cpl Niblett Sgt Potten	168 days detention	6 Feb 43	FGCM Major Zeigler President	Forf 185 days pay under FRI 149 (1)(a) Forf 5 days pay under FRI 149 (1)(e) 1
				Sec 15 (1) AA AWL from open arrest from 1130 hrs 13 Aug 42 till 1710 hrs 1 Feb 43. Absent 172 days, 5 hrs, 40 minutes.	Captain Macpherson				
				Certified true copy. T.P.O'Farman Capt for (J A Leclaire) Major DAA&QMG 1 Cdn Inf Bde					

DEPARTMENT OF NATIONAL DEFENCE
- ARMY - K-55-Mc-3941-C(DAPM)

SPECIAL DELIVERY

KINGSTON, Ontario,
24th, December, 1945.

18073

DEC 29 1945
C.55-11-1467
8 MPR 30-11-45
admnd

District Officer Commanding,
Military District No.2,
TORONTO, Ontario.

B-84116. Pte. McGrath, J.

Ref K.S.674(A) d/10/12/45
MGS 8536-6 Vol. 2 Adm 3(b) 2 d/4/5/45

2. Enclosed herewith:

(a) AFA 3104 Not received at this H.Q'S

(b) Review Sheet

3. Please be advised that the marginally named Soldier Under Sentence will be released from No.89 Military Detention Barracks, Fort Henry, Barriefield, Ontario ~~during~~ on 2/1/46 and will be despatched under escort to No.2. District Depot,

4. Your Headquarters will be advised by radiogram as to the date and hour of this soldier's arrival in your district.

5. May a receipt for these documents be forwarded to this Headquarters, please.

Major,
for (G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No.3.

Copy to: The Secretary,
Department of National Defence,(for infm)
OTTAWA, Ontario.

H.Q. C.55-M-1667
M.D. 10/McGrath, J.

FIELD GENERAL

GS

MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. B.84116 Name McGRATH, James

Rank Pte Unit RCASC HQ 1 Cdn Inf Bde CAO CMF

Charge (1) A.A. 15(1) A.W.L.

(2) A.A. 40 WOAS, Conduct to the prejudice.

(3) A.A. 40 WOAS, Conduct to the .....

(4) A.A. 19 WOAS, Durnkenness

Date of Crime (1) 9-6-44; (2) 9-6-44; (3) 9-6-44; (4) 4-1-45.
(1) 3-10-44;

Date of Arrest Charge Signed ~~19~~ 16-1-45

Orders for ~~XX~~ FG C.M. Brig Comd 1 Cdn Inf Bde

Place and Date of Trial In the field; 19-1-45

Sentence Imprisonment W.H.L. 2 yrs

Date of Confirmation 22-1-45

Date of Promulgation 23-1-45

Entered in Records of J.A.G. as No. 3589

Date 10-5-45

MEMO (4) Not guilty. Balance of sentence remitted by Conf. Auth.

Reviewed at CMHQ

Absnet	Sentence
3 mos 25 days;	Imprisonment W.H.L. 2 yrs.

for Judge Advocate-General

10M-1-45(M-4629)

HQC 55-M-1667 (CMBR) CONFIDENTIAL

27 Dec 45.

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

H.84116, Pte. McGRATH, J.
SUS ex Italy

Ref T.36-10-282.

2. Reference is made to this HQ letter HQC 55-M-1667 Adm 3(b)2 dated 6 Jun 45 and to letter from DOC MD 3 on K.S. 674 dated 14 Jun 45.

3. Information is requested as to the present location and status of this SUS.

4. It is also requested that you return FGCM Proceedings and AFA 3104 together with latest Report on Conduct and a report of any action under CARO 5913.

5. Urgent, please.

(A. E. Walford)
Major-General
Adjutant-General

WAS:adm

VER V CIA NR 5

FROM COMMANDING THREE KINGSTON ONT DEC 231145R

TO SECRETARY OTTAWA

GR 160 BT

KD 628 RESTRICTED

RRLET KS 674(A) DATED 10TH DEC 45 STOP FOLLOWING SUS PRESENTLY HELD AT NO 89 MDB FORT HENRY WILL CEASE ATTACHMENT THAT UNIT AND SOS NO 3 DD TO NO 2 DD WEF 2nd JAN 46 STOP

B73239 PTE BELL W G E

B52186 PTE HOPE M H

B44286 PTE HOWARD W W J

B84116 PTE MCGRATH J

E76715 PTE WELLER G L

STOP THESE SUS WILL BE DESPATCHED UNDER ESCORT AND WILL ARRIVE UNION STATION TORONTO AT 1730 HOURS SAME DATE STOP REQUEST COMMANDING TWO HAVE ESCORTS DETAILED TO MEET THIS TRAIN ON ITS ARRIVAL AND TAKE THESE SUS OVER AT THAT POINT STOP ADDRESSED CMDG TWO RPTD OC NO 2 DD ADM DEFENSOR

BT JC 231227R AR (K)

noted
GCR

CR(C) Pl on file
C55-M-1667

GD Burke
Admin

DEPARTMENT OF NATIONAL DEFENCE
-A R M Y -

FI LE NO: K.S. 674; K 55-S-8476-C;
K.55-C-6884-C; K.55-C-4578-C; K.55-L-6153-C;
K.55-L-6151-C; K.55-L-6236-C; K.55-M-5577-C;
K.55-Mc-3941-C; K.55-R-3842-C; K.55-S-5988-C;
K.55-W-4142-C; K.55-W-5104-C; K.55-T-2939-C; (A)

Kingston, Ontario 14 JUNE, 45.

Commandant, 89 Military Detention Barracks, Barriefield, Ont.
A.J.A.G. Military District No. 3, Kingston, Ont.
Officer Commanding, 3 District Depot Kingston, Ont.
District Paymaster, Military District No, 3, Kingston, Ont.
District Medical Officer. Military District No. 3 Kingston, Ont.
D.A.P.M. Military District No. 3, Kingston, Ont.
Officer Commanding, 3 Ordnance Depot Coy, RCOC Kingston, Ont.
Governor of the County Jail County of York, Toronto, Ont.
District Records officer, Military District No. 3, Kingston, Ont.
Officer Commanding No. 33, Coy, C Pro C. Ottawa, Canada,
Commandant, Ottawa Area Command, Ottawa, Canada.

SUS EX ITALY CO 131/44
Military Detention Barracks, 89, Fort Henry

Under HQS 8536-3 Vol 2 Adm 3(b)2 dated 27 Apr 45 National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy to No. 89 Military Detention Barracks, Fort Henry, Kingston.

2. The Undermentioned personnel have been sentenced to imprisonment with Hard Labour and are to serve the remainder of their sentence in a Provincial Institution. in Ontario:

MILITARY DISTRICT NO: 2

B.135241	- Pte BLUE, D.	- 2 yrs imprisonment Hard Labour
B 133644	- Pte CASSELMAN, C.	- 2 yrs imprisonment Hard Labour/ less 55 days Hard Labour
B 81866	- Pte GRIGSBY A.N.	- 1 yr imprisonment Hard Labour
B 44286	- Pte Howard W.W.J.	- 2 yrs imprisonment Hard Labour
B 55629	- Pte LEDUC J.A.	- 2 yrs imprisonment Hard Labour
B 13019	- Pte LENTZ F.J.	- 18 mos imprisonment Hard Labour
B 64539	- Pte LUCAS G.E.	- 2 yrs imprisonment Hard Labour
B 46416	- Pte Mabon J.H.	- 2 yrs imprisonment Hard Labour
B 127904	- Pte MATEKA, J.J.	- 2 yrs imprisonment Hard Labour
B 84116	- Pte McGRATH J.	- 2 yrs imprisonment Hard Labour
B 134371	- Pte REDDING G.D.	- 18 mos imprisonment Hard Labour
B 83207	- Pte REDMOND E.	- 18 mos imprisonment Hard Labour
B 111994	- Pte STANLEY R.	- 2 yrs imprisonment Hard Labour
B 78715	- Pte. WELLER G.L.	- 2 yrs imprisonment Hard Labour
B 67534	- Pte WICE T.J.	- 2 yrs imprisonment Hard Labour
B 52186	- Pte HOPE M.H.	- 2 yrs imprisonment Hard Labour and discharge with ignominy
B 37827	- Pte TODD, J.A.	- 2 yrs imprisonment Hard Labour and discharge with ignominy

3. It is understood that National Defence Headquarters have made arrangement with the Province of Ontario whereby the above mentioned soldier under sentence will be admitted to a Provincial Institution to serve the remainder of their sentence. Consequently the Commandant, 89 Military Detention Barracks will arrange as soon as the documents of the above mentioned personnel are available to have the above personnel made ready for despatch to No. 2 District Depot and will advise this headquarters when the personnel are ready to despatch.

AR

4. The A.J.A.G. will prepare the necessary Order of Release and forward it to the Commandant, 89 Military Detention Barracks. In this connection it will be necessary to grant one day's remission in the case of all soldiers sentenced to two years with Hard Labour.

5. The D.S. & T.O., MD 3, will issue the necessary transportation on demand

6. The D.A.P.M., MD 3, will arrange for sufficient escort to guard the movement of this personnel from No. 89 Military Detention Barracks, to District Depot No. 2, such escort being supplied from No. 33 Coy, C. Pro. C., Ottawa, and No. 89 Miltiary Detention Barracks, Kingston.

7. The above personnel will move in two groups of nine in one group and eight in the other, and the D.A.P.M. MD 3, will advise the District Officer Commanding MD 2, at least forty-eight hours before the despatch of these groups This arrangement was made to-day by telephone between the D.A.A.G. MD 3, and Capt Richardson, Headquarters, MD2.

8. All the above personnel will cease attachment to No. 89 Military Detention Barracks and be struck off strength to No. 3 District Depot to No. 2 District Depot effective the date they are despatched. Such prisoners will then be discharged from the Canadian Army and handed over to the Governor of the County Jail of the County of York after a Warrant of Commitment has been signed by the District Officer Commanding, Military District no. 2, for the use of the Governor of the County Jail, County of York Toronto. In this connection the attention of the District Officer Commanding, MD 2, is drawn to National Defence Headquarter's letter HQS 8536-6 Vol 2 Adm 3 dated 26 May 45 (R922(b)).

COPY TO
D.D. & T.O. Military District No. 3, KINGSTON, Ont.

(W.K. MacGregor) Major
D.A.A.G. M.D.3,

COPY TO
District Officer Commanding, Military District No. 2, TORONTO
Officer Commanding, 2 District Depot TORONTO, Ont.

Provincial Secretary, Parliament Buildings TORONTO, Ont.
Attention Superintendent of Reformatories.

Secretary Department of National Defence, OTTAWA, Ont.
Attention Capt. Parlee, Administration.

WKM/EV

HQC 55-M-1667
Adm 3(b)2

OTTAWA, Canada

6 Jun 45

CONFIDENTIAL

District Officer Commanding,
Military District No 2,
TORONTO, Ontario

B.84116 Pte MCGRATH, J
SUS ex Italy - No 89 MDB

Ref T-36-10-282 A4 and further to this HQS 8536-6 Vol 2 dated 6 Jun 45.

2. Enclosed herewith Proceedings of FCCM and AFA 3104 with reference to the above SUS.

3. When these documents have served their purpose, may they be returned to this HQ, pls, with reference to the above file number.

(A E Walford)
Major-General
Adjutant-General

Encl.2

WOP:de

DEPARTMENT OF NATIONAL DEFENCE
ARMY

In reply quote No. HQC 55-M-1667
Adm 3(b)

(1)

TO: JAG

25 May 45

B.84116 Pte McGrath, J

Ref letter from CMHQ dated 10 May 45 and document att thereto.

2. This document would appear to be an application for remission rather than a Petition under KR(Can) 574.

3. Do you concur, please?

for (J E MacDermid),
Colonel,
D Adm.

WAS:sp

(2) Concurred. [illegible] for JAG
2 June 45.

M.F.A. 1926A
1 (00M—3.43 (1908)
I.Q. 1772-10-2909

10/McGrath J/1
A.G.REV(a)

CANADIAN MILITARY HEADQUARTERS,
2, COCKSPUR STREET,
TRAFALGAR SQUARE,
LONDON, S.W.1.

10 May 45.

ADDITION ENTERED

Director of Administration
A. G. Branch.
MAY 22 1945
Department of National Defence
Ottawa, - Canada.

HQS- M-4671
008225

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

B.84116 Pte McGrath, J.

1. The enclosed petition of the m/n soldier, who was sentenced to 2 years imprisonment with hard labour by FGCM held 19 Jan 45 in Italy, was received by this HQ from 1 Ech AFHQ after the case had been reviewed and the soldier had been despatched from Italy pursuant to a direction that he be returned to Canada in custody under sentence.

2. The said petition is therefore forwarded to you for consideration and such action as may be deemed proper.

for (E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters.

Enc.1.

H1

To. COMMANDANT
No. 1. M.P. & D.B
CMF.

B.84116
Pte J. McGRATH
R.C.A.S.C. (att. Bde HQ)
I.C.I.B.

SIR:

I have been 5 years away from my wife and 3 children, the youngest I have not got seen. These years constitute service abroad.

The main reason for this appeal is, my wife is causing me great anxiety regarding the welfare of my children.
My wife's affections are elsewhere, and I attribute this to my long absence away from home, I am convinced that if I was reunited with my wife there would be no more friction.

I am a cook by trade in the army, but Captain Woods, who was my directing officer, refused to let me cook, but would have me as batman-driver to himself. Whenever I asked to be returned as cook he would throw my past record up, saying that I would absent myself again.

I was in charge of 3 vehicles, besides doing batman, and doing my best did not seem enough for my officer. This, with my trouble at home worrying me, together with service in the line, strained my nerves, and I went absent.

Owing to this appeal I sincerely hope that consideration will be made on my behalf, and part of my sentence be remitted. I will respect all consideration given me, and pledge that I will be a good soldier. I take this opportunity to volunteer for any theatre of war.

I would be very grateful if you would give this appeal your closest and kind consideration.

I remain,
your obedient Servant, J. McGrath

B.84116 Pte. McGRATH. J.

•2

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

4 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

B.84116 Pte McGrath J.

SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of imprisonment with hard labour

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

W a Stirling
for (A E Walford) Major
Major-General
Adjutant-General

Encl. 3

C

3257

AIR MAIL

Quote No. 10/McGrath, J./1

MEMBER

CONFIDENTIAL

CANADIAN MILITARY HEADQUARTERS

LONDON 4 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C-S-S-M-1667

B-84116 Pte McGrath, J.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 19 Jan 45 for the following offences:- an absence without leave of some 116 days, making improper use of a military vehicle and losing by neglect personal belongings of other soldiers. The earliest date on which he should be released if he earns full remissions for good conduct while serving his sentence is 18 May 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as fit to undergo his sentence.

5. In view of the offences of which this soldier has been convicted, the length of his absence without leave, his previous record and all available reports, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has not misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 19 Jan 45, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

for (E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters.

Enc. 4

1/39a CMHQ 1000/76 40/P & S/803 (6789)

REVIEW OF SENTENCE

SPECIAL REVIEW:

DATE : 3 Apr 45

FILE : 10/McGrath J/1

1. NO., RANK AND NAME: B.84116 Pte McGrath, J.

2. UNIT AT DATE OF OFFENCE: HQ 1 Cdn Inf Bde.

3. AT PRESENT ON STRENGTH OF: "X2" List HQ 1 Cdn Inf Bde.

4. DATE OF SENTENCE: 19 Jan 45.

5. AWARD: Two years imprisonment with hard labour.

6. CONFIRMED SENTENCE: As awarded.

7. BEING SERVED AT: Italy.

8. OFFENCES: A.A.Sec 15(1) - WOAS - AWL - Surrendered after 116 days 6 hours.
A.A.Sec 40 - WOAS - made improper use of Cdn mil veh on an unauthorized trip without permission.
A.A.SEC 40 - WOAS - Did lose by neglect kit and personal belongings, the property of other persons subject to military law.

8 (a) PRESENT AGE: - 33 years.
Enlisted -

9. PREVIOUS CONDUCT: - 13 Sep 39.
Charged under A.A.Sec 15(1) - 6 offences.
F.G.C.M. 6 Feb 43 - Awarded 168 dys detn - AsWL 9 dys; 172 dys 5 hrs.

(From MFM 6)

10. CONDUCT WHILE UNDER SENTENCE: -

11. EARLIEST DATE OF RELEASE: - 18 May 46.

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS B-84116 Pte McGrath, J. of RCASC HQ Cdn Inf Bde was by Field General Court-Martial held in the field convicted of the offence(s) of absence without leave and 2 offences of conduct to the prejudice of good order and military discipline. and by a sentence signed on the 19th day of January 1945 sentenced to undergo imprisonment with hard labour for 2 years

said sentence of imprisonment commencing on the aforesaid day, and such sentence has been confirmed by Comd 1 Cdn Inf Bde. as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 4th day of April 1945

Brigadier
Deputy Adjutant General
Canadian Military Headquarters

Correspondence to be PINNED here.

A.W.
J.H. Ziegler Major
Y.7.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 5th day of February, 1943.

Whereas it appears to me, the undersigned, an officer in Command of R.C.A.S.C. 1 Canadian Corps, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*[I am unable to appoint—~~

~~*(Three Officers to form the Court.)~~

~~*(A Field Officer as President)~~

~~*(Three Officers having more than one year's service)~~

~~for the following reasons, namely:-]~~

Proceedings Reviewed
for Judge Advocate General
Chief JAG CMHQ
16 Feb 43

6

President.

Rank.	Name.	Regiment.
Major	J.H. Ziegler	45 Cdn Gen Tpt Coy

Members.

Rank.	Name.	Regiment.
Captain	S.L. MARSHALL	61 Cdn Gen Tpt Coy
Lieutenant	G.H. RINEHART	64 Cdn Gen Tpt Coy

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (M.V. McQueen) Colonel
Commanding R.C.A.S.C. 1 Cdn Corps
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B.84116 Private James McGrath 33 Cdn C.T. Coy	1st Charge Sec. 15(1) A.A.	Guilty	Guilty of all charges of A.W.O.L.	
	2nd Charge Sec. 15(1) A.A.	Guilty	awarded 168 days detention	Confirmed
	3rd Charge Sec. 15(1) A.A.	Guilty	J.A. Ziegler Mayo 6-2-43.	W.M.O.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) W.M. McQueen (M.V. McQueen) Colonel
Commanding R.C.A.S.C. 1 Cdn Corps
Convening Officer (e)

(Signed) J.A. Ziegler Mayo
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6TH day of FEBRUARY 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. ~~The witnesses~~
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 6TH day of FEBRUARY 1943.

J.A. Ziegler Mayo
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 7th day of February 1943

W.M. McQueen Col.
Confirming Officer.

Promulgated and extracts taken in the case of B.84116 Pte. McGrath, J. 33 Cdn Tps Coy RCASC.

(a) (Dated) 8 Feb/43 (Signed) W.H. Copeland Major.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41759) Wt. 40213—493 200 M 3/40 P. St. G. Ltd.

B.2

CHARGE SHEET

The accused, B-84116 Pte. James McGRATH, 33 Cdn. Corps Troops Coy, R.C.A.S.C., a soldier of the Canadian Army Overseas, is charged with when on active service:-

1st Charge — ABSENTING HIMSELF WITHOUT LEAVE

Sec. 15 (1) A.A. — in that he in the Field absented himself without leave from 1530 hours 2 Aug 42 till 0830 hours when he voluntarily surrendered himself, 4 Aug 42.

2nd Charge — ABSENTING HIMSELF WITHOUT LEAVE

Sec. 15 (1) A.A. — in that he in the Field when under open arrest absented himself without leave from 0930 hours 4 Aug 42 till 1000 hours 13 Aug 42.

3rd Charge — ABSENTING HIMSELF WITHOUT LEAVE

Sec. 15 (1) A.A. — in that he in the Field when under open arrest absented himself without leave from 1130 hours 13 Aug 42 till 1710 hours 1 FEB 43 when he voluntarily surrendered himself.

(W.H. Copeland) Major
O.C. 33 Cdn. Corps Troops Coy
R.C.A.S.C.

Field
2 FEB 43

To be tried by Field General Court Martial.

(M.V. McQueen) Colonel,
DDST,
1 Cdn Corps.

Field.
5 Feb 43.

"X"

MEDICAL CERTIFICATE (Mentally ill)

B84116

I certify that I have this morning examined No.

Pte McGrath J. of 33 C.C.T. Coy R.C.A.S.C. and in my opinion he is fit to undergo trial by Court-Martial.

Station Field

Date 6 Feb 43.

Medical Officer

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialed by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a FIELD GEN. Court-Martial held at FIELD on the 6TH day of FEBRUARY 1943 by order of

COL. M.V. McQUEEN

Commanding 9th (RCASC) ICDN CORPS.

dated the 5TH day of FEBRUARY 1943

President.

MAJOR J.H ZIEGLER 45 CDN G.T. Coy RCASC

Members.

CAPT B.L. MARSHALL 61 CDN G.T. Coy RCASC

LIEUT G.H. RINEHART 64 CDN G.T. Coy RCASC.

~~, Judge Advocate.~~

Trial of* B84116 PTE JAMES McGRATH.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† LIEUT S.M. ADAMS 33 CDN CORPS TPS Coy RCASC

Counsel‡ or defending officer† LIEUT R.A. MACDONALD 33 CDN CORPS TPS Coy RCASC.

At 10 00 o'clock the Trial commences.

The order convening the Court is read, and is marked A/2, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* NO SIR.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

24274. Wt. W10659-78. 35,000 sets. 6/45. K. & H., Ltd. G65/711. Forms A 9/55.

The President, members and ~~judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn:~~

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ?

Question to the accused.

Answer. GUILTY SIR.

Are you guilty or not guilty of the second charge against you, which you have heard read ?

Question.

Answer. GUILTY SIR.

Are you guilty or not guilty of the third charge against you, which you have heard read ?

Question.

Answer. GUILTY SIR.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

Question.

Answer.

The accused having pleaded Guilty to FIRST, SECOND & THIRD charges, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Instruction.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused B84116 PTE JAMES McGRATH

is found guilty of 1ST CHARGE - A.W.O.L. SECT 15(U) A.A.
2ND CHARGE - A.W.O.L. SECT 15(U) A.A.
3RD CHARGE - A.W.O.L. SECT 15(U) A.A.

†The summary (or abstract) of evidence is read, marked "G" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

Answer. The accused in mitigation of punishment says :— YES.

~~and~~ SEE EXHIBIT "H"
~~[is handed in a written statement, which is read, marked "H", signed by the President, and attached to the proceedings.]~~

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

Answer. No Sir.

Evidence as to character.

J.A. Zygmuntowicz

E

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

Finding.*

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

Proceedings on Conviction *before Sentence.*

*The Court being re-opened, the accused is again brought before it.

LIEUT S.M. ADAMS is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* YES - I SUBMIT FORMS MFM 6 AND A.F.B 296

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked "D" signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* YES

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* YES

~~Cross-examined by the accused.~~

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* YES SEE EXHIBIT K.

The Court is closed for the consideration of the sentence.

Statement By the Defence Officer
LIEUT. R.A. McDONALD

The accused's story is one that has arisen before a court-martial, before this time.
Difficulties placed in the way of a soldier wishing to have a wife's allowance cut off are well known to all of us, and although these difficulties are really no excuse for a soldier taking upon himself to go absent, the court, I think, should consider the man's ~~statement~~ state of mind when he knows his wife is running around with somebody else, and he knows from experience of other soldiers that he will be unable to stop either the allowance or the assignment without a long period of absence

K

Statement by the Accused.

Sir. Why I went away was over the wife.
When I first came over, she wrote and told me
that she was going with a fellow in Canada.
She said she didn't need me anymore because
she had enough shape to get somebody else, so
why I went away was to cut off her pay
I had a letter, but I lost it, which I had in my
kit bag before I left. I think the Orderly Room
should have some letters from my wife. I
think they should have.
That is all I have to say Sir.

"H" J A Zieglers mark

SUMMARY OF EVIDENCE

In the case of B-84116 Pte. James McGRATH, 33 Cdn. Corps Troops Coy, R.C.A.S.C., a soldier of the Canadian Army Overseas.

The Commanding Officer, Major W.H. Copeland, 33 Cdn. Corps Troops Coy, R.C.A.S.C., directs that evidence be taken on oath.

1st WITNESS
For prosecution.

B-84084 L/Cpl. Niblett, O., 33 Cdn Corps Troops Coy R.C.A.S.C., having been duly sworn states:

I am B-84084 L/Cpl. Niblett, O., 33 Cdn Corps Troops Coy, R.C.A.S.C., and am employed at the Officers Mess for this unit. On 2 Aug 42 I was in charge of personnel working in the Officer's Mess. B-84116 Pte. McGrath, J. whom I now recognize was supposed to report to me from leave for duty at 1530 hours 2 Aug 42. I did not see him until 0830 hours 4 Aug 42 when I told him that he would be charged with absence without leave. Pte. McGrath left the officers mess at approximately 0930 hrs 4 Aug 42 and I did not see him again until 1000 hrs 13 Aug 42 when he reported back to me on that date. He stated that he had reported in to Coy H.Q. and that he was going back to Coy H.Q. as soon as he had shaved. Pte. McGrath left the officers mess at approximately 1130 hours 13 Aug 42 to report to Coy H.Q. I did not see him again until to-day.

The accused declined to cross examine this witness.

O. Niblett L/Cpl.
(Niblett, O.) B-84084 L/Cpl.

2nd WITNESS
For prosecution.

Declaration of

Captain M.A. MacPherson, 33 Cdn Corps Troops Coy, R.C.A.S.C., having been duly sworn states:

I am Captain M.A. MacPherson, 33 Cdn Corps Troops Coy, R.C.A.S.C. I produce herewith certified true copy of the the Court of Inquiry assembled in the Field 4 Sep 42 which applies to the accused, Pte. McGrath, J., whom I now recognize. At 1710 hours 1 Feb 43, Pte. McGrath surrendered to me on High Street, Dorking, saying that he was reporting back from absence without leave. I placed him under close arrest.

The accused declined to cross examine this witness.

M.A. MacPherson Capt.
(M.A. MacPherson) Captain.

3rd WITNESS
For prosecution.

B-83771 Sgt. Potten, L.W., 33 Cdn Corps Troops Coy, R.C.A.S.C. having been duly sworn states:

I am B-83771 Sgt. Potten, L.W., 33 Cdn Corps Troops Coy R.C.A.S.C. At approximately 0830 hours 4 Aug 42 I was patrolling Lingfield in the Provost lorry when I noticed Pte. McGrath, whom I now recognize, proceeding down the main Lingfield road. I stopped beside him and asked if he was absent without leave. He said that he was and voluntarily surrendered himself to me. I accompanied him to Coy. H.Q. where the A/C.S.M., Sgt. Hargrove, K.E. placed Pte. McGrath under open arrest and he was returned to the officers mess in a lorry. I did not see Pte. McGrath again until about 1730 hours 1 Feb 43 at Coy H.Q. when I saw him in custody of the unit provost.

The accused declined to cross examine this witness.

L.W. Potten Sgt.
(L.W. Potten) Sergeant.

The accused soldier was thereupon cautioned in accordance with R.P. 4 (e).

"Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused soldier declined to make a statement.

Pte. J. McGrath
(J. McGrath) B-84116. Pte.

I hereby certify that the foregoing Summary of Evidence was taken down by me in writing this 2 Feb 43 at Coy H.Q. 33 Cdn Corps Troops Coy RCASC in the presence of the accused, and that R.P. 4 (c) (d) (e) (f) have been complied with.

S.M. Adams Lieut
(S.M. Adams) Lieut.
Officer taking Summary of Evidence.

I, B-84116 Pte. James McGRATH desire the assignment of an Officer to represent me at my Court-martial.

Pte. J. McGrath
(J. McGrath) B-84116 Pte.

B-84116

No. Name McGRATH, J. Sqn., Battery, or Company Corps R.C.A.S.C. Date of enlistment 13 Sep 39 G.C. Badges Service or Proficiency Pay N/A

M.F.M. 6 (A.F.B. 122) 75M - 7-41 (1219-20) H.Q. 1773-30-1693

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16AUG 40	Pte		A.A. 15 (1) Absent without leave from 2200 hrs 16 Aug 40 to 2000 hrs 19 Aug 40. Absent 2 days and 22 hours.	Sgt Varney	14 days C.B.	20 Aug 40	Major SH Coombs	Forfeits 3 days pay FRI 149 (1)(a)
Field	17DEC 41	Pte		A.A. 15 (1) Absent without leave from 1200 hrs 17 Dec 41 to 0700 hrs 18 Dec 41. Absent 19 hrs.	Sgt Varney Cpl Reid	3 days C.B.	18 Dec 41	Capt. G.E. Simmons	Forfeits 1 days pay FRI 149 (1)(a)
Field	5JUN 42	Pte		A.A. 15 (1) Absent without leave from 0900 hrs 5 Jun 42 to 0600 hrs 8 Jun 42. Absent 2 days 21 hours.	Sgt Hargrove	14 days Pay	12 Jun 42	Major GE Simmons	Forfeits 3 days pay FRI XX 149(1)(a)

Certified True Copy.....

(P.T.O.)

"8" gva Zugler Mayo.

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-84116	Pte.	James McGRATH	33 Cdn Corps Troops Coy RCASC

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. 15 (1)	ONE times	THREE times.
For NIL	times	times.
For NIL	times	times.
For NIL	times	times.
For NIL	times	times.

Number of instances of gallantry or distinguished conduct, N.A.

or

There are no entries in the conduct sheets of the accused. N.A.

2. The accused has not been previously convicted, *or* N.A.

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N.A. beginning on the ____ day of N.A.

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 5 days in military custody, making a total of 5 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~XXXXXXXX~~ attestation paper is 32 yrs. 5 months

6. The date of his ~~XXXXXXX~~ attestation specified in his ~~XXXXXXXXX~~ attestation paper is 13 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 5 months

8. The accused is entitled to deferred pay or gratuity in respect of N.A. service.

9. The accused is entitled to reckon N.A. service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). N.A.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N.A.

12. (*In the case of an officer.*) The accused holds in the army the rank of N.A., dated N.A., and in his regiment (*or* corps *or* department) the rank of N.A. dated N.A.

(*18648) Wt.30248/905 75,000 12/40 A.& E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B-84116 Rank Pte Name James McGRATH of 33 Cdn Corps Troops Coy RCASC Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of February 1943

for (W.H. Copeland) Major
O.C. 33 Cdn Corps Troops Coy RCASC

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

			Date of Promotion.
In the rank of	NIL	years,	
In the rank of	NIL	years	
In the rank of	NIL	years,	

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

H.Q.C. 55-M-1668 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MCLELLAN. HAROLD WILLIAM A.23309 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1668

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for which referred cannot be expressed on minute sheet, minute to file and enter here "With Minute")		
				J. A. G.	NEW FILE	C.R.	APR 19 1945
APR 20 1945							
MAY 29 1945	25 5 45	P.A.	E.C.M.	J.A.G.	returned file		5-5-45
JUL 5 1945	5.7.45			Admin	Per Requisition C.R. JUL 3 - 1945		
JUL 14 1945	13/7/45	P.A.	C.2	Admin	Request		JUL 13 1945
	26 7 45	P.A.		167			
				J.C.M.	Per Requisition C.R. AUG 29 1945		
				W.C.Rev.	Rep. PLS RIA		21.9.45
SEP 29 1945	28 9 45	P.A.		J.C.M.	Retd Thanks		29/9/45
				CMAR	Per Requisition C.R. NOV 14 1945		
JAN 21 1946	21-1-46	P.A.		Adm 3	Recommendation Fol 31		JAN 16 1946
					With Papers C.R. JAN 25 1946		
JAN 28 1946				CMAR	To site file		28/1/46
JAN 29 1946	29-1-46	P.A.		Admin	" "		29 Jan 46
				LDRB	Per Requisition C.R. MAY 7 1946		
NOV 7 - 1946	6 11 46	P.A.		W.C.Rev	405-M-34330		MAY 25 1946

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. K. 55-Mc-3943-C (JAG)

CONFIDENTIAL

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

KINGSTON, Ont. 23rd. Jan. 1946

Army
3941
JAN 25 1946
File 55-Mc-166
Chgd. to
Referred to

The Secretary,
Dept. of National Defence,
OTTAWA, Ontario

REMISSION OF SENTENCE
A-23309 - Pte. McLELLAN, H.W.

Herewith enclosed Remission of Sentence in respect of the m/n SUS.

2. May it be noted please that Army Form A3104 and Review Sheet were forwarded you under date 5th. Jan. 46.

(G. A. McCarter) Brigadier,
District Officer Commanding,
Military District No. 3

ENCL.
WCI/D.

N.D. 25
3000M—10-44 (5769)
H.Q. 1772-161-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No.

District File No. K.55-Mc-3943-C

PART I

No. A. 23309 Rank Pte. Name McLELLAN, H.W.

Unit Irish Reg. of Canada (Kingston Penitentiary)

PART II

Date of Trial: 12th. July, 1944 (FGCM)

Charge(s) : Absence Without Leave -(AA SEC. 15(1) (2 offences)
A.A. Sec. 24 (2) (2 offences
Desertion - (AA Sec. 12(1)(a)

Sentence : 12th. July, 1944 sentenced to suffer penal servitude for six years.

Date of Sentence: 12th. July, 1944

Confirmation - (a) Authority: P.J. Montague, Maj-Gen. i/c Adm CMHQ
(b) Date :

PART III

R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence of the marginally-named soldier after the 22nd day of January, 1946 and direct that the accused be relieved of all consequences thereof after the said 22nd. January, 1946, and that all records be amended accordingly.

Signed at Kingston, Ontario, this 21st day of January 1946.

G. A. McCarter, Brigadier,
District Officer Commanding
Military District No. 3.

PART IV

PROMULGATION

Remission promulgated and extracts taken at

this day of 194

(Officer i/c Documents)

(1)

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. Rank Name

Certified true extract of Daily Orders Part II of

No. Place Date

Adjutant

CERTIFICATE OF PROMULGATION AND RELEASE

I CERTIFY that this Remission of Sentence was communicated to A.83309 ex-Pte. McLELLAN, H.W., at the Kingston Penitentiary on the 22nd January, 1946 and that the said ex-Pte. McLellan, H.W. was released on that date.

Warden.
Kingston Penitentiary

COPY

ARMY MESSAGE
(INCOMING)

83 CIA RO 20

KINGSTON JAN 181735R

SECTY DND ATTN CMBR
OTTAWA

KJ-28 UNCLASSIFIED RETEL RANKS 1584 RESTRICTED STOP INSTRUCTIONS THEREIN NOTED AND BEING ACTED UPON

DOC MD 3

181713R HJ

McLellan

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: REQ 55-E-1668
55-D-1250
55-S-957
55-T-566
55-J-377
55-[illegible]

PLACE

DATE

55-H-257
55-G-1147
55-G-1131
55-S-1381
55-T-723
AGM 3(b)3

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 3
KINGSTON ONT

OTTAWA ONTARIO 18 JAN 46

RANKS 1534 RESTD

REVIEW REF AG 0267 D/18 OCT 45

PARA ONE RE C 606234 CPL DUPUIS R (.) CMER RECOMMENDS REMISSION OF SENTENCE DF 17 FEB 1946 (.) AG CONCURS (.) ACK (.)

PARA TWO RE C 42407 PTE STEWART G J (.) CMER RECOMMENDS IMMEDIATE REMISSION OF SUSPENDED SENTENCE (.) AG CONCURS (.) ACK (.)

PARA THREE CMER RECOMMENDS IMMEDIATE RELEASE OF THE FOLLOWING SUS (.) A 23309 PTE MCLELLAN H W H101468 PTE TANASOI W L2179 PTE JUBINVILLE T C122569 PTE DAFOE H J H617127 PTE NIMCHUK W S C614981 FUS GERARD R C103481 PTE GRATTON J F R C1325 PTE ST AMAND A A M138012 PTE TRUDEAU J A (.) AG CONCURS (.) ACK (.)

INFM COPY TO: CMER
JAG

ADJUTANT GENERAL

KEM/MA

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW	DEGREE OF PRIORITY	TIME OF ORIGIN
Major-General Adjutant-General		IMMEDIATE	0975

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

CLEAR

ARMY MESSAGE

(INCOMING)

PLACE FROM | DATE & TIME

53 CIA JC 16

KINGSTON 071620R

SECRETARY

OTTAWA

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED COMPLETE BELOW AND RETURN TO ABOVE WOODS

DIVISION	TIME	SIGNATURE

KJ 2 UNCLASSIFIED RETEL CMBR JAN 5 STOP PENITENTIARY REPORTS CONDUCT EXEMPLARY PTE MCLELLAN H W

CMDG 3

071713R EP

ROYAL CANADIAN SIGNALS
Brain Bldg
OTTAWA
JAN 7 1946
Phone
Army Signal Office

54080

COPY 1

M.F.M. 344 300M-12-44 (3884)
H.Q. 1772-38-2100 H.P. 22280
CRAIN PRINTERS LIMITED-46

REGISTERED

IN REPLY PLEASE QUOTE No.

WKM:DM

K.55-Mc-3943-C (A)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario 5th January, 1946.

CENTRAL REGISTRY MGD
702
JAN 7 1946
File
Orig. to CMBR 14-11-45
Referred to CMBR

Secretary,
Department of National Defence,
OTTAWA, Ontario.

A-23309 - Pte. MCLELLAN, H.W.

Reference HQC 55-M-1668 (CMBR- 4)/MGE Confidential dated 20 Dec 45.

1. The m/n soldier was discharged from the Canadian Army on the 6th July 45 and committed to the Collins' Bay Penitentiary at Kingston to serve the remainder of his sentence.

2. Enclosed herewith is Army Form A3104 and Review Sheet.

3. It was intended to review this soldier's sentence and to consider a remission about the 15 Mar 46.

4. As this soldier is at present discharged from the Army and an inmate of Collins' Bay Penitentiary, will you please advise this Headquarters if you wish a report on his conduct from the Warden of the Penitentiary.

5. While in Military custody the conduct of this soldier was good as he earned all possible remissions. It was only possible for him to earn 120 days remission while in Military custody and he earned 120 days remission.

6. May this Headquarters have any further instructions, please.

for (G.A. McCarter) Brigadier,
Major,
District Officer Commanding,
Military District No. 3.....

3[illegible]/MEC - 50,000 - 8/42

ARMY FORM A3104

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL

I.—Case of No. A23309 Pte McLELLAN H W Unit I R C

Sentenced to Penal servitude for six years on 12 Jul 44

Age on, and date of enlistment 23 - 4 Dec 41 Term of service Duration

FIRST TRIAL

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To ..... Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4)

(For action on review, see paragraph VI.)

SECOND TRIAL

For details of offences, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To ..... Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... (Superior Military Authority (4)

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

3[illegible]/MEC - 50,000 - 8/42

ARMY FORM A8104

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL

I.—Case of No. A23309 Pte McLELLAN H W Unit I R C

Sentenced to Penal servitude for six years on 12 Jul 44

Age on, and date of enlistment 23 - 4 Dec 41 Term of service Duration

FIRST TRIAL

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4)

(For action on review, see paragraph VI.)

SECOND TRIAL

For details of offences, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... (Superior Military Authority (4)

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature O.C. Prison or Detention Barracks
	No remission. B/F 12 Jan 46.	Ernest Lawrence 21 SEP 1944	
	No remission. B.F. 12 Apr 45.	W. H. Roach Brig Officer i/c Cdn Sec 1 Ech AFHQ 27 JAN 1945	
	No remission Return to Canada in custody under Sentence	C. H. Booth (C. S. BOOTH) Brigadier, D.A.G., Canadian Military Headquarters. 4 APR 1944	

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

CHARGE SHEET

The accused, A83300 Private Harold William MC LELLAN, The Irish Regiment of Canada, a soldier of the Canadian Army placed on active service, is charged with:

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the field, absented himself without leave from 1100 hrs 11th February 1944 until he was returned to his Regiment under escort at 1715 hrs 18th March 1944. Total absence 36 days, 6 hrs, 15 mins.

SECOND CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the field, absented himself without leave while under close arrest, from approximately 1430 hrs 22nd March 1944 until apprehended by CMP at TARANTO at 1450 hrs, 12th April 1944.
Total absence 21 days, 20 mins.

THIRD CHARGE
Sec 24(2)
Army Act

LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES,

in that he,

in the field, on 3rd May 1944, was deficient of the following articles, viz:

	No of Articles	100% Value	75% Value	Total Value
Anklets, web, pairs	1	.99	.75	.75
Trousers, battledress	1	5.25	3.94	3.94
Boots, ankle, pairs	2	5.46	4.09	8.18
Drawers, cellular, pairs	2	.43	.32	.64
Drawers, woollen, pairs	2	1.20	.90	1.80
Gloves, knitted, drab, prs	1	.47	.35	.35
Greatcoats, drab	1	11.55	8.66	8.66
Jackets, sweater,	1	1.79	1.34	1.34
Boots, lumberman, rubber prs	1	5.08	3.81	3.81

Carried forward to Page 2 28.47

THIRD CHARGE - Continued

	No of Articles	100% Value	75% Value	Total Value
Brought forward		$ 32.22	$ 24.16	$ 28.47
Overalls, combination	1	2.72	2.04	2.04
Shirts angora drab	2	2.03	1.52	3.04
Shoes, canvas prs.	1	.65	.48	.48
Socks prs.	4	.37	.28	1.11
Trousers battle dress prs.	1	5.35	4.01	4.01
Vest woollen	2	1.20	1.80	1.80
Badge, cap	1	.18	.13	.13
Bag, kit universal	1	.98	.75	.75
Braces	1	.35	.26	.26
Brass cleaning	1	.05	.03	.03
Brush, button brass	1	.32	.24	.24
Brush, clothes	1	.60	.45	.45
Brush, shaving.	1	.43	.32	.32
Brush, shoe	2	.42	.31	.62
Brush, tooth	1	.14	.10	.10
Cap comforter	1	.42	.31	.31
Comb hair	1	.05	.03	.03
Dressing field	1	.30	.22	.22
Fork KS table	1	.20	.15	.15
Holdall	1	.25	.18	.18
Housewife	1	.21	.16	.16
Knife clasp	1	1.08	.81	.81
Knife table	1	.19	.14	.14
Razor safety with ~~extra~~ blade	1	X.08	.06	.06
Patches pr	3	.04	.03	.09
Spoon K.S. dessert	1	.09	.07	.07
Vest cotton gyam	2	.34	.25	.50
Towels hand	2	.30	.22	.44
Unit tities prs	2	.04	.03	.06
Bag ration	1	.08	.06	.06
Belt waist	1	.92	.69	.69
Bottle water	1	1.02	.76	.76
Braces W.E.	1	.75	.56	.56
Carrier water bottle	1	.47	.35	.35
Cover mess tin root	1	.08	.06	.06
Frog bayonet	1	.24	.18	.18
Haversack	1	2.25	1.69	1.69
Helmet steel	1	2.24	1.68	1.68
Net helmet camouflage	1	.19	.14	.14
Pack	1	2.25	1.69	1.69
Pouches basic prs	1	1.49	1.12	1.12
Sling rifle	1	.38	.28	.28
Straps shoulder haversack prs.	1	.80	.60	.60
Straps support, web prs	1	.33	.25	.25
Tins Mess root. prs	1	.44	.33	.33
Veils, camouflage	1	.39	.29	.29
Respirator , anit gas complete with haversack	1	5.85	4.39	4.39
Capes anti gas	1	2.76	2.07	2.07
Wallet anti gas	1	.17	.13	.13
Bayonet	1	1.90	-	1.90
Bottle oil	1	.27	.19	.19
Pullthrough single	1	-	-	-
Rifle	1	45.48	-	45.48
Scabbard bayonet	1	.87	.65	.65
Sheet ground	1	2.40	1.80	1.80
Mug drinking	1	.11	.08	.08
Blanket	1	3.66	2.74	2.74
Totals		$129.39	$63.02	$117.23

CHARGE SHEET IN THE CASE OF A83309 Pte MC LELLAN, H W

FOURTH CHARGE
Section 12(1)(a)
Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he,

in the field, on the 23rd or 24th May 1944, while serving with his platoon in a forward area, and under enemy shellfire, with intent to avoid such service, absented himself without permission from his said platoon until apprehended by Detachment 230 Provost Company at FOGGIA at about 2400 hours on 23rd June 1944.

FIFTH CHARGE
Sec 24(2)
Army Act

LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES,

in that he,

in the field, on 4th July 1944, was deficient of the following items, viz:

	No of Articles	100% Value	75% Value	Total Value
Socks, prs	2	.37	.28	.56
Shirts, underwear, summer	2	.36	.27	.54
Shorts	2	.43	.33	.66
Badges, cap	1	.15	.11	.11
Haversack	1	1.84	1.38	1.38
Straps, shoulder, prs	1	.64	.48	.48
Braces	1	.60	.45	.45
Pack	1	1.79	1.34	1.34
Sheet, ground	1	2.94	2.18	2.18
Total				6.92

R C Clark, Lt-Col
Comd The Irish Regiment of Canada.

In the field
9 July 1944

To be tried by Field General Court Martial.

In the Field,
10 Jul 1944

(Sgd) "Ian S Johnston " Brig
Comd 11 Cdn Inf Bde

WMWS CBA

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. See attached Signature of Officer making entry (F C Whyte) Capt. & Adjt.		
VIII.—Second Trial. Signature of Officer making entry		

If further space required, an additional slip should be pasted here

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
AUG 21 1944	I recommend that the sentence be NOT reduced.	R. C. Clark R. C. CLARK, LT.-COL. COMD. THE IRISH REGIMENT OF CANADA (OS)

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
23 Aug 44	I recommend that the sentence as confirmed by Superior Authority be served in full	Dan J. Ormsby Brig

REVIEW OF SENTENCE

SPECIAL REVIEW:

DATE :

FILE : 10/McLellan H/2

1. NO., RANK AND NAME: A.23309 Pte McLellan, H.

2. UNIT AT DATE OF OFFENCE: Ir R C.

3. AT PRESENT ON STRENGTH OF: "X2" List Ir R C.

4. DATE OF SENTENCE: 12 Jul 44.

5. AWARD: Six years penal servitude and stoppages.

6. CONFIRMED SENTENCE: As awarded.

7. BEING SERVED AT: Italy.

8. OFFENCES: A.A.Sec 15(1) - 2 offences - WOAS - AWL - Surrendered after 36 days 6 hours.
- WOAS - AWL - While under close arrest - Apprehended after 21 days.
A.A.Sec 24(2) - 2 offences - WOAS-Losing by neglect eqpt etc to the value of $111.18.
- WOAS - Losing by neglect eqpt etc to the value of $6.82.

8 (a) PRESENT AGE: - 26 yrs

9. PREVIOUS CONDUCT: - A.A.Sec 12(1)(a) - WOAS - Deserting HM Service - while serving in a forward area - Apprehended after 30 days.
Enlisted 4 Dec 41.
Charged under A.A.Sec 15 - 7 offences.
A.A.Sec 40 - 6 offences.
Maximum punishment awarded 28 dys detn - AWL 8 dys 12 hrs.
(From M.F.M.6.)

10. CONDUCT WHILE UNDER SENTENCE: - Fair.

11. EARLIEST DATE OF RELEASE: - 16 Jul 48.

HQC 55-M-1668(OMBR-1)/N
5 Jan 46
Case No. 1717

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: A-23309 Pte. MCLELLAN J W

2. Unit at date of offence: Irish Regiment of Canada, CAO C.M.F.

3. Charge: (1) AA Sec 15 (1) WOAS was AWL 36 days 6 hours.

(2) AA Sec 15 (1) WOAS was AWL while under close arrest for 21 days until apprehended.

(3) AA Sec 24 (2) WOAS ~~xxix~~ losing by neglect c,e and r to the value of $111.18

(4) AA Sec 12 (1) (a) WOAS while serving with his platoon in forward area and under enemy shell fire with intent to avoid such service was AWL 31 days.

~~xxxxx~~ (5) AA Sec 24(2) WOAS losing by neglect c,e and r to the value of $6.82.

PLEA: Guilty of (1)(2)(3)(5) not guilty (4)

4. Place and Date of Trial: In the field Italy - 12 Jul 44
(FGCM) ~~xxxxxxxxxxxx~~

5. Finding: Guilty of all charges

6. (a) Sentence: 6 years P.S. and stoppages of pay to sum of $118.00

(b) Date of Sentence: 12 Jul 44

7. Date of Confirmation:

8. Date of Promulgation:

9. Being Served at: Kingston Penitentiary in MD.....3.....
(Collins' Bay)

1584

(N.B. - Discharged under RO 1029( ) for
wef)

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CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil Convictions:	Nil		
(ii) Courts-Martial:	Nil		
(iii) Summary Convictions:	4 - AA 15 (1) 3 - AA 15 (2) 5 - AA 40		

(b) After Conviction: Fair in U.K. — Exemplary at Kingston Penitentiary 7 Jan 46
Earliest date of release 16 Jul 48.

(c) Date of ~~enrolment~~/enlistment: 4 Dec 41 Present Age: 26

12. Remarks: (Here note any Petition or Representation other than in Item 10, but if Item 10 has been omitted so state, and show here any mitigating circumstances.)
Prosecution proved case adequately.
Accused claims he was not present when the platoon was warned for duty. Accused was not actually a member of the platoon but was a supernumerary member of the Anti-Tank Platoon as an assistant to the storeman. His platoon actually did not do any fighting on this particular occassion although briefed for it and if they had, the accused in his capacity would not have taken part in it. Defending officer states accused had no crimes until he went to Italy but has constantly been on the loose since then.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.)

Reviewing Officer: States this case would be a 3 year case since other similar cases to it have been standardized more or less into 3 years P.S. I therefore recommend immediate release.

Reviewed by A.B. O'Keefe Capt
A.B. O'Keefe, Captain.

14. Recommendation of the Board:

Immediate Release

31

Date JAN 1 6 1946

W. A. Stilwell Major
Secretary
Courts-Martial Board of Review.

ARMY MESSAGE
(OUTGOING)

CLEAR

FILE: HQC 55-M-1668 (CMBR-1)

PLACE: OTTAWA, Ontario

DATE: 5 Jan 46

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

CMBR 65 UNCLASSIFIED

REF YT HQC 55-M-1668 (CMBR-4) DATED 20 DEC 45 STOP

FORWARD LATEST REPORT ON CONDUCT A-23309 PTE MCLELLAN

H W MARKED ATTENTION CMBR

ADJUTANT-GENERAL

30

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT INCLUDING WIRELESS

DEGREE OF PRIORITY

TIME OF ORIGIN: 1210

SIGNED (E.G. Weeks)
Major-General, Adjutant-General

COPY 5 FOR ORIGINATOR'S FILE

DEPARTMENT OF NATIONAL DEFENCE
ARMY

HQC 55- M-1668 (CMBR- 4)/MGE

Ottawa, Ont. 20 Dec 1945.

CONFIDENTIAL

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario.

A-23309 Pte MCLELLAN H.W.

1. Ref.- Kingston Penitentiary.

2. The CM sentence awarded this soldier is to receive a special review at this HQ at an early date.

3. For this purpose it is necessary that you transmit Latest Report on Conduct, and a report of any action taken pursuant to CARO 5913.

4. This contemplated review is NOT to be deemed to countermand, restrict, or alter the provisions of CARO 5913.

R. A. Stilwell Major
for (A.E. WALFORD)
Major-General,
Adjutant-General.

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DEPARTMENT OF NATIONAL DEFENCE
- Army -

M-1668
DQC 55- (ICM)

NDHQ Ottawa, Ont
25 Jul 1945

District Officer Commanding
Military District No 3
Kingston, Ont.

CONFIDENTIAL
F.G.C.M.

A-23309 - Pte McLellan H
No 69 MDB

Ref

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford),
Major-General,
Adjutant-General.

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COPY

K.E. 674(A)

MS/B

3/1

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

KINGSTON, Ontario, 6th July, 1945

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

~~S.M.S. McNAIR S.S. 111/66~~
No. 89 C.D.L. Fort Henry, KINGSTON, Ont.

Reference K.E.E. 8536-6 Vol. 3 Adm 3(b)2 dated 29th June, 1945.

2. Please be advised that the under mentioned soldiers discharged from the Canadian Army at Kingston, Ontario on this date and were immediately re-committed to Kingston Penitentiary after serve.

B.288	Pte.	AUGUSTINE, H.G.
B.143298	Pte	CLARKE, E.E.
B.75202	Pte	FRASER, F.S.
A.11881	Pte	GROVE A.C.
A.11316	Pte	LeCLAIRE J.E.
A 99806	Gnr.	MAITLAND, H.C.
A 93309	Pte.	McLELLAN H.W. 35-177-1668
A 90996	Pte	SAUTE A.H.
A.104179	Pte	STARRAT W.G.

3. For your information, please.

Major
For (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No. 3.

Forwarded
H 27

SECRET

KINGSTON, ONTARIO
281500B JUN 45

A.G.
ACTION

#345

SECRET

DOC MD 1 INFO DEFENSOR

RELET MS 674 DATED 25 JUNE 1945 FROM THIS HEADQUARTERS THE FOLLOWING SOLDIERS UNDER SENTENCE BEING DESPATCHED TO DISTRICT DEPOT 1 AND WILL ARRIVE LONDON ONT 2114 HRS 4 JULY 1945. REQUEST TRAIN BE MET ON ARRIVAL AND SOLDIERS UNDER SENTENCE PLACED IN DIST DEPOT 1.

A. 106077 KIRLORIGN R

A. 11516 LECLARE JE

A. 23309 MCLELLAN HW

A. 55806 MAITLAND KC

A. 117436 SMITH M

OFFICER IN CHARGE SECOND ECHELON CENTRAL BROCKVILLE HAS BEEN REQUESTED TO DESPATCH DOCUMENTS DIRECT TO DISTRICT DEPOT 1.

ADDSD CMDG 1 RPTD DEFENSOR

CMDG THREE

34160/DF/282222Q JUN 45

Noted and Carded

26

THIS COPY FOR H.Q. C.55-M-1068
M.D. 10/McLellan, H/2

GS

MEMORANDUM - FIELD GENERAL ~~DISTRICT~~ COURT-MARTIAL

No. A.28309 Name McLELLAN, Harold William

Rank Pte Unit The Irish Regt of Can C.O.

Charge (1) A.A. 15(1) WOAS A.W.L.

(2) A.A. 15(1) WOAS A.W.L.

(3) A.A. 24(2) Losing by neglect.....
(4) A.A. 12(1)(a) Desertion
(5) A.A. 24(2) Losing by neglect .....

Date of Crime (1) 11-2-44; (2) 22-3-44; (3) 3-5-44; (4) 23 or 24-5-44; (5) 4-7-44. (4) 25-6-44.

Date of Arrest (1) 18-3-44; (2) 12-4-44; (4) 4; Charge Signed 9-7-44.

Orders for F.G.C.M. Brig Comd 11 Cdn Inf Bde

Place and Date of Trial In the field; 12-7-44.

Sentence Penal servitude 6 yrs; stoppages $118.00.

Date of Confirmation 10-8-44

Date of Promulgation 15-8-44

Entered in Records of J.A.G. as No. 3591

Date 10-5-45

MEMO Conf Auth directs that a part of the sentence not exceeding two years shall be served in a military prison.

Reviewed at CMHQ

Balance of sentence remitted by Conf. Auth. 22-11-46

Absent	Sentence
(1) 56 days 6½ hrs	
(2) 21 days 20 mins.	Penal servitude 6 yrs.
(4) 1 month	

Per Maj Lord DJ
for Judge Advocate-General

25

1QM-1-45(M-4629)

Quote No. H.Q.C.55-M-1668
(JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada

24th May 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

A-23309 Pte. McLELLAN, H.W.

1. Receipt is acknowledged of your 10/McLellan, H./2 dated 4th April 1945, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

A.F. A3104 is also acknowledged.

E.L.M.
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

WBB:ELM

24

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

4 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

A.23309 Pte MCLELLAN, H W
SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CLHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of **penal servitude.**

3. CLHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

W A Stirling Major
for (A E Walford) Major-General
Adjutant-General

Encl. 3

23

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/McLellan,H./2

CANADIAN MILITARY HEADQUARTERS

LONDON 4 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

0-55-M-1668

A-23309 Pte McLellan, H.W.

1. The m/n soldier is now serving a sentence of 6 years penal servitude awarded by FGCM 12 Jul 44 for an offence under AA Sec 12 (1)(a), 2 offences under AA Sec 15(1) and 2 offences under AA Sec 24(2). He has so far failed to earn full remissions for good conduct while serving his sentence and if his conduct is satisfactory henceforth, the earliest date on which he should be released is 16 Jul 48.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein, their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable fo further combatant service.

5. In view of the serious nature of the principal offence which this soldier has been convicted, and the necessity for e plary punishment in such cases, as well as the other 4 offence which he has been found guilty and his previous record, it is sidered that he should serve his present sentence in full and after be discharged for misconduct under the provisions of p of Appx to C.A.R.O. 1029, and it is so recommended. It is p that this soldier has misconducted himself for the purpose o obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. that this soldier be returned to Canada in custody under s Herewith original proceedings of the FGCM held 12 Jul 44, A.F. A3104 in respect thereof on which this direction has endorsed, and committal order. This soldier will be desp Canada direct from Italy.

(E.G. WEEKS) Major-Genera
In charge of Administrat
Canadian Military Headq

Enc. 4.

1/39a CMHQ 1000-76 40/P & S/803 (6739)

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS A-23309 Pte McLellan, H.W. of Irish Regt of Canada was by Field General Court-Martial held in the field convicted of the offence(s) of Absence without leave(2 charges), Desertion and losing by neglect his equipments, clothing and regimental necessaries(2 charges). and by a sentence signed on the 12th day of July, 1944 sentenced to undergo Penal servitude for 6 years and stoppages. Penal servitude commencing on the aforesaid day, said sentence of and such sentence has been confirmed by P.J. Montague, Major-General i/c Adm., CMHQ as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 4th day of April, 1945

(C.S. Booth) Brigadier
Deputy Adjutant General
Canadian Military Headquarters

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TTT 96

CFA86 (in lieu of AF A23)
40/P/G(1)1068 (2664)

FIELD GENERAL COURT-MARTIAL

RECEIVED 3 AUG 1944 JAG CANADA

Convened by Order of Brig I S Johnston, DSO, ED Comd 11 Cdn Inf Bde dated 10 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A23309	Pte		Harold William	MCLELLAN	Irish RC

PROCEEDINGS REVIEWED

J H Campbell Major 12 Aug 44

REVIEWING OFFICER, JAG BRANCH

I. 117

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 12 Jul 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs as how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 2000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the OC.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C B Arnell (Armours)	AHLR
Member	Capt	A K Gale	CB Higgs
Member	Capt	C A Gordon	2 RC
Judge-Advocate	Capt	W M Williams	HQ 5 Cdn Armd Div
Prosecutor	Lt	G K Dyson (Armours)	2 RC
Defending Offr	Lt	H R Young (Armours)	2 RC

Questions by President: Is the Prosecutor a lawyer? Ans yes Is the Defending Offr a lawyer? Ans yes.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~adjourns and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No. Sir (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex. B, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does~~ not ~~establish a prima facie case against~~ the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission ~~is~~ allowed on the ..... charge(s), and allowed on the ..... charge(s), and that, ~~accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty~~ on ~~the latter charge(s).~~(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Do neither. Do you intend to call witnesses on your behalf? Ans. No Sir ~~Are they witnesses as to character only? Ans.~~

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the Fourth charge(s), being subject to confirmation, will be promulgated later.(1) ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith,~~ ~~and that the proceedings~~ are accordingly terminated. ~~Part I of the Schedule is dated and signed.~~(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. C and Ex. D respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes I've a def offr.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 71(D)

(1. When several accused tried separately see RP 71(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, RP 48. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(10), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 3571 in the Record of Courts-Martial kept in the office of the Judge-Advocate-General this 17th day of May 19.46

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A 23309 Pte Harold William McLELLAN, 2 R C

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	guilty	guilty	
2nd	guilty	guilty	
3rd	guilty	guilty	
4th	not guilty	guilty	
5th	guilty	guilty	
6th			

(Note: As to findings for lesser offences see AA 54, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Was~~ ~~not~~ under ~~sentence~~ for ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 19 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer Penal servitude for a term of six years and to be placed under stoppages of pay in the sum of $118.00 to make good 75% of value of loss of kit.

(Sgd) W M W Shaw Capt. Judge-Advocate, if any. 12 Jul 44 Date awarded. (Sgd) C B Ancell Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve confirmation of the finding and sentence for Superior Authority.

Date 13 Jul 44 (Sgd) Lord Johnston Brig Commanding 11 Cdn Inf Bde.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence and direct that in part of the sentence not exceeding 2 years shall be served in a military prison

~~I direct that the accused be~~ not committed to prison or detention barracks until further orders.(1) HQ

(1. AA 57A. Delete if not used.)

(Sgd) P Montague (P. J. Montague) Major Brigade Major 11th Canadian Infantry Brigade

Date ..... Commanding ..... Confirming Officer.

(K. G. Morden) Lt-Col. A.J.A.G., M.H.Q.

No illegalities or irregularities such as have withholding confirmation.

Promulgated and Extracts taken in the case of A-23309 Pte. McLellan, H.W. 2R R C

(Dated) 15 Aug 44 (Signed) J E Morgan Maj 3 Bn 11 BRD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused, A23309 Private Harold William MC LELLAN, The Irish Regiment of Canada, a soldier of the Canadian Army placed on active service, is charged with:

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the field, absented himself without leave from 1100 hrs 11th February 1944 until he was returned to his Regiment under escort at 1715 hrs 18th March 1944. Total absence 36 days, 6 hrs, 15 mins.

SECOND CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the field, absented himself without leave while under close arrest, from approximately 1430 hrs 22nd March 1944 until apprehended by CMP at TARANTO at 1450 hrs, 12th April 1944.
Total absence 21 days, 20 mins.

THIRD CHARGE
Sec 24(2)
Army Act

LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES,

in that he,

in the field, on 3rd May 1944, was deficient of the following articles, viz:

	No of Articles	100% Value	75% Value	Total Value
Anklets, web, pairs	1	.99	.75	.75
Trousers, battledress	1	5.25	3.94	3.94
Boots, ankle, pairs	2	5.46	4.09	8.18
Drawers, cellular, pairs	2	.43	.32	.64
Drawers, woollen, pairs	2	1.20	.90	1.80
Gloves, knitted, drab, prs	1	.47	.35	.35
Greatcoats, drab	1	11.55	8.66	8.66
Jackets, sweater,	1.	1.79	1.34	1.34
Boots, Lumberman, Rubber prs	1	5.08	3.81	3.81

Carried forward to Page 2 28.47

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THIRD CHARGE - Continued

	No of Articles	100% Value	75% Value	Total Value
Brought forward		$ 32.22	$ 24.16	$ 28.47
~~Overalls, combination~~	~~1~~	~~2.72~~	~~2.04~~	~~2.04~~
Shirts angora drab	2	2.03	1.52	3.04
Shoes, canvas prs.	1	.65	.48	.48
Socks prs.	4	.37	.28	1.11
~~Trousers battle dress prs.~~	~~1~~	~~5.35~~	~~4.01~~	~~4.01~~
Vest woollen	2	1.20	1.80	1.80
Badge, cap	1	.18	.13	.13
Bag, kit universal	1	.98	.75	.75
Braces	1	.35	.26	.26
Brass cleaning	1	.05	.03	.03
Brush, button brass	1	.32	.24	.24
Brush, clothes	1	.60	.45	.45
Brush, shaving.	1	.43	.32	.32
Brush, shoe	2	.42	.31	.62
Brush, tooth	1	.14	.10	.10
Cap comforter	1	.42	.31	.31
Comb hair	1	.05	.03	.03
Dressing field	1	.30	.22	.22
Fork NS table	1	.20	.15	.15
Holdall	1	.25	.18	.18
Housewife	1	.21	.16	.16
Knife clasp	1	1.08	.81	.81
Knife table	1	.19	.14	.14
Razor safety with ~~extra~~ blade	1	.08	.06	.06
Patches pr	3	.04	.03	.09
Spoon N.S. dessert	1	.09	.07	.07
Vest cotton gymn	2	.34	.25	.50
Towels hand	2	.30	.22	.44
Unit titles prs	2	.04	.03	.06
Bag ration	1	.08	.06	.06
Belt waist	1	.92	.69	.69
Bottle water	1	1.02	.76	.76
Braces W.E.	1	.75	.56	.56
Carrier water bottle	1	.47	.35	.35
Cover mess tin rect	1	.08	.06	.06
Frog bayonet	1	.24	.18	.18
Haversack	1	2.25	1.69	1 .69
Helmet steel	1	2.24	1.68	1.68
Net helmet camouflage	1	.19	.14	.14
Pack	1	2.25	1.69	1.69
Pouches basic prs	1	1.49	1.12	1.12
Sling rifle	1	.38	.28	.28
Straps shoulder haversack prs.	1	.80	.60	.60
Straps support, web prs	1	.33	.25	.25
Tins Mess rect. prs	1	.44	.33	.33
Veils, camouflage	1	.39	.29	.29
Respirator , anit gas complete with haversack	1	5.85	4.39	4.39
Capes anti gas	1	2.76	2.07	2.07
Wallet anti gas	1	.17	.13	.13
Bayonet	1	1.90	-	1.90
Bottle oil	1	.27	.19	.19
Pullthrough single	1	-	-	-
Rifle	1	45.48	-	45.48
Scabbard bayonet	1	.87	.65	.65
Sheet ground	1	2.40	1.80	1.80
Mug drinking	1	.11	.08	.08
Blanket	1	3.66	2.74	2.74
Totals		~~$129.37~~ $121.32	$63.02	~~$127.23~~ $111.18

10 mus
C.B.A

CHARGE SHEET IN THE CASE OF A23309 Pte MC LELLAN, H W

FOURTH CHARGE
Section 12(1)(a)
Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he,

in the field, on the 23rd or 24th May 1944, while serving with his platoon in a forward area, and under enemy shellfire, with intent to avoid such service, absented himself without permission from his said platoon until apprehended by Detachment 230 Provost Company at FOGGIA at about 2400 hours on 23rd June 1944.

FIFTH CHARGE
Sec 24(2)
Army Act

LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES,

in that he,

in the field, on 4th July 1944, was deficient of the following items, viz:

	No of Articles	100% Value	75% Value	Total Value
Socks, prs	2	.37	.28	.56
Shirts, underwear, summer	2	.36	.27	.54
Shorts	2	.43	.33	.66
Badges, cap	1	.15	.11	.11
Haversack	1	1.84	1.38	1.38
Straps, shoulder, prs	1	.64	.48	.48
Braces	1	.60	.45	.45
Pack	1	1.79	1.34	1.34
Sheet, ground	1	2.94	2.18	2.18
Total				6.82

In the field
9 July 1944

R.C. Clark, Lt-Col
Comd The Irish Regiment of Canada.

To be tried by Field General Court-Martial

In the Field
10 JUL 44

(I.S. Johnston) Brig.
Comd 11 Cdn Inf Bde.

WMWS
R. Bay

17

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3)
40/PAN/1697 (2048)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
A23309	Pte		Harold William	MCLELLAN	Irish R C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~been~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 10 Jul 44 endorsed by me, ~~[illegible]~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~[illegible]~~ *(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)*

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C. B. Arrell	Perth R.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	A.K. Gale	C B Highrs
Capt	C.A. Gordon	Ir R C

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	W.M. Chisholm	P L Fus

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	W.M.W. Shaw	HQ 5 Cdn Armd Div

On Active Service in the Fd

in Italy *(Country.)*

(I S Johnston) *(Signed personally. RP 105 fn 2.)*

Brig *(Rank.)*

Date 10 Jul 44

Commanding 11 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

P.B.R. Comes

16

The following is the correct form of medical certificate to be used for trial. The accused must be examined the morning of each day he is on trial and a certificate obtained on each such day:

" I certify that I have this morning examined No. A 23309

Rank Pte Name McLellan, N.W., The Irish Rgt of Can.

and in my opinion he is fit/~~unfit~~ to undergo trial by court-martial.

Station

Date 12 July

(Medical Officer)

(E R (Gen) 577)

WMWOS

15

I

1st Wit Pros] B78704 Sgt Pirie, RC, Dr RC, duly sworn, states:-
Know McLellan - he is accd (pointing).
On 23 may unit in conc area to rear of Pontecorvo waiting to go in attack. Early in morning 2 passed up order to Pl that moving up any time to attack & heavy opposition expected - expected 2 armd divs & Infty AT Pl 2 told my Pl & accd was in 3 sec & 2 gave orders to them. He had just been rel'd under open arrest. after gave up order he reported to me & 2 detailed him to report to my Storeman, to ride in veh & assist with stores & amn. He got his equip & reported to Pte Hambrooke moved about 1800 hrs - stores truck to follow in A Echn convoy. Pl put in attack.
Dr conc. area for past 4 days had been shelled heavily.
Stores truck carry amn, repairs for gun & essentials to keep Pl operating in line. Accds duties only to assist Hambrooke - he was supernumerary. Accd had been a No 5 on a gun.
XX m:- Did not call roll. Sec Sgt would have reported absentees & 2 received no such report so he was there. Just about 1100 hrs when 2 gave orders. Veh remained when we moved out.
Re-exam - nil
Court - nil

RP 83 (B) complied with

2nd Wit Pros] B78691 Pte Hambrooke, L, Dr RC, duly sworn, states:-
No 5 Pl, Sp Coy. On 23 may 2 was Storeman No 5 Pl. Know McLellan - he is accd (pointing).
Sgt Pirie told me accd to ride on my veh. Accd was in slit trench about middle of afternoon, 2 gave him shovel to deepen his slit trench - we were being shelled periodically.
Unit moved 23 may. 2 remained.
At approx 1000 hrs 24 may 2 received orders to get ready to move. Loaded truck - noticed accd not around. 2 called name & searched for him. 2 searched whole area & found none of his equip except his rifle. Enemy shelling. 2 shouted name & looked all around B Ech. Had to leave without him. Only Ech vehs were in area. Placed found rifle in truck, on checking stores 2 found that rifle was accd's. Moved out about ~~1100 hrs~~ 1300 hrs. First missed accd 1000 hrs 24 May. A Ech moved several miles to front.
On reaching next area reported absend to Capt Shaw. Next saw on 5 Jul.
XX m:- when A Ech moved the bn were around HITLER line. Stores vehs were with A Ech, also transport & some provost. 2 remained in A Ech overnight & my truck moved out to catch A/T Pl but veh broke down & could not do my job so had to wait for clutch, then caught up with unit. No fighting with enemy when at A Ech. Gave out spare parts & change of clothing when caught kept.
Re-exam:- nil
Court:- Shells in vicinity - enough to make duck - closest shell 50'.

RP 83(B) complied with

3rd Wit Pros] Lt GK Drynan, prosecutor, duly sworn, states:-
I produce cert of arrest under AA 163 relating to accd. (Exh "A")
XX m:- nil

RP 83 (B) complied with

Pros in closing:- Constructive desertion charged. Have shown spec. duty in action & that failed to carry out & awk. lund arrested. Accd learned of action & expected to involve Pl. & given special job. On 23 May moved to stores truck. But at 1000 hrs 24 may accd missing. Truck did not leave for 3 hrs - search disclosed rifle of accd. Accd arrested approx 1 month later in distant part of country.

Def offr in closing:-
Pros must show accd intended to escape some impt service of which had knowledge. Re knowledge evidence of Sgt Pirie addressed a sec but will not swear accd was there. Deduced he was because no report of absence. Contend that accd had no official warning too riding along on stores truck accd duty merely to assist storeman. In no way was accds absence to impt that the AT Pl suffered. No fighting in area from which went absent & no fighting which accd would have taken a part.

JA sums up:- Functions of court, credibility of witnesses, burden on pros, reasonable doubt, desertion, AA56 & RP 44(P)

Def offr in mitigation:-
2½ yrs service & outside of first offence remainder very minor - CB or FOP only. No real trouble before. Great deal on loose in Italy - but fair record prior.

W M O Shaw
Capt

In my opinion it is necessary due to the exigencies of service for the court to sit after 1800 hrs.
C.B. Ancef major

Summary of Evidence

In the Case of - A 23309 Pte Harold William McLellan,
The Irish Regiment of Canada, 11 C.I.B. C.M.F.

CHARGED WITH

First Offence : A.A. Sec 15 (1). Absenting himself without leave from 1100 hrs 11 Feb 44 until 1715 hrs 18 Mar 44.

~~Second Offence: A.A. Sec 22. When in Confinement, escaping.~~

Third Offence : Absenting himself without leave from 1430 hrs 22 Mar 44 until 1450 hrs 12 Apr 44. A.A. Sec 15 (1)

Fourth Offence: Losing by neglect. A.A. Sec 24 (2)

~~Fifth Offence : Conduct to the prejudice of good order and military discipline. A.A. Sec 40~~

Sixth Offence : A.A. Sec 15 (1) Absenting himself without leave from 1000 hrs 24 May 44 until 2400 hrs 23 June 44.

Seventh Offence : A.A. Sec 24 (2). Losing by neglect.

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

First Witness) B78704 Sgt Pirrie K.C., Spt Coy, The Irish Regiment of Canada, duly sworn, states.

(First Offence) I am B78704 Sgt Pirrie K.C., of Spt Coy, The Irish Regiment of Canada. I see and ~~xxxx~~ recognize Pte McLellan, H.W. On and prior to 11 Feb 44 McLellan was on strength Spt Coy., The Irish Regiment of Canada and his name was on the nominal rolls of this Coy. On the morning of 11 Feb 44 the Coy. had moved out of the line into an Echelon Area. I had alloted pl and sec bivouac areas. On information received from the sec leader of No. 3 Sec, of which McLellan was a member, I searched No. 3 Sec Area calling the name of Pte McLellan H.W., and inquiring as to his whereabouts. I was unable to locate him or to obtain any information as to his whereabouts. He was not in his section, platoon or company area. I thereupon reported him as absent without leave from 1100 hrs 11 Feb 44, which was the time, approximately, that I made the above mentioned searches of the area. I did not see Pte McLellan in the pl. or coy. area or elsewhere from the 11 Feb 44 until about 18 Mar 44 at which time he was under close arrest. If he had been in the coy. area during this period I would have seen him. Whenever possible during this period, and until his name was struck from the pl roll about 22 days after 11 Feb 44. I called the pl. roll including the name of Pte McLellan. This roll was called at irregular intervals, but frequently. He did not answer his name on any occasion.

(Fifth & Sixth Offence) On 23 May 44 at about 1100 hrs my unit (including my pl) was in a consentration area to the right of Pontecorvo. At about this hour I informed the pl., including Pte McLellan (who I am sure was there) that the unit including the pl. had been ordered to move up sometime that day to put in an attack against the enemy. I told the pl. that heavy opposition was expected, including opposition by tanks. I gave orders as to the attachment of sections to the rifle coys. While in this area and this day and for the past four days we had been under heavy shell fire at intervals and there had been casualties, but none in my pl. At telling the pl., as I have stated, and giving further information and orders, I had Pte McLellan, who is no needed on his gun, brought to me for orders. I ordered him to report to Pte Hambrooke immediately, to assist him during the action on the pl. stores truck. This truck carries spare parts for the guns, ammunition tools. I ordered McLellan to put his equipment on the store truck and saw his do it. At about 1800 hrs 23 May we moved out of the area. The stores truck and Ptes Hambrooke and McLellan were left in "A" Ech., in this area, under the command of the RQM Capt Shaw. The unit and pl. subsequently put in the attack. I did not again see Pte McLellan until 5 July 44

B
COMMOS

13

when he was up for Coy Office

.....
K C Pirrie, Sgt

The accused declines to cross examine this witness

Second Witness - B79052, Sgt Crawford N.L., Provost Sgt, The Irish Regt of Canada, duly sworn states:

(First Offence) - I am B79052, Sgt Crawford N.L., Provost Sgt, The Irish Regiment of Canada, I see and recognize the accused as Pte McLellan. At about 1715 hrs 18 Mar 44 I was on duty at the Unit guard room when the accused was brought in under escort. He was sober and in uniform. As he had been reported A W L I confined him in the guard room and informed the adjt.

(Second Offence) - At approx 1445 hrs 22 Mar 44, acting on information received, I ordered out a search party for the purpose of locating and arresting the accused. I accompanied the search party. I searched the tent lines of Spt Coy and the entire unit area. I made frequent inquires as to the whereabouts of the accused but was unable to locate him or to obtain any information concerning him. I also made a search of the neighbouring town of Casalnuova.

.....
N L Crawford, Sgt

The accused declines to cross examine this witness.

Third Witness - B79088 Cpl Thompson E., The Irish Regiment of Canada duly sworn states :

(Second & Third Offence) I am B79088 Cpl Thompson E., The Irish Regiment of Canada Spt. Company. I see and recognize the accused as Pte McLellan. At about 0630 hrs 22 Mar 44 the accused was placed in my custody by Sgt Crawford, Regt'l Provost, and I was ordered to escort the accused to a new area during the battalion move. I was also ordered to obtain a assistant and detailed Pte O'Connor G. as such assistant. On arrival at the new area the accused was left in my charge and I placed him in a tent in 5 pl. area, this being the only available place. I ordered Pte O'Connor to obtain his and my equipment which had been off loaded about 200 yds away, and to bring it in out of the rain. I remained on duty in the tent with the accused. A soldier came to the tent and asked to see the accused. I went to the door of the tent and told him he could not see or speak to the accused as he was under arrest. He hesitated and I ordered him to leave the tent. He left. I stepped out of the tent and stood talking to some 5 pl personnel. My back was to the tent and I was about 9 ft awa y. I stood there talking and less than 15 mins. I didn't at any time look back into the tent. Pte O'Connor was still away On going back into the tent after talking as above stated I found no one in the tent. The tent was the inner part of a desert tent. It was open at the end I left and entered by. The other end was closed and laced. It was not securely pegged. On finding the tent empty, except for the accused equipment I looked around the tent and could not find the accused. I inquired of Pte O'Connor whether he had seen the accused. I then reported that the accused had escaped and could not be located. On orders received from Sgt Pirrie I, accompanied by Pte O'Connor, took a carrier and searched for the accused along the road leading to Casalnuova and as far as the other side of the town. I returned along the same road and searched for 2-3 miles on the other side of the unit area. I was unable to fine the accused or to learn anything as to his whereabouts. I did not again see the accused until he was returned to the A/Tk pl. under open arrest. The accused escaped about 1430 hrs 22 Mar 44.

3 COMMOS

.....
E Thompson, Pte B79088

.....
E Thompson, Pte, B79082

The accused declines to cross examine this witness.

Fourth Witness - B78691 Pte Hambrooke L., The Irish Regiment of Canada, duly sworn, states -

(Fifth & Sixth Offence) - I am B78691 Pte Hambrooke L., Spt Coy., The Irish Regiment of Canada. I am and was on 23 and 24 May 44 Storeman for No 5 pl. Spt Coy., The Irish Regiment of Canada. At about noon 23 May Sgt Pirrie told me that the accused was to ride on my truck when I moved up to the front following the unit. I saw the accused that afternoon. His slit trench was about 50 yds from my truck. I lent him a shovel to deepen his slit as we were being shelled. I saw him working on his slit trench. We had been shelled ever since coming into the area about five days before. The unit moved out on the night of 23 May. On the morning 24 May I received orders to move forward. We had been shelled that morning. We were shelled while getting ready to move. I looked for the accused and shouted his name. I looked in his slit trench. I inquired of my driver and others as to his whereabouts. I was unable to find him. He did not answer when I shouted his name. His equipment was not on my truck. Before I left I searched the entire area for equipment which had been lost or abandoned. The only thing I found was a rifle. (I kept the rifle along with others I had in my truck) (About two weeks later I checked with my books and found that one of these rifles had been issued by me to the accused) We had been told to move at 1000 hrs 24 May and it was at this time that I attempted to locate the accused and was unable to do so. The convoy, including my truck, finally left the area to go forward about noon 24 May. The accused had not appeared and did not go forward with me. I reported the accused as absent to the RSM Capt Shaw, about 1100 hrs 25 May, this being the first opportunity I had to do so. I did not again see the accused until he was up for Coy. Office on 5 July 44.

L Hambrooke
.....
L Hambrooke, Pte B78691

The accused declines to cross examine this witness.

~~Fifth Witness - B78787 Sgt Jeffrey H H, The Irish Regiment of Canada,~~ duly sworn states :

(Third Offence)-I am B78787 Sgt Jeffrey H H, The Irish Regiment of Canada, Orderly Room Clerk.

I produce a certificate under Army Act Sec 163 (1) (jj) purporting to relate to the accused and to certify to his arrest at Taranto at 1450 hrs 12 Apr 44.

(Sixth Offence)-I further produce a certificate under Army Act Sec 163 (1) (jj) purporting to relate to the accused and to certify to his arrest at Foggia at 2400 hrs 23 June 44.

.....
H H Jeffrey, Sgt

The accused declines to cross examine this witness.

The certificate referred to by the witness produced, read over to the accused, marked Exhibits A and B hereto respectively, signed by me and attached hereto.

.....
Officer Taking Summary

B
Witness

Exhibit A

11

Fifth Witness G.S. Horgan, Lieut. The Irish Regiment of Canada duly sworn states:

I am G.S. Horgan, Lieut and A/Adjt., The Irish Regiment of Canada

(Third Offence) I produce a certificate under Army Act Sec 163 (1) (jj) purporting to relate to the accused and to certify to his arrest at Taranto at 1450 hrs 12 Apr 44.

(Sixth Offence) I further produce a certificate under Army Act Sec 163 (1) (jj) purporting to relate to the accused and to certify to his arrest at Foggia at 2400 hrs 23 June 44.

G.S. Horgan Lt
.....
G.S. Horgan, Lieut

The accused declines to cross examine this witness.

The certificates referred to by the witness produced, read over tothe accused, marked exhibits "A" & "B" hereto respectively signed by me and attached hereto.

E.K. Lyman Lt
.....
Officer Taking Summary

Sixth Witness B78508 C.MS Cunningham A.A., The Irish Regiment of Canada, duly sworn states:

I am B78508 C.MS Cunningham A.A. of "Sp" Coy., The Irish Regiment of Canada. I see and recognize the accused as Pte McLellan on strength "Sp" Coy.

(Fourth Offence) On 3 May 44 I inspected the clothing, the equipment and regt'l necessaries of the accused. I produce a statement showing, in the first column, the articles of which I found him deficient; in the second column, the number of such articles; in the third column, the correct current ~~KIMMER~~ 100% vocabulary prices of the articles against which they are set out; in the fourth column the computed 75% value of the said prices, and in the sixth column the total 75% value. All totals are correctly computed. All amounts are in Cdn currency.

(Seventh Offence) On 4 July 44 I again inspected the clothing, equipment and regt'l necessaries of the accused. I produce a statement showing the articles, and prices and values thereof of which I found him deficient. This statement is in the same form as the before mentioned statement. All totals are correctly computed. All amounts are expressed in Cdn currency.

A.A. Cunningham
.....
B78508 C.MS

The accused declines to cross examine this witness.

The statements referred to by the witness produced, read over to the accused, marked exhibit "C" & "D" respectively signed by me and attached hereto.

E.K. Lyman Lt
.....
Officer Taking Summary

B
Comms

10

The accused was warned as follows :

Q. Do you wish to make any statement or to give evidence upon oath ? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given as evidence.

A. I do not wish to say anything at this time. H W McLellan

The accused declines to call witnesses in his own behalf.

I certify that the foregoing Summary of Evidence, consisting of five pages, was taken down by me in the presence and hearing of the accused and that R.P. 4 has been ~~complied~~ complied with.

In the Field
7 July 44

E A Bryan Capt
.....
Officer Taking Summary

B
WMWS

B-1

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECTION 163 (1) (ii)

I certify that No. A 23309 Pte McLELLAN H.W. ..... of the Irish Regiment of Canada ..... was arrested at ~~Ari~~ TARANTO ... at 1450 hours, on 12th April ... 1944

This is Exhibit A on the Summary of Evidence in the Case of A 23309 Pte H.W. McLellan taken before me this 7 July 44
E.A. Rynard
Officer Taking Summary

Signature of Provost Marshal, AFM or other officer into whose custody the above-named person was taken on arrest.

Captain,
Officer Commanding,
231 Provost Company

CERTIFICATE OF ARREST UNDER A.A. 163 (1) (ii).

I, WILL J NEAL certify that No. A23309 Rank PRIVATE
Name McLELLAN Unit THE ROYAL CANADIAN ENGINEERS & C.R.C.
was arrested at FOSSIA at about 24 00 hours on the 23 JUNE 1944.

This is Exhibit B on the Summary of Evidence in the Case of A 23309 Pte H.W. McLellan taken before me this 7 July 44
Exh "A"
WJNWS
E.A. Rynard
Officer Taking Summary

Lieut.
Officer Commanding
231 Provost Coy.
The officer into whose custody the above named person was taken on arrest.

7

Shortage in Kit of

A23309 Pte McLellan H W

on 3 May 44.

	No of Articles	100% Value	75% Value	Total Value
Anklets, web, pairs	1	.99	.75	.75
Trousers, battedress	1	5.25	3.94	3.94
Boots, ankle, pairs	2	5.46	4.09	8.18
Drawers, cellular, pairs	2	.43	.32	.64
Drawers, woollen "	2	1.20	.90	1.80
Gloves, knitted, drab, pairs	1	.47	.35	.35
Greatcoats, drab	1	11.55	8.66	8.66
Jackets, sweater	1	1.79	1.34	1.34
Boots, lumbermen, rubber, pairs	1	5.08	3.81	3.81
		$ 32.22	$24.16	$28.47

Totals carried forward to page #2.

This is Exhibit C
on the Summary Tendered
in the Case of A23309 Pte McLellan H W
Taken before me this 7 day July 44 E.C. Ryman

WMWS

6

Thereto attached Exhibit "C" on the hearing of claimant in the Claim of A 23309 Pte McLellan H W taken before me this 14th day

	No of Articles	100% Value	75% Value	Total Value
Brought forward		$ 32.22	$ 24.16	$ 26.47
~~Coveralls, combination~~	~~1~~	~~2.72~~	~~2.04~~	~~2.04~~
Shirts khaki drab	2	2.03	1.52	3.04
Shoes, canvas prs.	1	.65	.48	.48
Socks prs.	4	.37	.28	1.11
~~Trousers battle dress prs.~~	~~1~~	~~5.35~~	~~4.01~~	~~4.01~~
Vest woollen	2	1.20	1.80	1.80
Badge, cap	1	.18	.13	.13
Bag, kit universal	1	.98	.73	.73
Braces	1	.35	.26	.26
Brass cleaning	1	.05	.03	.03
Brush, button brass	1	.32	.24	.24
Brush, clothes	1	.60	.45	.45
Brush, shaving.	1	.43	.32	.32
Brush, shoe	2	.42	.31	.62
Brush, tooth	1	.14	.10	.10
Cap comforter	1	.42	.31	.31
Comb hair	1	.05	.03	.03
Dressing field	1	.30	.22	.22
Fork M9 table	1	.20	.15	.15
Holdall	1	.25	.18	.18
Housewife	1	.21	.16	.16
Knife clasp	1	1.08	.81	.81
Knife table	1	.19	.14	.14
Razor safety with blade	1	.08	.06	.06
Patches pr	3	.04	.03	.09
Spoon H.E. dessert	1	.09	.07	.07
Vest cotton gym	2	.34	.25	.50
Towels hand	2	.30	.22	.44
Unit titles prs	2	.04	.03	.06
Bag ration	1	.08	.06	.06
Belt waist	1	.92	.69	.69
Bottle water	1	1.02	.76	.76
Brazon W.M.	1	.75	.56	.56
Carrier water bottle	1	.47	.35	.35
Cover mess tin rect	1	.08	.06	.06
Frog bayonet	1	.24	.18	.18
Haversack	1	2.25	1.69	1.69
Helmet steel	1	2.24	1.68	1.68
Net helmet camouflage	1	.19	.14	.14
Pack	1	2.25	1.69	1.69
Pouches basic prs	1	1.49	1.12	1.12
Sling rifle	1	.38	.28	.28
Straps shoulder haversack prs.	1	.80	.60	.60
Straps support, web prs	1	.33	.25	.25
Tins Mess rect. prs	1	.44	.33	.33
Veils, camouflage	1	.39	.29	.29
Respirator, anti gas complete with haversack	1	5.85	4.39	4.39
Cages anti gas	1	2.76	2.07	2.07
Wallet anti gas	1	.17	.13	.13
Bayonet	1	1.90	-	1.90
Bottle oil	1	.27	.19	.19
Pullthrough single	1	-	-	-
Rifle	1	45.48	-	45.48
Scabbard bayonet	1	.87	.65	.65
Sheet ground	1	2.48	1.86	1.86
Mug drinking	1	.11	.08	.08
Blanket	1	3.66	2.74	2.74
Totals		~~$129.37~~ $121.62	~~$97.02~~ $91.17	~~$148.89~~ $140.14

5

MFM 6
(AFB 123)
40/P&S/136 (3438)

No. A23309 Name McLellan, A.W. | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 4 Dec 41 | GC Badges | Service or Proficiency Pay | Character J.W. Mentzillis Major

No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Date of last entry in Company Conduct Sheet	Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Sheet destroyed -				11 Jul 42.					
	Laurentide	27 Jan 42	Pte.		AA 15(2) - AWL from 2359 hrs 27 Jan 42 to 1225 hrs 8 Jul 42.	Documentary. Lt/Col. D'Sherry. Capt Corbett	28 Days Detn.	12 Jul 42.	Lt/Col. Pearson.	
	Field	4 Sep 42	Pte.		AA 40 - Conduct to the prejudice etc.		2 Days C.B.	5 Sep 42.	Lieut. R.M. Forgy	
	Field	10 Jan 43.	Pte.		AA 40 - Conduct, etc. Frying potatoes in kitchen at 2300 hrs. & having a loaf of bread in his possession.	Pte. Robinet A.	7 Days C.B. 7 extra Guards.	11 Jan 43.	Capt. S.C. Reade.	
	Field.	15 May 43.	Pte.		AA 40 - Conduct, etc. Out of Bn Area without.	Documentary.	7 Days F.O.P.	20 May 43.	J.H. Rathgeill Lt-Col.	
	Field.	1 Nov 43	Pte.		AA 15(2) AWL from place of Parade	Sgt. Codman	4 Days C.B.	12 Nov 43	H.S. McDougall Capt.	
	Field.	29 Nov 43	Pte.		AA 15(2) AWL from place of Parade	Sgt. Codman	5 Days C.B.	29 Nov 43	C.L. Clark Major.	

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	27 June	Pte.		AA 40 - Conduct - misuse of Rifle	Sgt. Mason Cpl. Thrutell	3 days CB.	27 Jan 43.	C.H. Clarke Major.	
Field.	28 June	Pte.		AA 15(2) - AWL from Master Parade	CSM. Williams	5 days CB	29 Jan 43.	C.H. Clarke Major.	
Field.	24 Aug 42	Pte.		AA 40 - "An Act" - Failing to parade when ordered to do so.	CSM. Smith, E.	5 days CB	26 Aug 43.	F.H. Bradson Major.	
Field.	2 Oct 42.	Pte.		AA 7 - "Conduct" - Drinking water on C.O. Parade.	Sgt. Todd	3 days F.O.P.	4 Oct 43.	A.N. Pearson, Lt.-Col.	
Field.	24 Nov 42	Pte.		AA 15(1) - AWL. for 1 hr.	Cpl. Pike	3 days C.B.	25 Nov 43	Capt. D.S. Mills	
Field.	16 Dec 42.	Pte.		AA 15(1) - AWL. 7 hrs. 45 mins.	Cpl. Hoistin	5 days C.B.	18 Dec 43.	Capt. D.S. Mills	Fat. 1 day F.&T.
Field.	20 Dec 42.	Pte.		AA 15(1) - AWL. from 0620 hrs 20 Dec 42. to 0620 hrs. 22 Dec 42 (48 hrs)	Sgt. Owen. Cpl. McLeode. Cpl. Pike.	14 days F.P. 21 day F.O.P	22 Dec 43.	W.F. Bristowe Lt.-Col	F.O.P. 2 days F.A. 2 days (Due)

Certified true copy.

D.A. Smith, Lieut

for R.S. Miller, Capt
A/OC Sp. Coy. I.R.C. (CA).

Shortages of kit of

A23309 Pte. McLellan H.W.

4 July 44

	No. of articles	100% Value	75% Value	Total Value
Socks, prs	2	$ 37 ¢	$ 28 ¢	$ 56 ¢
Shirts, underwear, summer	2	36	27	54
Shorts " "	2	43	33	66
Badges, cap	1	15	11	11
Straps, shoulder prs	1	64	48	48
Braces	1	60	45	45
Haversack	1	1 84	1 38	1 38
Pack	1	1 79	1 34	1 34
Sheet, ground	1	2 94	2 18	2 18
		9 12	6 82	6 82

This is Exhibit "D" on the Summary of Evidence in the case of A 23309 Pte McLellan H W taken before me this 7 July 44

G. Kilgour Lt
Officer Taking Summary

COMPLETE

4

Substitute for AFB 296
or IFB 396

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No. A23309 Rank Private Name McLellan H W Unit The Irish Regiment of Canada

Age 26 Married or Single Single No of Dependants None

Date of Attestation 4 Dec 1941

Number of Days in Close Arrest awaiting trial

Civil ..... Military 19 Hospital ..... Total 19

Dates of appointment, promotion, etc. (if any)

Decorations None

In the Field
12 Jul 1944
Date

D
Comos

G S Horgan Lt A/Adjt
Officer i/c Regtl Books

(G S Horgan) Lt A/Adjt.
The Irish Regiment of Canada.

Note: Certified true copy of MFA 6 must accompany this form.

2

H.Q.C. 55-M-1669 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MIELITZ. CHARLIE ARTHUR L.465882 TPR.

CONFIDENTIAL
H.Q.C. 55-M-1669

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 24 1945					NEW FILE	C.R.	APR 19 1945
					With Papers C.R. MAY 4 1945	OK	
MAY 11 1945					To note, pla	M.M.	
MAY 30 1945					PER B.F. MAY 31 1945		
JUN 8 1945					With Papers C.R. JUN 7 1945	OK	
					With Papers C.R. JUL 14 1945	OK	
JUL 16 1945	7 7/45				To note pla		16 7 45
JUL 17 1945	17 7/45				To note pla		17 7/45
					With Papers C.R. AUG 6 1945	OK	
AUG 8 1945	7 8/45				To note		6 8 45
					With Papers C.R. AUG 9 1945	OK	
AUG 12 1945	11 8/45				note and pa		AUG 9 - 1945
MAY 23 1946	MAY 27				APR 23 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-M-1669
(JAG/D)

OTTAWA, 11 August, 5

Commander
Headquarters, Camp Borden
CAMP BORDEN, Ontario

Standing Court-Martial
1435862, Tpr. MIELITZ, C.A.

Receipt is acknowledged of your C.B. 40-M-1738 (AJAG) dated 7 Aug 45, under cover of which you forwarded to this Headquarters the MFM 288 in respect of the marginally noted case.

E & M
capt.
for (R.J. Orde) Brigadier
Judge Advocate General

/jm

IN REPLY PLEASE QUOTE No. C.B. 40-M-1738 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Camp Borden
Camp Borden, Ontario
7 AUG 45

The Secretary
Dept. of National Defence
OTTAWA, Ontario

234786

REGISTRY Army
SEC.
C55-M-1669
AUG 9 1945
File
Chgd. to
Referred to ICM

District Officer Commanding
Military District No. 2 (For Information)
TORONTO, Ontario

L-465882 Tpr. MIELITZ, C.A.

Reference HQC 55-M-1669 (ICM), dated 31 JUL 45 and T-20-M-21136 (AJAG), dated 1 AUG 45, in which the DOC, MD 2 advised that the sentence of the marginally-named was remitted effective 28 JUL 45.

2. MFM 288 and most recent report on conduct are returned herewith as no further action would appear to be required in this case.

AUG 9 - 1945

(A.C. Spencer)
Major-General
Commander - Camp Borden

NAT. DEF. B. 440
2500M-4-44 (9221)
H.Q. 1772/39-762

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of L-465882 Tpr. Charlie Arthur MIELITZ
(Number, Rank, Name in full)

No. 1 Canadian Armoured Corps Training Regiment, C.A.
(Unit, Attachment (if any))

Sentenced to be imprisoned with hard labour for six months

on 16th day of April, 1945 at Camp Borden, Ont.

being served at Industrial Farm, Burwash, Ont.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 24 yrs 7 mos 5 Aug 42
YOB 18

Medical grade or category 111 112 1

FIRST TRIAL—PART II

To Adjutant-General
(Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~[illegible]~~ committed to undergo his sentence, which I recommend should (not) be (~~[illegible]~~) (~~[illegible]~~) (reviewed ~~[illegible]~~) for reasons given in paragraph X.

Place Camp Borden, Ont.

Date 1 MAY 45

Maj. Gen.
(Authority Authorized Officer)
Commander - Camp Borden

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Date

Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To
(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date

Confirming Authority

M.F.M. 268
(Army Form A-2194)
10M—5-43 (330)
H.Q. 1772-30-2015

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

.....
Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
JUN 7 1945	B.F. for Review on 1/8/45	Adjutant-General Superior Military Authority	
6 Aug 45.	Box up 3 dependents Witnd on. 28 JUL 45:	Lieutenant Colonel for A.C. Skinner Major Gen Commander Camp Borden	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st Charge: Sec. 12(1)(a) A.A. - Desertion - AWL from 0600 hrs 20 FEB 45 until apprehended by the civilian authorities at Ryerson, Sask. at 1700 hrs 13 MAR 45, wearing military uniform. Costs of apprehension and return to his Corps: $21.96	20 FEB 45	16 APR 45
2nd Charge: Sec. 15(1) A.A. - AWL from 1915 hrs 20 MAR 45 until he surrendered to the military authorities at Regina, Sask. at 2340 hrs 30 MAR 45, wearing military uniform. Costs of apprehension and return to his Corps: $34.92	20 MAR 45	16 APR 45

Major
Signature of officer making entry
(A.H.Page)
Officer Commanding,
No 1 C A C T R (CA)

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
11 APR 45	Character of accused: Unsatisfactory Ability & usefulness as soldier: [illegible] I recommend (no) review of sentence ~~(on day of~~ ~~,194~~)	[illegible] Major (A.H. Page) O.C. No1 CASTU.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
1 MAY 45	I recommend no review as it is considered full sentence should be served.	Maj.Gen (A.G. Simonds) Commander - Camp Borden

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

I.C.M. - D

REPORT ON CONDUCT

CENTRAL REGISTRY Army
CONF. SEC.
JUN 7 1945
File C55-M-1669
Chgd. to
Referred to JCM

H. Q. C. 55- M-1669, (ICM) 30 MAY 1945.

319800

To:- Secretary,
Department of National Defence,
Ottawa, Ontario.

1. Soldier under sentence	L465882 Tpr. C.A. MIELITZ,
2. PLEASE STATE:-	
(i) Date of sentence	April 16, 1945.
(ii) Sentence	6 months
(iii) Date you received soldier	April 19/45
(iv) (a) Can soldier read and write?	Yes
(b) Religion	Luth.
(c) Married, widower, single	Married
(d) What Army trade has soldier?	Farmer
(v) (a) Conduct of soldier	Good
(b) Industry of soldier	Good
(c) Remission earned:-	
(i) Number of days actually earned.	8 days
(ii) Number of days obtainable to date.	6 days
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	
(a) Whether imprisonment or detention will seriously aggravate soldier's condition.	no — G Foleff Medical Officer
(b) Whether further confinement is likely to prove fatal.	no
(vii) (a) Whether in your opinion conduct of soldier warrants remission of balance of sentence?	Part only
(b) Moral effect confinement has had?	Good
(viii) Date term will expire if all remission earned from now on.	Sept. 19/45

Signature W.L. McJannet Governor
(W.L. McJannet)

Date of Report. June 6, 1945.

IN REPLY PLEASE QUOTE No. T-20-M-21136 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

333497

Headquarters, Military District No.2,
153 Bay Street, Toronto, Ontario,
1st August, 1945.

CENTRAL REGISTRY Army
AUG 3 1945
File C5-M-1619
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

The Commander,
CAMP BORDEN, Ontario.

(for information)

Remission of Sentence
L-65882 - Pvr. MEHLITZ, C.A.
No. 2 District Depot, C.A.

Reference C.B. 40-M-1736 (AJAG) dated 11th July, 1945.

2. Herewith Army Form under the provisions of C.A.R.O. 3974 being the remission of the balance of the sentence of imprisonment with hard labour awarded the marginally-named soldier effective the date of discharge, namely, 28th July, 1945, together with particulars of promulgation and Part II Orders.

(I. M. R. Sinclair)
Lieut.-Colonel
Officer Administering, M.D. 2.

NAT. DEF. 9. 440
20M-4-44 (A5201)
H.Q. 1772-39-767

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

N.D.H.Q. File No.: HQC 55-M-1669
District File No.: CB 40-M-1735

PART I

No. L-465882 Rank Tpr Name C.A. MEILITZ
Unit formerly of No. 1 A.A.G.A.R. C.A.

PART II

Date of Trial 16 Apr 45
Charge(s) DESERTION, Sec. 12(1)(a)AA
Sentence 6 months imprisonment with hard labour
Date of Sentence 16 Apr 45 Tried by SCM
Confirmation - (a) Authority : 16 Apr 45
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent military authority under section 57(2) of the Army Act, do hereby remit (~~commute~~)(~~mitigate~~)x the balance of the sentence of imprisonment with hard labour awarded the above-named soldier, such remission to be effective the date of discharge, namely, 28th July, 1945.

SIGNED at Toronto, Ontario this 16th day of July 1945.

(A.E. Potts)
Major-General
D.O.C. M.D. 2.

28 July 45

PART IV

PROMULGATION

Remission (~~commutation~~)(~~mitigation~~)x promulgated and extracts taken at No. 2 District Depot C.A. this 28th day of July 1945

Capt. Adj.
Officer i/c Documents (J.J. Eyles)

(i) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

L.465882
No. balance of Rank Trooper Name MEILITZ, C.A.
The sentence of 6 months imprisonment with hard labour
awarded by Standing Court-Martial on the 16th day of April 1945, has been
Remitted
on the 28th day of July 1945 by Major-General A.E. Potts
District Officer Commanding, Military District No. 2
UNIT No. 2 District Depot C.A.

Certified true Extract of Daily Orders Part II of
No. 187 Place Toronto, Ontario Date 31 July 45

Capt.
Adjutant (J.J. Eyles)
No. 2 District Depot, C.A.

x Strike out and initial words not applicable.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

55-M-1669

RQC (ICM)

MDHQ Ottawa, Ont

31 Jul 45 1945

CONFIDENTIAL
C.M.

Commander,

Camp Borden Military Camp,

CAMP BORDEN, Ont.

L.465882 Tpr. MIELITZ, C. A.

Ref 40-M-1738

2. Enclosed herewith:-

(a) MFM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford)
Major-General
Adjutant-General

IN REPLY PLEASE QUOTE
No. CB 40-M-1738 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

328884

Headquarters, Camp Borden,
Camp Borden, Ont. 11 JUL 45 194

The Secretary,
Dept. of National Defence (for infmn)
OTTAWA, Ont.

D.O.C.,
Military District No.2,
159 Bay St.,
TORONTO, Ont.

Officer Commanding,
No.2 District Depot,
TORONTO, Ont.

CENTRAL REGISTRY Army
CONF. SEC.
JUL 14 1945
File 255-M-1669
Chgd. to
Referred to

L-465882, Tpr. C.A. MIELITZ

The m/n soldier was sentenced by court-martial at Camp Borden on 16 Apr 45 to six months imprisonment with hard labour. He is serving his sentence in the Industrial Farm, Burwash, and authority was given by this Headquarters under CB 40-M-1738 (SCA), dated 3 May 45, for his discharge under CARO 1029(8).

2. Mielitz was S.O.S. No.1 CACTR to No.2 DD with effect 8 May 45.

3. In view of HQC 9039-1-1 Adm.3, dated 15 Jun 45 suggesting that, as a general rule, SUS be released when they have served half of the full term of their sentences, the Commander, Camp Borden is prepared to remit the balance of Mielitz' sentence on 16 Jul 45 as he will have served half of his sentence on that date and as the Superintendent, Industrial Farm, Burwash, reports favourably upon his conduct.

4. However, as he has not yet been discharged under CARO 1029(8), the DOC, MD 2, is requested, please, to remit the balance of his sentence of imprisonment with hard labour the same date as his discharge from the Service, should this soldier not be so discharged before 16 Jul 45.

5. Enclosed herewith is Form of Remission, Parts I and II of which have been completed, and the DOC, MD 2, is requested, please to complete Parts III, IV, and V and forward this Form direct to NDHQ with advice to this Headquarters as to the effective date of the remission for record purposes.

(A.C. Spencer)
Major-General
Commander, Camp Borden.

M.F.B. 239
1000M—8-43 (5553)
H.Q. 1772-39-194

I.C.M. - C

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

H. Q. C. 55- M-1669 (I.C.M.)
OTTAWA, 30 MAY 1945

The Superintendent,

Burwash Industrial Farm,

BURWASH, Ontario.

L46588 2 Tpr. C.A. MIELITZ.

1. Herewith "Report on Conduct" form in respect of this soldier who is serving, in your institution, a sentence of 6 months' imprisonment with hard labour awarded by a Standing, Court-Martial on the 16 day of APR 1945

2. Please complete said form and forward same BY RETURN MAIL addressed to the Secretary, Department of National Defence, Ottawa, Ontario.

F. Dalton

Deputy Minister (Army).

LHC:WS.

1M-5-45(M-74)

HQC.55-M-1669 (JAG/D)

9 May 45

The Commander, Camp Borden,
CAMP BORDEN, Ontario.

Standing Court-Martial
L.465882, Tpr. MIELITZ, C.A.
No. 1 CACTR, CA

Receipt is acknowledged of your C.B.40-M-1738 (AJAG) dated 1st May, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial; together with M.F.M. 288.

EKM Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

/AB

Noted
L.H. Clayton
L.H. CLAYTON
Lieut.-Colonel.
Inspector of General Court Martial
MAY 11 1945

I.C.M. - L4347

5M-3-45(M-4664)

REVIEW OF SENTENCE

DATE MAY 11 1945

H.Q.C. FILE: 55-19-1669

1. NO. RANK AND NAME

2. UNIT AT DATE OF OFFENCE M.D.

3. AT PRESENT ON STRENGTH OF DATE

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE

6. BEING SERVED AT

7. OFFENCES I Deserting from 20 Feb. 45 AW another 13 month 45 — 22 days
II AWL from 20 month 45 ~~amendment~~ 30 month 45, 7 days.

~~ENLISTED~~ ENROLLED 5 Aug. 42 AGE 27

8. PREVIOUS CONDUCT Fulham 10-11-1121 7 days CO on 8-11-44
31-10-44 A.W.L 7 days
28-12-44 A.W.L 7 days 14 days CO on 2-1-45 —
5 days reg

9. STATEMENT OF ACCUSED AWL because had 3800 bu. of oats in the ground. Forced leave last fall. Asked for extension. Told to report back. Did so. Put in for furlough at Xmas so could get rid of grain while roads still frozen. Turned down. On Xmas leave. Arranged with truck driver to haul grain on sum on permit come from elevator. Put in for furlough in Jan. Turned down. On embarkation leave. Found nothing done. Had to see to it. Difficulty getting truck. Got grain in 10 days. Arrested in 13th while making arrangements to have my stock looked after, ~~book~~ + rest farm.

10. RECOMMENDATION On draft to Camp Borden. On train thought about what got to be done, so left at Jarvis + came home again. By that time roads all broken up + no way of getting round at all so remained. If had not gone AWL would have lost grain. 5½ acres

File No. C.B. 40-M-1738 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

311203

Headquarters, Camp Borden,
Camp Borden, Ontario,
1 MAY 45

CENTRAL REGISTRY Army
CONF. SEC.
MAY 4 1945
File C55-M-1669
Cmpd. to
Referred to JAG

The Secretary,
Dept. of National Defence,
OTTAWA, Ont.

STANDING COURT-MARTIAL
L-465882 Tpr. MIELITZ, C.A.
No. 1 CACTR, CA

Reference H.Q.C.55-M-1669 (JAG/D-8), dated 24 APR 45.

2. Returned herewith for custody the proceedings of the marginally noted Standing Court Martial, together with MFM 288 in which no review of sentence is recommended.

3. The Officer Commanding, No. 1 CACTR, CA has been directed to apply for the discharge of this soldier under CARO 1029(8).

4. No administrative action would appear to be required in this case.

(A.C. Spencer)
Major-General
Commander, Camp Borden.

(1)

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Camp Borden, Ontario,

on the 16th day of April, 1945, at 0930 hours,

for the trial of: No.L 465882 Trooper Charlie Arthur MIELITZ,
Number Rank Full Name

No.1 C.A.C.T.R., C.A.
Unit Attachment, if any

PRESIDENT: Major J.C.A. Campbell, President Courts-Martial, Camp Borden, CA.

PROSECUTOR: Capt. J.A. Mullin, Prosecutor Courts-Martial, Camp Borden, CA.
Rank Full Name Unit Attachment, if any

~~DEFENDING~~ DEFENDING OFFICER: Lt. A.G. McLarty, No.1 CACTR, CA.
Rank Full Name Unit Attachment, if any

FINDING: The Court finds that the accused is guilty of both the charges.

SENTENCE: The Court sentences the accused to be imprisoned with hard labour for six months.

Signed at Camp Borden, Ont. this 16th day of April, 1945.

J.C.A. Campbell (Major)
(J.C.A. Campbell) President, Standing Court-Martial.

M.F.B. 148
25M-6-44 (8338)
H.Q. 1772-29-2296

Extracts entered as No. 96914 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 21 day of Apr 19 45

120

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~XXXX

5

B 2

J B Campbell Major
Pros Scm.

CHARGE SHEET

The accused, No. L 465882 Trooper Charlie Arthur MIELITZ, No. 1 C.A.C.T.R., C.A., a N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:-

FIRST CHARGE
Sec.12(1)(a)
Army Act.

WHEN ON ACTIVE SERIVCE
DESERTING HIS MAJESTY'S SERVICE

in that he

at Camp Borden, Ontario, on the 20th day of February, 1945, after having been warned for Special Duty, with intent to avoid such Special Duty, absented himself without leave from No 1 C.A.C.T.R.,C.A., from 0600 hours on the said 20th day of February, 1945, until apprehended by the Civilian Authorities at Ryerson, Saskatchewan, at 1700 hours on the 13th day of March, 1945, wearing military uniform.

Costs of apprehension and return to his corps, $ 21.96.

SECOND CHARGE
Sec.15(1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Winnipeg, Manitoba, on the 20th day of March, 1945, absented himself without leave from No 1 C.A.C.T.R.,C.A., from 1915 hours on the said 20th day of March, 1945, until he surrendered to the Military Authorities, at Regina, Saskatchewan, at 2340 hours on the 30th day of March, 1945, wearing military uniform.

Costs of apprehension and return to his corps, $ 34.92.

Camp Borden, Ont.,
9th April, 1945.

(A H Page)Major
Officer Commanding,
No 1 C.A.C.T.R.(C.A.)

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

Captain R. B. HALLERAN, No.1 C.A.C.T.R., C.A.

being duly sworn, is examined by the Prosecutor.

Question

Q- What is your unit?

A- No.1 C.A.C.T.R.

Q- What are your duties there?

A- I am assistant adjutant, sir.

Q- Do you remember the 12th of February, 1945?

A- Yes.

Q- Would you tell the Court what happened that day?

A- On the 12th February, 1945, at approximately 8:30 in the morning there was a group of NRMA personnel called, a draft warning was read to them, both Schedule A and Schedule B....

Q- Just a moment. Who read the draft warning?

A- I did, sir.

Q- You refer to Schedule A. What are the contents of that?

A- That is a nominal roll with the man's number, rank and name, his destination, the way he wishes to travel, and that is headed, firstly, by the draft warning.

Q. Did you read that to the group?

A. I read the draft warning.

Q. Carry on, please.

A. When asked if there were any questions everybody seemed to understand both the Schedules and they signed as having understood the draft warning. We got them their travelling warrants, and away they went on embarkation.

Q. How large a group was there?

A. Thirteen all told.

Q. Who was included in that group?

A. Tpr. Mielitz was one.

Q. You refer to Tpr. Mielitz. Who is he? Is he present to-day?

A. Yes, sir.

Q. Would you point him out to the Court?

A. Right here (indicating the accused).

Q. I show you Schedule B, Warning Order. Whose signature appears in the lower right-hand corner?

A. Tpr. Mielitz's.

Q. Did you see that signature affixed?

A. Right, sir, I was present when it was signed.

Q. The signature in the lower left-hand corner. When was that affixed?

A. The same time.

PROSECUTOR :- I offer this as evidence, sir.

COURT :- Have you seen this?

DEFENDING OFFR :- Yes, I have, sir.

COURT :- No objection to it?

DEFENDING OFFR :- No, sir.

------Schedule "B" is read by the Court, marked Exhibit "F", signed by President, and att. to proceedings.

PROSECUTOR :- (resuming)

Q- Capt. Halleran, the Schedule "B" that was just produced, was the accused given an opportunity to read that over or was it read to him before he signed it?

A- It was read to him.

Q- By whom?

A- By myself.

Q- Did he ask any questions as to the meaning of it?

A- There were no questions asked.

Q- He was given an opportunity to ask questions?

A- Right.

Q- Prior to that, was the meaning of the warning order itself explained to them?

A- Yes, sir.

Q- By whom?

A- By myself, sir.

CROSS-EXAMINED BY THE DEFENDING OFFR :-

Q- Are you aware of this man's state of training?

A- He is not fully trained in C.A.C. He has had basic training.

Q- Has he had basic training complete?

A- His basic training as far as his 105 is concerned, I imagine it is complete.

Q- You wouldn't consider this man fully trained to be sent overseas?

A- That depends. It isn't for me to say.

Q- There is a state of training laid down in Armoured Corps for men to be sent overseas. Has this man reached that state of training?

A- The particular draft that Tpr. Mielitz was warned for was a H.W.E. withdrawal. It was clearly stated on the warning order that personnel did not have to be fully trained.

Q- Did the draft he was warned for proceed overseas?

A- The draft he was warned for left No.1 C.A.C.T.R. and T.S.R. and went to Niagara-on-the-Lake. From there I don't know where they went.

Q- It went to Camp Niagara?

A- That's right.

Q- This Schedule B, the warning order for special duty, is what left the accused open to the charge of desertion. Why was it necessary to sign this when the proper authorities knew beforehand that that draft wasn't going overseas?

COURT :- Just a moment. You say the proper authorities knew the draft wasn't going overseas. That isn't within his knowledge -- I don't think. If you wish to ask the witness why the man signed it he may or may not be able to answer it. You cannot delve into the proper authorities through this witness.

DEFENDING OFFR :- (resuming)

Q- Capt. Halleran, do you know why it was necessary for this man to sign Schedule "B"?

A- Because there was a warning order. In that certain personnel were to be ready to proceed on draft. The time was given as to the dates and time of departure of the train. As to the destination we weren't told.

Q- Wouldn't the type of draft in this case tell you it wasn't for overseas duty?

A- It was an H.W.E. withdrawal. As far as we are concerned, any person that does leave our unit and is warned for special duty, signed both Schedule A and Schedule B.

Q- Would that apply to our men going to convert to Infantry?

A- If they are moving out of Camp Borden, moving to another district, yes.

RE-EXAMINED BY THE PROSECUTOR :-

Q- Capt. Halleran, at the time that you warned the accused for special duty, did you have knowledge as to where the draft was proceeding?

A- Not at that time. We had just received the warning order, not the movement order.

Q- What warning, in fact, did you give then, the ordinary warning for special duty or the restricted warning?

A The warning as to special duty.

Q- Where in fact did the draft subsequently proceed?

A- It proceeded to Niagara-on-the-Lake, Niagara Camp.

Q- To another District, a new unit, or what?

A- That, I don't know for....

Q- Are you able to answer that or not?

A- No, I cannot.

----- The witness withdraws.

PROSECUTOR :- I offer as evidence Daily Orders Part II, No. 41, of No.1 C.A.C.T.R., dated 27th February, 1945; MFM 215; MFB 1482, dated 15th March, 1945; MFB 1481, dated 15th March, 1945; and MFB 1481, dated 20th March, 1945.

COURT :- Have you seen these?

DEFENDING OFFR :- Yes, I have, sir.

----- The above-mentioned documents are read by the Court, marked Exhibits "G", "H", "I", "J" and "K", respectively, signed by the President, and att. to the proceedings.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I apply to give evidence as a witness, sir.(See overleaf)

Question to the accused. Do you intend to call any witness in your defence?

Answer. Yes, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No, sir.

D-3

The Accused, No.L-46882 Trooper Charlie Arthur MIELITZ, No.1 C.A.C.T.R., C.A., being duly sworn, is examined by the Defending Offr :-

Q. Will you tell the Court the facts that led up to this absence?

A. The reason why I was absent was that I had grain out in the ground, 3800 bushels of oats. I had a harvest leave last Fall which I asked for an extension long enough to get rid of this oats. I asked for an investigation by the R.C.M.P. which I did not get. I was told to report back to No.12, which I did. I came back to Camp Borden around the 10th of November and I put in for a furlough starting with my Christmas Leave due to the fact that I could get rid of the grain in that time while the roads were still frozen, and it was turned down. I went home on Christmas Leave. I was home around a week at which time I made arrangments with the truck driver, Russ Semple, to haul the grain in as soon as the permit came from the elevator. I came back thinking it would be all fixed up. I came back around the 10th of January and put in for another furlough, and it was turned down. So when I went home on embarkation leave I seen that there hadn't been nothing done, so I had to pretty well see to it that it got done. The truck I had spoken for at Christmas time was laid up and I had difficulty getting another truck, and I didn't get one until around the 1st of March. It was around the 9th or 10th March when I got the grain in. I was picked up on the 13th while I was making arrangements

for to have my stock looked after. I tried to get somebody to rent my farm. I was sent back to Regina. I was there about a week and I was put on draft for back to Camp Borden. When I was on the train I got to thinking about what was there to be done yet and I knew I wouldn't have any chance of getting any kind of leave when I got back, so at Winnipg I went back home again. I got home around the 26th or the 25th. By the time I got home the roads were all broke up. I had no way of getting around at all, so I took the train right to Regina and gave myself up to the military authorities.

Q. Early in January you were called in with about a dozen others to see Capt. Halleran with regard to a draft. Did he ask you any questions at that time?

A. No, sir.

Q. Now think. Did he ask you anything about going active?

A. Yes, he asked me the reason I wasn't going active. I told him I wanted to put in for a compassionate leave. I felt I needed that to help me with the farm. A little while after that I was called in for a draft that I was taken off. All the rest of them went on draft. Then around the 12th or 13th of February I was called in and signed the draft warning and got embarkation leave.

Q. Supposing this January, you had gone in January, what would have happened to the grain?

A. I would have lost it, sir.

Q. What was it selling for?

A. 51½¢ a bushel.

Q. When you signed the draft warning order, did you know your state of training?

A. Yes.

Q. What did you believe from that?

COURT :- That doesn't matter. His belief has no bearing on the subject. Don't answer that question.

CROSS/EXAMINED BY THE PROSECUTOR :-

Q. On the 12th of February, this year, you were, in fact, called in and warned for draft, were you?

A. Yes, sir.

Q. You were read the warning order for special duty?

A. Yes, sir.

Q. And you answered the nominal roll as being present?

A. Yes, sir.

Q. I show you Exhibit "F", Schedule #, warning order; did you sign this order?

A. Yes, sir.

Q. Is that your signature (indicating) in the lower-right-hand corner?

A. Yes, sir.

Q. Was that warning order read over to you before you signed it?

A. Yes, sir.

Q. Did you understand the meaning of it when you did sign it?

A. Yes, sir, I understood the meaning. I didn't know the reason why it should be the way my training was. It had been over a year since I had done any training at all

Q- You knew you were being warned for movement anywhere?

A- Yes, sir.

Q- And you were given your embarkation leave?

A- Yes, sir.

Q- And you proceeded on your embarkation leave?

A- Yes, sir.

Q- Is there anything that wasn't clear to you at all? You knew that if you became absent you would be liable to be charged with desertion, didn't you?

A- Yes, sir.

Q- Then why didn't you return at the time you were supposed to return as shown in the warning order, at 0600 hours on the 20th of February?

A- Well, I didn't think I was in a position to lose a thousand bushels of grain.

Q- In fact, you became absent at 0600 hours on the 20th of February, 1945, is that right?

A- Yes, sir.

Q- And was that the sole reason for your failure to return -- the fact that your grain might be lost?

A- Well, it would have been sir, if it had come thaw.

Q- You have talked of your training not being complete. Might it not be true that you were afraid to go overseas because your training wasn't complete?

A- Yes, sir.

Q- That was what was in your mind?

A- Yes, sir.

Q- In other words, you didn't want to go on that draft because your training wasn't complete?

A- Yes, sir.

Q- It wasn't the fact that your grain was there? You could have arranged to have that picked up?

A- Not very well.

Q- If you hadn't been warned for draft, you wouldn't have gone absent without leave to look after that grain? Is that right?

A- Yes, I would have had to, sir. I would have to get it out before the thaw.

Q- Why couldn't you arrange with somebody else to get that grain?

A- I did arrange it when I was home at Christmas but it wasn't done.

Q- Was there nobody else who could have done it?

A- No, sir.

Q- Are there any neighbours farming there?

A- There is some around there.

Q- Why couldn't they have done it for you?

A- There is no trucks right around there. The truck I got was from Redvers.

Q- All the other farmers had been able to arrange to get their grain off, is that right? Had they their grain left there standing, too?

A- No, they had most of it in bins. The quota was opened up another five bushels an acre after I had left there.

Q- This was grain above quota, was it?

A- Yes, sir, but I did get a permit. It came the first part of January, to sell it all.

Q. In other words, the time it was left there you weren't able to sell it according to law?

A. No, sir, when I left only five bushels an acre was all, sir.

Q. You were apprehended by the civilian authorities at 1700 hours on the 13th of March, 1945, at Ryerson, Saskatchewan?

A. Yes, sir.

Q. Did you spend all your time at Ryerson?

A. No, sir.

Q. Where is your farm?

A. It is north of Mair.

Q. In Saskatchewan?

A. Yes, sir.

Q. What were you doing in Mair?

A. Well, the truck I had hauling grain for me was from Redvers. It had come down the highway from his place. He had to go right past this Ryerson. From then on I went with him to the grain.

Q. You were stopped when you were going through Ryerson, were you?

A. (no audible answer)

Q. How did you get picked up at Ryerson?

A. By the R.C.M.P.

Q. Were you there for a few days or what?

A. I was staying there making arrangements for the stock. I was staying at a place there when they picked me up.

Q. When you were picked up you became absent without leave, is that right -- you escaped your escort?

A- (no audible answer)

Q- Is that true?

A- Well, I was on draft.

Q- You were coming here under escort, were you?

A- No, I wasn't.

Q- Were you under arrest?

A- There was an officer in charge of the draft.

Q- Were you under arrest when you became absent?

A- I guess I was, sir.

Q- Why did you do that? Was it to avoid being brought back so you couldn't be sent overseas?

A- No, sir, it was the only chance I had to get back because I knew there would be little chance of getting a leave when I got back here.

------The Defending Offr declines to re-examine.

------The accused resumes his seat.

SECOND WITNESS FOR DEFENCE

L-108395, Tpr. J. HOPSON, No.1 C.A.C.T.R. C.A., being duly sworn, is examined by the Defending Offr :-

Q- What are your duties in No.1?

A- I am employed as a clerk, sir, in the Chief Instructor's office.

Q- What documents do you look after?

A- 105A3's, sir, and other documents.

Q- That is, you look after the training records?

A- Yes, sir.

Q- This 105A3 (indicating), to whom does it belong?

A- Tpr. Mielitz, sir, C.A.

Q. It belongs to the accused?

A. Yes, sir.

Q. By looking at that, what can you tell me about his basic training?

A. He has had partial basic training, sir.

Q. How about his G.M.T?

A. Partial G.M.T, sir.

Q. Is his range work complete?

A. Yes, sir.

Q. Would that be complete to the satisfaction of our weaponotraining officer?

A. No, sir.

Q. Is his gas complete?

A. No, sir.

Q. Look at his Armoured Corps training, his qualification as a driver -- are they recognised as good?

A. No, sir. He would have to be re-tested as a driver.

Q. Those orders were good up to a certain date. What was that date?

A. October, '44, sir.

Q. According to his records, is he fully trained or not in any arm?

A. No, sir.

----- Copy of MFM 10543 compared with original, certified as true copy, marked Exhibit "L", signed by the President, and att. to the proceedings.

COURT :- (to Prosecutor) Do you want to see this?

PROSECUTOR :- No, sir.

----- Prosecutor declines to cross-examine.

----- Witness withdraws.

D-19

----- The Defending Offr makes a closing address.

----- The Prosecutor makes a closing address.

Joe

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the second charge, is found guilty of the said charge ~~xx~~ ycsc

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

JCAC

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer, sir. (The Defending Offr addresses the Court.)

JCAC

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Schedule "B" No. 1 C.A.C.T.R. CA

WARNING ORDER

I, the undersigned, hereby acknowledge that I have been warned this 12th day of February 45 that I will proceed on Special Duty any date after 0830 hours on the 12 Feb 45. I further acknowledge that I have been ordered to report upon the expiration of my leave at No.1 C.A.C.T.R., Camp Borden, Ont. by 0600 hours 20 Feb 45 and I am aware that if I absent myself without leave or if I overstay my pass or furlough for any time or if I fail to report as ordered I shall be liable to be charged with Desertion under Section 12 of the Army Act.

Signed E A Mielitz
(L-465882 - Tpr. MIELITZ, C.A.)

Witness

Witness

F. Y. 3
J.C.H. Campbell Maj
O.C. Sqn.

45

DAILY ORDER PART II

by

Major A. H. PAGE

T/Officer Commanding

Order No. 41

NO. 1 CANADIAN ARMOURED CORPS TRAINING REGIMENT (CA) 27 Feb 45

CAMP BORDEN, Ont.

Last Order issued, No. 40, dated 26 Feb 45

HOME WAR ESTABLISHMENT

"A" - OFFICERS - NIL

"B" - OTHER RANKS

1. STRENGTH INCREASE

(a) T.O.S. from A-22 CAMC TC and posted to "HQ" Sqn. 27 Feb 45

(Auth; A-22 CAMCTC D.O.#48 d/26 Feb 45)

A/117806	Tpr.	ARCHER, B.
C/124667	"	BALL, S.V.
B/163736	"	CARMICHAEL, C.G.
B/118930	"	DARRACH, J.C.
G/5667	"	FERGUSON, J.E.
A/61580	"	GAVLAK, S.A.
G/5930	"	GODIN, J.S.
F/36789	"	GOUTHRO, W.G.
B/159511	"	GRAMIGNA, A.
L/106696	"	GUTENBERG, J.A.
K/51018	"	HAMILTON, T.N.C.W.
D/144470	"	HARRINGTON, W.G.
B/4880	"	JOHNSTON, D.
C/101866	"	JONES, W.C.
B/131057	"	JOY, R.
A/110206	"	KANDER, H.
L/67532	"	KOSKIE, L.B.
H/105087	"	KOZLOWSKI, C.J.
F/37019	"	LAKE, H.G.
E/109019	"	LANGIS, L.P.
B/163917	"	LASCELLE, J.R.A.
D/146368	"	LAWSON, E.
E/101818	"	LEPAGE, P.
B/44825	"	LESENKO, E.
L/107608	"	LEVASSEUR, D.R.
B/126068	"	LITSTER, K.S.
B/162899	"	LONGHURST, R.H.
B/158575	"	MARSHALL, H.E.
K/3399	"	MELLISH, C.E.
D/140110	"	MOSES, G.J.
B/163141	"	MULHOLLAND, B.M.
B/164370	"	MURPHY, J.P.
F/56791	"	McKINNON, A.L.
F/75954	"	McPHERSON, J.
C/79165	"	NEUMANN, R.K.
B/149001	"	NICHOL, W.J.
M/38000	"	NIELSEN, A.J.
F/36694	"	O'BRIEN, H.B.
M/37685	"	OGURIAN, J.
B/164653	"	PALLISTER, W.F.L.
B/128021	"	PATRICK, J.J.
F/89856	"	PEACH, A.M.
B/148987	"	POGSON, J.P.
D/145956	"	ROCKBURN, E.
D/146224	"	SATENSTEIN, L.
B/155411	"	SCHEIMAN, G.
B/116452	"	SEYFFERT, A.E.

cont'd

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1. STRENGTH INCREASE, cont'd

(a) B/102128 Tpr. TRUCHON, M.
M/38618 " VAYCOVICH
C/124069 " WELSH, J.E.
B/163389 " WILSON, F.D.L.

(b) T.O.S. from A-22 CAMC TC and posted to "HQ" Sqn. 27 Feb 45
(Auth; A-22 CAMCTC D.O. #48, d/26 Feb 45)
D/144294 Tpr. AUBIN, R.
C/124367 " CHAMPAGNE, J.W.R.
M/2231 " McBETH, J.A.
L/106958 " WINGERT, J.

"C" - ATTACHED OFFICERS - NIL

"D" - ATTACHED OTHER RANKS

2. STRENGTH INCREASE
T.O.S. (Att. as in H.W.E.) from A-22 CAMCTC and posted to "HQ" Sqn. 27 Feb 45
(Auth; A-22 CAMC TC D.O. #48, d/26 Feb 45)
G/602053 Tpr. McCAFFERTY, C.P.

HOLDING ESTABLISHMENT

"A" - OFFICERS - NIL

"B" - OTHER RANKS

3. STRENGTH INCREASE
Having been S.O.S. No. 1 C.A.C.T.R. by Ct. of Inq. 20 Jan 45
for A.W.L. from 0600 hrs 28 Dec 44
T.O.S. at $1.30 per diem on apprehn. by the Can. Prov. Corps at Toronto, Ont. at 1730 hrs 25 Feb 45 25 Feb 45
B/157115 Tpr. LEE, G.L. "A"

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4. STRENGTH DECREASE
(a) S.O.S. to No. 1 C.A.C.T.S.R. 27 Feb 45
(Auth; HAC 5-0-29, d/18 May 43) "A" Sqn.
B/102601 Sgt. ALLEN, I.S.
B/161673 Tpr. ANDERSON, C.M.J.
C/123776 " BRADY, A.S.
B/161987 " CADA, J.A.
C/123829 " CHAPLIN, K.W.
D/145436 " CRAIG, W.W.H.
F/56272 " FLETCHER, H.W.
H/101290 " FREDERICKSON, A.S.
C/52959 " GARDHAM, E.C.
B/161338 " GOODCHILD, T.W.
B/161890 " GUNDLACK, W.L.
C/123243 " GUTZMAN, W.K.
B/112902 " HARDING, G.G.
A/110149 " HUFFMAN, A.
G/5847 " JOHNSON, C.C.
A/110441 " LAFOREST, P.J.
F/37109 " MacNEIL, N.E.
D/145917 " McAFEE, R.H.
G/5874 " McGINNIS, H.R.
A/110131 " McLAUGHLIN, F.B.
A/110586 " NELSON, K.R.
B/161926 " OGILVIE, H.G.
C/123764 " PAVEY, W.J.

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4. STRENGTH DECREASE, Cont'd

(b) S.O.S. to A-13 CITC, Valcartier, Que. 27 Feb 45
(Auth; HQS 20-8-18(Org.A3B) d/23 Feb 45
CBS 11-0-3(D.A.G I)(FD 28) d/25 Feb 45)

"HC" Sqn.

D/646234 Tpr. AREL, H.
D/146060 " AUBRY, B.
D/655970 " BLAIS, E.
D/656455 " CAMPBELL, E.
G/607503 " COTE, N.J.B.
B/656560 " DAVIDSON, M.
D/656331 " DELISLE, J.C.
D/656487 " DENERS, G.
D/656409 " DICKNER, G.
D/656344 " DUHAMEL, A.
E/603149 " FRENETTE, J.P.
E/603174 " GARDNER, A.
E/603030 " GILBERT, R.
G/607491 " HACHE, N.
E/100416 " KIRALLAH, R.
D/656146 " LAPOINTE, L.
D/656137 " LAROCQUE, L.
E/602979 " LESSARD, M.
E/603135 " LEVESQUE, L.
D/656225 " LUCIANO, A.
E/602961 " MENARD, G.
F/1577 " POIRIER, L.
D/656307 " ROCHEFORT, A.
C/49935 " ST. GERMAIN, J.A.A.
C/124809 " ST. PIERRE, T.J.

---

5. ATTACHMENT

Att. F.A.P. to No. 2 C.R.C. Brampton, Ont. 28 Feb 45
(Auth; CARO 4432)
L/74694 Tpr. MILLER, H.G. "B"

---

6. LEAVE

Granted 30 days' extension to leave CARO 1935(7)
(Auth; CB 40-L-3051 (SCA) d/24 Feb 45)
25 Feb 45 to 26 Mar 45
D/144186 Tpr. LAJEUNESSE, E.U. "B"

---

7. HONOURS AND AWARDS

Entitled to the Canadian Volunteers Service Medal Ribbon 16 Feb 45
D/142067 Tpr(A/L/Cpl) KING, C.H. "B"

---

8. MARRIAGES, BIRTHS and DEATHS

Granted permission to marry Miss Betty MacKINNON on or after 15 Mar 45 27 Feb 45
B/143921 Tpr. WALKER, A.E. "A"

.....

9. HOSPITAL

(a) Admitted to C.B.M.H. on dates shown:

B/169660 Tpr. BOWLES, T.F. "B" 26 Feb 45
C/35865 " LECKIE, A.J.S. "B" 26 Feb 45
A/118318 " NAIRN, G.J. "B" 26 " 45
B/132782 " SNIDER, W.H. "A" 22 " 45
A/169503 " TAYLOR, J.R. "B" 26 " 45

(b) Discharged from CBMH on dates shown:

B/161885 Tpr. BOISVERT, B. MAV 25 Feb 45

cont'd

.....

9. HOSPITAL, cont'd

(c) B/168471 Tpr. HARRISON, G.C. "B" 26 Feb 45
B/161088 " MORRIS, H.L. "B" 26 Feb 45

---

10. PUNISHMENTS

(a) Admonished for an offence under Sec. 19 A.A. "Drunkenness" (1st OFFENCE) at 2130 hrs 19 Feb 45 20 Feb 45
B/168670 Tpr. WILSON, F.E. "B"

(b) Awarded 7 days C.B. for an offence under Sec. 15 (1) A.A. A.W.L. from 0600 hrs 26 Feb 45 until 1845 hrs 26 Feb 45 (12 hrs 45 mins) Forf. 1 days pay under FR&I 149(1)(a) 27 Feb 45
H/22692 Tpr. BLISS, K.D.F. "B"

(c) Awarded 7 days C.B. for an offence under Sec. 15 (1) A.A. A.W.L. from 0600 hrs 26 Feb 45 until 1845 hrs 26 Feb 45 (12 hrs 45 mins) Forf. 1 days pay under FR&I 149(1)(a) 27 Feb 45
B/162992 Tpr. ROWBOTTOM, G.A. "B"

(d) Admonished for an offence under Sec. 15 (1) A.A. A.W.L. from 0730 hrs 24 Feb 45 until 1130 hrs 24 Feb 45 (4 hrs) and to pay Costs of Apprch. amounting to $4.50. Forf. $4.50 under FR&I 172(8) 27 Feb 45
K/3078 Tpr(A/L/Cpl) MOSTER, J.B. "B"

(e) para 10(c) of D.O. 40 d/26 Feb 45 insofar as it rel to the u/n is amended to read:
"Already under forf. vide D.O. 30 d/12 Feb 45
Net forf. 36 days pay".
A/112192 Tpr. McALLISTER, C.J. "B"

(f) Tried by S.C.M. 27 Feb 45
Charge Sec. 12 (1) A.A.
Finding Guilty of the charge
Sentence to undergo det'n for two years and to be placed under Stop. of pay in the amount of $29.77 to cover costs of apprch. and return to unit.
Close Arrest Held in close arrest from 2345 hrs 30 Jan 45 until 1000 hrs 27 Feb 45 (27 days 10 hrs 15 mins)
Forfeitures forf. 2 years pay under FR&I 149(1)(b). Forf. 28 days pay under FR&I 149(1)(c). A.W.L. from 1440 hrs 16 Jan 43 (whilst under sentence) until apprch. by the C.P.C. at Montreal at 2345 hrs 30 Jan 45 (384 days 9 hrs 5 mins). Total forf. 758 days pay and $29.77.(Forf. $29.77 under FR&I 172(8)
D/123843 Tpr. BELAIR, O. "A"

---

11. DETENTION

Att. to No. 86 Mil. Det'n Bks. for R Q & Disc. 23 Feb 45
B/156100 Tpr. DENNIS, B.W. "B"

Certified True Copy
A/Adjutant
No 1 C A C T R

PART II
DAILY ORDER
NO. 41
27 FEB 45
PAGE 5

.....

12. ABSENCE WITHOUT LEAVE
A.W.L. from 0600 hrs 20 Feb 45 (8 days)
L/465882 Tpr. MIELITZ, C.A. "HQ"

"C" - ATTACHED OFFICERS

13. HOSPITAL
Admitted to C.B.M.H. 24 Feb 45
Lieut. J. P. GUENETTE "B" } No. 1 CAC TSR
" G. H. THWAITES "B" }

"D" - ATTACHED OTHER RANKS - NIL

(F.H. GOODALL) Capt.
Adjutant
No. 1 C.A.C.T.R. (CA)

"G"
J.A. Campbell wounded
Pres Sec.

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, PUBLISHED IN ROUTINE ORDER 1877, AND IN GENERAL ORDER No. 137, 1942.

(Apprehension by or Surrender to Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by (~~surrendered to~~)

Strike out words not applicable

C.H.Cavill. Corpl., R.C.M.Police.,
(Name of Peace Officer or Constable)

at Ryerson, Sask (Place) at 5 P.M. (Hour)

on the 13th day of March 1945

Strike out words not applicable

and at the time of arrest (~~surrender~~) he was wearing military (~~air force~~) uniform (~~dressed in civilian clothes~~).

Regimental particulars of officer or soldier referred to above.

No. L465882
Rank Tpr
Name MISLITZ Charles Arthur
Unit No.1. C.A.A.T.R.

Description

Age 25 yrs
Height 5 6½
Complexion Medium
Hair Light Brown
Eyes Blue
Marks None

"H" J.A. Campbell Sgt. Pro Tem

Signature of peace officer or constable by whom arrest, or to whom surrender, was made, or of officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.

C.H.Cavill Corpl.,
(~~Peace Officer~~) (Constable) (~~or Officer in Charge of Police Station~~)
R.C.M.Police.

Strike out words not applicable

M.F.M. 215
50M—3-43 (8516)
H.Q. 1771-39-1935

I 53

R A Campbell Major Res Sec

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941.

(INCIDENTAL EXPENSES)

Complete description: I, L.105158 Pte. Basil Leslie MCNAUGHT, Regina Detachment, No.43 (No.) (Rank) Provost Company, C.Pro.C. (Unit)

Strike out words not applicable: as (escort) ~~[illegible]~~ consisting of L.105158 Pte. Basil Leslie

Members of escort: McNAUGHT, Regina Detachment, No.43 Provost Company, C.Pro.C. B.L.M.

detailed to proceed from Regina, Sask. (Place) to Carlyle, Sask. (Place)

Name and description of soldier escorted: to return L.465882 Tpr. MIRLITZ, C.A. #1 CAOTR Camp Borden, Ont.

alleged to be a deserter or absentee without leave, to Regina, Sask. (Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
EXPENSES INCURRED BY NO. 43 PROVOST COMPANY, C.PRO.C.	
14 March, 1945.	
1 Breakfast, Escort.	.51
EXPENSES INCURRED BY THE R.C.M.P.	
13 March, 1945.	
Police Car Mileage, Ryerson District to Carlyle, Sask.	
50 Miles @.15¢ per mile.	7.50
Total	$ 8.01

Dated at Regina, Sask. this 15th day of March, A.D. 1945

B. McNaught

L.105158 Pte. B.L. McNaught, Regina Detachment, No.43 Provost Company, C.Pro.C.

Signature and rank (Escort) B.L.M.

Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.R. 1482
7555—4-44 (44682)
H.Q. 1773-39-1500

'J' 55

J. A. Campbell wage for Sec

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. (Rank) R.H. Johnson, S. & T.O., D.H.Q. Sub-Staff, M.D.#12 (Name) (Unit) RCASC,

Strike out word not applicable — hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transportation for escort

Complete — to proceed from Regina, Sask. (Place) to Carlyle, Sask. (Place)

and return to Regina, Sask. (Place) for the purpose of escorting

Full description of soldier being escorted — L.465882 (Number) Tpr. (Rank) C.A. Mielitz (Name in full)

No.1 C.A.C. T.C. (Unit) Camp Borden, Ont. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~the transportation required~~ and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
14 Mar 45 M.D. No.12 Transport Warrant No. C 901711, covering -	
One single second class fare from Carlyle, Sask., to Regina, Sask., for absentee ----	$2.37
14 Mar 45 M.D. No.12 Transport Warrant No. C 901710, covering -	
One second class fare from Regina, Sask., to Carlyle, Sask., and return, for escort - (L.105158 Pte. McNaught, B.L.)	$4.74
TOTAL	$ 7.11

Dated at Regina, Sask. this 15th day of March A.D. 19 45

R Johnson Lieut.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~authorizing transportation~~

Strike out description not applicable.

~~S. & T.O., D.H.Q. Sub-Staff, M.D. No. 12 RCASC.~~

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
12m—10-43 (1403)
H.Q. 1773-10-1881

"K" 57

J.C. Campbell Sgt. in Pos Seen

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieutenant R.H. Johnson., S & T O., D.H.Q. Sub Staff., M.D. #12.
(Rank) (Name) (Unit) R.C.A.S.C.

Strike out word not applicable — hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transportation for ~~escort~~

Complete — ~~to proceed~~ ..... (Place) ~~to~~ ..... (Place)
~~and to return~~ ..... (Place) ~~for the purpose stating~~

Full description of soldier being escorted — L 465882 (Number) Tpr (Rank) C.A. Mielitz (Name in full)
No. 1 C.A.C.T.R. (Unit) Camp Borden, Ontario. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~the transportation issued~~ and the cost thereof for said soldier ~~escort~~ being as follows:

	PARTICULARS	COST
19 Mar 45.	M.D. No. 12 Transport Warrent C 901731 covering-	
	One Single second class fare from Regina, Sask., to Camp Borden, Ont. Account absentee escaping custody at Winnipeg, Man., portion of transportation Regina to Winnipeg only is recoverable from absentee.	6.84
	No transportation issued for escort account proceeding in conjunction with draft.	
	TOTAL	$ 6.84

Dated at Regina, Sask., this 20th day of March A.D. 1945.

R.H. Johnson Lieut.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~authorized transportation~~
Service and description not applicable

S & T O., D.H.Q. SUB STAFF M.D. NO. 12., R.C.A.S.C.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
(Size—19-43 (5M))
H.Q. 1773-99-(M)

Name MIELITZ, G.A. A T No. Serial No. Trade

No. L-465882 Rank Tpr Education Grade VII

Canadian Armoured Corps Individual Training Record

P	U	L	H	E	M	S
/	/	/	/	/	✓	/

Year of Birth 18 Civil Occupation Farmer

Pt I TC NO 121 BTG PT II TC A-33 C.A.C. TE CACRU NV Test

#1 TR Conduct Good

	Enlist	Part I	Part IA	Part II	TS Sqn	Passage
CANADA—Date completed	7-8-42	27-1-43	31 Jan 43 Grade			
Weeks completed						

French speaking

Bilingual

Others ENGLISH

ENGLAND—Date arrival Wks Reception Wks BC Wks BS Wks ST

Wks CT Wks TS Wks Leave Wks Duty Date SOS To

TCs in Canada will fill in left-hand side of page only. Any personal characteristics of rfts may be noted in remarks. Blank spaces are for additional subjects in which tests are carried out. Date at head of Pt I and Pt IA is date of commencement.

Each subject tested in will be initialled and where a TOET exists the standard attained will be inserted under "grade". On completion of course, card will be signed by the CO or CI in the remarks column.

C. A. C.

Soldier 31 Jan 43 H W E

	Part I Tng 8/1/42 Grade	Part I Tng 8/1/42 Init	Part IA Tng 31/1/44 Grade	Part IA Tng 31/1/44 Init
BASIC COMMON				
Physical Fitness	A	WHM	A	WHM
Map Using	A	WHM	A	WHM
Fd Craft	A	WHM		
Fd Engineering				
Gas	A	WHM	A	WHM
First Aid	A	WHM	A	WHM
Fundamental Trg	A	WHM	A	WHM
Security	A	WHM	A	WHM
Air Defence				
SAT, VT, JD, FCO				
Rifle	A	WHM		
Bayonet	A	WHM		
Sten			A	WHM
Pistol			A	WHM
LMG Bren	A	WHM		
PIAT				
Mortar				
Grenade			A	WHM
AFV Recognition			A	WHM
Mines and Booby Traps			A	WHM
Night Vision Trg				
Cooking in the Fd				
Drill			A	WHM
Marching			A	WHM
VD Trg				

	TOS C A C R U Date	Completed C A C R U Date
	A Sqn Test Date	B Sqn Test I Date / B Sqn Test II Date
	Hrs / Grade / Init	Hrs / Grade / Init

Certified true copy of original "L" J C A Campbell Capt Pres Secy.

REMARKS

BASIC SPECIAL	A Sqn Test Date	C Sqn Test I Date	C Sqn Test II Date
R/T Proc (Elem)			
Cam			
Message Writing			
Recce and Reports			
D and M Wh (Elem)			
Gas Chamber			
Rifle Zeroing			

O/S USE ONLY—Clothing Boots Eqpt Identity Discs

Respirator Trg Records MBM-1—Pt I Pt II Pt III

MFM 4 MFM 6 MFM 14 Med Dental

Gas Chamber Tests (Canada)			
Gas	Cap	Dm	Mustard
Init	WHM	WHM	
Date	6-1-43	20.1.43	

LEGEND

Range—Cds and O/S: 1—1st class; 2—2nd class

Canada and Overseas: VG—Very Good (over 85%); G—Good (70 to 84%); AV—Average (50 to 69%); F—Failed (under 50%). B—3/4 Trained; C—1/2 Trained; D—1/4 Trained. NOTE—B, C, and D for O/S use only.

M.F.M. 105A)—15M 12-44 (6246)—H.Q. 1772-29-206+

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Hrs	Grade	Init	Reclassifnt Trg	A Sqn Test Date Hrs	Grade	Init	D Sqn Test I Date Hrs	Grade	Init	D Sqn Test II Date Hrs	Grade	Init	Result	Nature	Date	Trade Tests Canada	England	Courses Canada	England
			D and M																
			M/C Driving																
			M/C Maint																
			Traffic Control																
4s	Av	acmt	Wh Driving RC Tel -27.1.44																
4s	Av	acmt	Wh Maint 28/1/44																
			Wh Dvr Mech																
			Carrier Driving																
			Carrier Maint																
			Tk Driving																
			Tk Maint																
			Tk Dvr Mech																
			Gunnery	A Sqn Test Date			E Sqn Test I Date			E Sqn Test II Date									
			.30 Browning																
			.50 Browning																
			2- or 6-Pr																
			75 mm																
			37 mm																
			Mortar																
			Wireless	A Sqn Test Date			E Sqn Test I Date			E Sqn Test II Date									
			Maint 19 Set																
			Netting																
			R/T Procedure																
			W/T Procedure																
			W/T Op																
			Crew Trg	A Sqn Test Date			F Sqn Test I Date			F Sqn Test II Date									
			Comd																
			Gnr																
			Op																
			Dvr																
			Stowage																

Remarks: Swim Basic
Wheel Adv
Ar. Driver & Maint

Rds	1	2	F	NC
30	✓	–	–	–
40	–	✓	–	–
30	–	–	–	Q
44	–	–	–	Q
70	–	✓	–	–

Range Practices	Sub Cal or 30 Yd Rds	1	2	F	NC	Open Ranges Rds	1	2	F	NC
.22 Rifle										
.303 Rifle Pt I										
.303 Rifle Pt II										
Sten										
Pistol										
LMG Bren										
PIAT										
Grenade										
Rypa										
.30 Browning										
.50 Browning										
75 mm or 6-pr										
37 mm										
Mortar										

"Y" Gt Campbell wagn Bros 61

A.F.B. 358
(Regulations 1143)
(Vol. 5, 1772-29-630)
A.F.B. 294

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L 465882	Trooper	MIELITZ Charlie Arthur	No 1 C A C T R

1. The following is a fair and true summary of the entries in the Field ~~Service Conduct~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	absent without leave: two times	absent without leave; two times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under Section 14 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under stoppages for beginning on the~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and ~~17~~ days in military custody, making a total of ~~17~~ days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 27 yrs 3 mos

6. The date of his ~~birth as specified in his record of service~~ attestation is attestation paper 5 Aug 42

7. ~~The service which the accused is allowed to count towards discharge~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is ~~in possession of~~ or entitled to ~~no~~ military decoration, or military reward ~~or is in possession of or entitled to~~. State any military decoration or reward.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the rank of~~

62

11. In the case of an officer, the accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force, unit ..... dated ....., and in his regiment (or corps) the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which Convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of April 1945

Capt.
R.C.A.C. TRAINING REGIMENT

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.M. 6

Reg. No. L 465882 Name MIELITZ Charlie Arthur Corps CAC (O) Date of Birth 5 Jan 18

Date of enlistment or enrolment 5 Aug 42

Signature O.C. Company, etc. SIGNED R B HALLERAN CAPT

Sheet No. One of *1, 2, 3, 4, 5

Sheet Destroyed 5 Feb 43

*Place check mark against number of sheets in use.

Place	Date of offence 1944	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial 1944	By whom awarded	Remarks
Regina Sask	31 Oct	Tpr		A 15(1) AWL from 2359 hrs 31 Oct 44 to 0830 hrs 7 Nov 44	Documentary	7 days C B	8 Nov	Capt. A. G. Warminger	Forf 7 days pay by FR&I 149(1)(a)
Camp Borden	28 Dec	Tpr		AA 15(1) AWL from 0600 hrs 28 Dec 44 to 0730 hrs 1 Jan 45	Documentary	14 days C B 5 days pay	2 Jan 45	Maj. A. H. Page	Forf 5 days pay by FR&I 149(1)(a)

CERTIFIED TRUE COPY
R B Halleran Capt.
A/Adjutant
No 1 C A C T R

M.F.M. 6—200M—9-44 (3286)
H.Q. 1773-29-1652

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. L-465882 Tpr. Mielitz C.A.

of #1CACTR(CA) is in a good Standing state of health,

and fit to undergo Trial by Court martial.

(RCAMC)

Medical Officer
Att-No.1.CACTR(CA)

Station Camp Borden Ont.

Date April 16th 1945

M. F. B. 246

50M—12-43 (3222)
H.Q. 1773-39-400

H.Q.C.55-M-1669 (JAG/D-8)

Your File - C.B.40-M-1738

24 Apr 45.

Commander,
Camp Borden Military Camp,
Camp Borden, Ontario.

STANDING COURT-MARTIAL
L.43583E Tpr. C.A. MIELITZ
No. 1 CACTR, CA.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

MO/ET

THIS COPY FOR H.Q. C.55-M-1669
M.D. C.B.40-M-1738

3

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. L.465882 Name MIELITZ, Charlie Arthur

Rank Tpr Unit No. 1 C.A.C.T.R. CA

Charge (1st) A.A. 12 (1) (a) - Desertion

(2nd) A.A. 15 (1) - A.W.L.

Date of Crime (1) 20-2-45; (2) 20-3-45

Date of Arrest (1) 13-3-45; (2) 30-3-45 Charge Signed 9-4-45

Orders for D.C.M.

Place and Date of Trial Camp Borden Ont 16-4-45

Sentence Imprisonment W.H.L. 6 mos

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36914

Date 21-4-45

MEMO Balance of sentence remitted by Conf. Auth.

Borden - No. 1 CACTR CA

Absent	Sentence
(1) 22 days	Imprisonment
(2) 11 days	W.H.L. 6 mos

for Judge Advocate-General

10M-1-45(M-4629)

23 April 45

Passed - no irregularities noted.

[illegible]

C.B. 40-M-1736 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

Headquarters, Camp Borden,
Camp Borden, Ontario.
16 APR 45.

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.05-M-1669

STANDING COURT-MARTIAL
L.465882, Tpr. C.A. MIELITZ,
No.1 CACTR, CA.

Herewith proceedings of the m/n trial by Standing Court-Martial, for registration and custody, please.

J.C.A. Campbell major

(J.C.A. Campbell)
~~xxxxxxxxxxxxxxxx~~ Major,
President,
Standing Court-Martial.

s6914

H.Q.C. 55-M-1670

CONFIDENTIAL

H.F.R. 1978

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MCKAY. HAROLD FRANCIS F.20385 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1670

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 26 1945				JAG	NEW FILE	C.R.	APR 20 1945
					MAY 4 1945		
MAY 11 1945				JCM		MM	

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1670 (JAG/D-1)

9 May 45.

District Officer Commanding,
Military District No. 6,
Halifax, N.S.

Standing Court-Martial
F-20385 Pte. H.F. McKay
No. 6 District Depot, C.A.

Receipt is acknowledged of your H. Mc-2847 (JAG) dated May 1st 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.F.M. Capt.
for (R.J. Orde) Brigadier,
Judge Advocate-General.

Noted
Capt

L.H. CLAYTON /ET
Lieut.-Colonel,
Deputy of Court Martial
MAY 10 1945

E-7

IN REPLY PLEASE QUOTE
No. H. Mc-2647 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, M. D. No. 6,
Halifax, N.S., 1st May 45. 194

CONFIDENTIAL

CENTRAL REGISTRY Army
CONF. SEC.
C55-M-1670
MAY 3 1945
File
Origin
Referred to JAG

Secretary,
Department of National Defence, 1204
Ottawa, Ontario.

Standing Court-Martial
F-20385 Pte. M.F. McKay
No. 6 District Depot,C.A.

Reference HQC.55-M-1670 (JAG/D-1) dated 25 Apr 45.

2. The proceedings of this Court-Martial, having been duly reviewed, are returned herewith for safe custody.

GD/jmcg

(D.A. White) Brigadier,
D.O.C., M. D. No. 6.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

PROCEEDINGS OF A STANDING COURT-MARTIAL

F-20385 Private H rold Francis McKAY,
No. 6 District Depot, C.A.

Halifax, N.S. 12th day of April, 1945.

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Chebucto Brks., Halifax, N.S.

on the 12th day of APRIL 1945 at 1430 hours,

for the trial of: F-20385 Private Harold Francis McKAY
Number Rank Full Name

No. 6 District Depot, CA
Unit Attachment, if any

PRESIDENT: Major R.F. Barnes, E.D., Headquarters, M.D. No. 6, CA
Permanent President Standing Courts-Martial, M.D. No. 6
Rank Full Name Unit Attachment, if any

PROSECUTOR: Capt. K.S. Smith, Headquarters, M.D. No. 6, CA
Permanent Prosecutor District Courts-Martial, M.D. No. 6
Rank Full Name Unit Attachment, if any

~~COUNSEL~~

~~DEFENDING OFFICER~~: Lieut. R.E. Myers, No. 6 District Depot, CA
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused F-20385 Private Harold Francis McKAY, No. 6 District Depot, CA, guilty of the charge.

SENTENCE: The Court sentence the accused F-20385 Private Harold Francis McKAY, No. 6 District Depot, CA, to undergo detention for one (1) day, and to be placed under stoppages of pay until he has made good the sum of $4.42 in respect of the costs of apprehension and return to his unit, and to forfeit all ordinary pay for sixty (60) days.

Signed at Halifax, N.S. this 12th day of APRIL 1945.

R.F. Barnes
(R.F. Barnes) Major
President,
Standing Court-Martial.

M.F.B. Extracts entered as No. 36915 in the Register of Courts-Martial kept in the Office of the Judge Advocate-General this 21 day of Apr 1945

25M-6-44 (4336)
H.Q. 1773-32-2299

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter?~~

Answer.

Question to the accused. Do you object to G-13090 Pte. (A/S/Sgt) G.H. Russell, No. 8 Detachment, C.M.P.G., CA as shorthand writer?

Answer: No sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read?

Answer: Guilty.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B-2"

(R.E. BARNES) Major
President S.C.M.

CHARGE SHEET

The accused No. F 20385 Private Harold, Francis, McKAY, No. 6 District Depot, C.A., a G.S. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Section 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

Shilo Camp, Manitoba , on the 29th December, 1944, absanted himself from A-35 C. Para. T.C., Camp Shilo, Manitoba, from 0630 hours on the said 29th. day of December 1944, until apprehended by the Military Authorities at Truro, Nova Scotia, at 0130 hours on the 2nd April 1945, dressed in Military Unifrom, Costs of apprehension and return to his unit:- $ 4.42

Halifax, Nova Scotia,
9th. April, 1945

(F.I. ANDREW) Colonel,
O.C. No. 6 District Depot, C.A.

5

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. Yes sir. (See overleaf)

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

STATEMENT OF THE ACCUSED IN REFERENCE TO PLEA OF GUILTY:
F-20385 Private Harold Francis McKAY

Sir:

I joined the Canadian Army in August, 1940 in the R.C.A., and was posted to H.A.A. and served with them until August, 1944. I was keen on getting overseas, but it was almost impossible to get a draft out of Anti-Aircraft to get over, as they were not taking them out of Anti-Aircraft at the time.. However, in July, 1943 our battery did move to Labrador, and we returned in July, 1944. We came back to No. 6 District and I received disembarkation leave. While I was on leave I was married, and my wife had had a child before we were married, and we were on a complete understanding about it, and everything was O.K. on that score. So I came back off leave and was re-mustered to infantry, so I chose the paratroops, passed my medical here in No. 6 and had to go to Yarmouth to take basic. I completed basic training and proceeded to Shiloh, arriving there about 1st November. Two weeks before I left the training centre up there I received a letter from my wife asking for a divorce to marry this chap to whom she had the child before. It hit me pretty hard and my training suffered to a certain extent. I had Christmas leave coming up within a week and I wrote to ask my wife to meet me in Montreal to talk the situation over, so I went to Montreal, and my wife failed to meet me there. So by that time I felt pretty despondent, and had to talk it over with somebody, so I came home to Truro, N.S. I came home, and sort of went all to pieces. My nerves gave out, and I was in bed for a month, and while there I tried to get my affairs straightened out, but I have not got them straightened out yet. Anyway, when apprehended at Truro--I don't expect you to believe this--I was on the way back at the time to give myself up into custody. That is about all there is, except that I am fully trained as an infantryman, and I am quite willing to go overseas as a reinforcement. I intended to give myself up to the military authorities at Truro.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No sir.

Question to the accused. Do you wish to address the Court?

Answer. No sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Marked "Y" and signed by me.

MAJOR
PRESIDENT, C.M.

M.F.B. 355
75M—5-43 (145)
H.Q. 1772-39-520
A.F.B. 295

8

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F 20385	Private	Harold Francis McKAY	No. 6 District Depot C.A.

1. The following is a fair and true summary of the entries in the FIELD ~~Service, Field, General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AWL	1	times	AWL 1	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 78 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 11 days in military custody, making a total of 11 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper 26 yrs. 8 mons

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 5 Aug. 40

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. ~~The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to).~~ State any military decoration or reward. C.V.S.M. & Maple Leaf

10. ~~(If the accused is a warrant officer.) The accused judge he was made a warrant officer last held Air Force the regimental rank of .....~~

9

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date;—

.....Date of promotion.

In the rank of .....years.

In the rank of .....years.

In the rank of .....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Army~~ Air Force Act, and of cases in which trial has been dispensed with of accused, Number F20365 Rank Private

Name Harold Francis McKAY of No. 6 District Depot, C.A. ~~Regiment~~ Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th day of Oct 45 (G.A.BRAINE)Captain,
Records Officer No. 6 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

NE20385 Name MC KAY Harold Francis

Corps C.I.C. Marked "Z" and signed by me. Date of enlistment 5 Aug. 40

G.C. Badges

Tradesmen's Rates of Pay

M.F.M. 6 (A.F.S.122) 150M—(3-42) (7517) H.Q. 1773-39-1052

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No.

Signature O.C. Company, etc. J.W. Cosman Captain

Character

PRESIDENT. MAJOR C.M.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Nil entries end of Two Years Service					
Yarmouth,N.S.	29 Oct. 44	Pte.		AWL from 2230 hrs 29 Oct. 44 to 2250 hrs 31 Oct. 44 (Absent 2 days 20 mins)	Cpl.Bouchie	Forf. 3 days pay FR&I 149(2)	1 Nov. 44	Major Chisholm	Auto Forf 3 days pay FR&I 149(1)(a)

CERTIFIED TRUE COPY

L.H.LeBlanc Capt

(L.H.LEBLANC)Captain
A D J U T A N T,
No. 6 District Depot, CA.

(P.T.O.)

RECORD of the Declaration of a Court of Inquiry assembled at Shilo Camp, Man. on the 23rd day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. F-20385 Private McKAY Harold Francis
A-35 C. Para. T.C. CA

DECLARATION

The Court declare that No. F-20385 Private McKAY Harold Francis A-35 C. Para. T.C. CA illegally absented himself without leave from A-35 C. Para. T.C. CA at Shilo Camp, Man. at 0630 hrs on the 29th day of December 1944, that he is still so absent, and that on the 30 December 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Anklets Web prs.	1		74	Brought Forward		48	59
Battle Dress Serge Blouses	1	6	50	Holdalls	1		22
Boots Ankle @ $5.82	2	11	64	Housewives	1		55
Drawers Woollen	1	1	40	Knives Clasp	1		99
Gloves Woollen prs	1		66	Razors Safety Sets	1		42
Greatcoats Drab	1	15	54	Towels Hand	1		51
Shirts Flannel Khaki	1	1	63	Belts Waist Web '3 Patt.	1		76
Socks Woollen @ .46 prs	3	1	38	Braces W.E. Right	1		53
Battle Dress Serge Trousers	1	6	55	Covers Mess Tin	1		08
Shirts Woollen	1	1	20	Haversack	1	2	29
Badges Cap Metal Parachutist	1		09	Belts Waist Leather Brown	1		35
Braces prs.	1		28	Caps Winter Melton Cloth	1	1	05
Brasses Buttons	1		04	Mitts Pullover Leather prs	1		93
Brushes Cloth	1		17	Mufflers Khaki	1		93
Brushes Tooth	1		09	Shirts Under Cotton	1		43
Brushes Shaving	1		42	TOTAL		58	03
Combs Hair	1		04	Less 25%		14	51
Dressings First Field	1		22	NET		43	52
		48	59				

D.J. Greene Capt. A-35 C. Para. T.C. CA — President

See R.O. 4633 — Member

See R.O. 4633 — Member

Signed at Shilo Camp, Man.

this 23rd day of January 1945.

Signature of Commanding Officer H.A. FAUQUIER Major, E/CO A-35 C. Para. T.C. CA

Certified true copy D. Greene Capt

Signature of Officer having custody of original record

Adjutant, A-35 Cdn. Para Trng. Centre

M.F.B. 275
A.F.B. 115
100M—4-42 (4507)
H.Q. 1773-39-857

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R. W. Busch, Cmdg., Debert-Truro Det., No. 37 Provost Coy., C. Pro. C.
(Number) (Rank) (Name) (Unit)

hereby certify that F.20385, Pte. McKay, H. F.
(Number) (Rank) (Name in full)

of the A.35 C. Parachute T. C., Camp Shilo, Manitoba.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ([redacted]) A.56100 Cpl. / C.75957 L/Cpl.
(Number) (Rank)

MacKay, D. S. / Duffy, A. J. Debert-Truro Det., No. 37 Provost Coy., C.Pro.C.
(Name) (Unit or appointment)

at Truro, N. S. (Place) at 0130 hours (Hour)

on the 2nd day of April 19 45

Strike out words not applicable } as a deserter (or absentee without leave), and that at the time of his arrest he was wearing military [redacted] uniform ([redacted]).

Dated at Camp Debert, N. S. this 3rd day of April 19 45.

R. W. Busch Major
(R. W. BUSCH) Major,
Cmdg., Debert-Truro Det.,
No. 37 Provost Coy., C. Pro. C.
(Signature, Number, Rank, Unit or appointment)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (8900)
H.Q. 1772-39-1936

DAILY ORDERS PART II

BY

COL. F.I. ANDREW, M.M. E.D.

COMMANDING

NO. 6 DISTRICT DEPOT, C.A.

No. 85,
Chebucto Barracks,
Halifax, N.S.
9th April 45.

LAST PART II ORDER ISSUED NO. 84 DATED 8TH APRIL 1945

HOLDING ESTABLISHMENT

SECTION "B"
Other Ranks

13. STRENGTH INCREASE (Cont'd) APPRAISAL WING

(m) Having been S.O.S. A-35 C. Para T.C. Shilo Camp, Man., by a Ct. of Inq. held 23 Jan 45 for A.W.L. from 0630 hrs, 29 Dec 45. (T.O.S. at $1.50 per diem on apprehension by the Military Authorities at Truro, N.S. at 0130 hrs, 2 April 45.).

.....2 Apr 45.

F.20385 Pte. McKAY, H.F.

D.O. NO. 85 D/9th APR 45, NO. 6 DISTRICT DEPOT, C.A. SHEET NO. 6.

Sgd: L.H. LeBlanc, Capt.,
(L.H. LEBLANC), Captain,
A D J U T A N T,
NO. 6 DISTRICT DEPOT, C.A.

CERTIFIED TRUE EXTRACT:

L.H. LeBlanc Capt
.....
(L.H. LEBLANC), Captain,
A D J U T A N T,
NO. 6 DISTRICT DEPOT, C.A.

M.F.B. 1481
1M—10-43 (2506)
[illegible]-772-39-1851

Legal

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut (Rank) G D MAC IEAN (Name), No 6 District Depot, C A (Unit)

Strike out word not applicable — hereby certify that I ~~[illegible]~~ Young (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Halifax, N S (Place) to Truro, N S (Place) for the purpose of escorting and return to Halifax, N S (Place)

Full description of soldier being escorted — Pte (Rank) MAC KAY (Name in full) F-20385 (Number) (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of ~~the~~ Yes ~~transport warrants issued~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	Escort: F-42567 Cpl BARTEAUX, R L Leaving Halifax, N S 1510 hrs 2 Apr 45	
	Return Ticket for Escort C873460	2.14
	128 miles @ 1 2/3 ¢ per mile.	.31
	tax	.75
	One meal at 75¢ ~~1 @ .75~~	
	Single Ticket for ~~Absentee~~ Absentee.	
	64 Miles ~~1X~~ @ 1 2/3 ¢ per mile.	1.07
	tax	.15
	TOTAL 4.42	$ 4.42

Dated at Halifax, N S this 2nd day of ~~March~~ Apr. A.D. 19 45.

Geo D MacIean

Signature, rank, unit, attachment (if any) and appointment of officer ~~[illegible]~~ (authorizing transportation)
G D MAC IEAN, No 6 District Depot, C A

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. Transportation only.

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and/or by an Officer "for" him.

MEDICAL OFFICER'S REPORT

I certify that No. P20385 Pte. MacKay R.F.

of # 6 District Depot is in a good state of health,

and fit to undergo Trial by Court martial.

J A MacDonald Capt
Medical Officer

J.A. MacDonald Capt. RCAMC.
attached #6 District Depot N.S.

Station Halifax N.S.

Date 13 Apr. 45

M. F. B. 246

50M—5-43 (254)
H.Q. 1773-39-480

H.Q.C.55-M-1670 (JAG/D-1)
Your File - H.Mc-2647

25 Apr 45.

District Officer Commanding,
Military District No. 6,
Halifax, N.S.

STANDING COURT-MARTIAL

F-20385 Pte. H.F. McKay
No. 6 District Depot, CA

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate General.

ALT/ET

THIS COPY FOR H.Q. 55-M-1670
M.D. H.Mc-2647

G.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. F.20385 Name McKAY. Harold Francis

Rank Pte Unit No. 6 D.D. CA

Charge A.A. 15 (1) - A.W.L.

Date of Crime 29-12-44

Date of Arrest 2-4-45 Charge Signed 9-4-45

Orders for D.C.M.

Place and Date of Trial Chebucto Brks Halifax N.S. 12-4-45

Sentence Det 1 day; stoppages $4.42; F.O.R. 60 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36915

Date 21-4-45

MEMO

M.D. 6 - No. 6 D.D.

Absent	Sentence
3½ mos	Det 1 day F.D.P. 60 days

H. Thurlow Capt
for Judge Advocate-General

10M-1-45 (M-4629)

No irregularities noted. Passed 20 Apr 45 [illegible]

In reply please quote R.Mo-2647(JAG)

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

Headquarters, M.D. No. 6,
Halifax, N. S. 16 Apr 45.

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C.55-M-1670

STANDING COURT-MARTIAL:
F-20385 Pte. H.F. McKay,
No. 6 District Depot, CA

1. Proceedings of the m/n Court are forwarded herewith for the consideration of the Judge Advocate General, in accordance with R. O. 4566.

R. F. Barnes
(R.F. BARNES) Major
President Standing Courts-Martial,
M. D. No. 6.

RFB/GHR
Encl.

36915

H.Q.C. 55-M-1671

CONFIDENTIAL

M.F.B. 33B

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MERCIER. PAUL JOSEPH C.122870 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1671

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					NEW FILE	C.R.	APR 20 1945
APR 25 1945				P.A.	With Papers C.R. MAY 4 1945		
				JAG.			
MAY 18 1945				JAG	To note,		9-5-45
MAY 23 1945					PER B.F. MAY 24 1945		
MAY 31 1945				JAG	With Papers C.R. MAY 30 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

CANADA

IN REPLY PLEASE QUOTE
No. Q.39-M-4790(DAPM).

DEPARTMENT OF NATIONAL DEFENCE
ARMY

318104

QUEBEC, P.Q., 28 May 1945.

CENTRAL REGISTRY Army
CONF. SEC.
MAY 30 1945
File C55-M-1671
Chgd. to
Referred to ICM

The Secretary,
Dept. of National Defence,
OTTAWA, Ont.

G-122870,Pte. MERCIER, P.J.

Ref. your H.Q.C. 55-M-1671,(ICM) dated 23 May 45.

2. Please find here-attached Report on the Conduct of the m/n. soldier.

JFH/EH

Major,
for(Edmond Blais) - Brigadier,
District Officer Commanding,
Military District No. 5.

N.D. 28
2 Mil.—5-43 (321)
H.Q. 1772-101-23

REPORT ON CONDUCT

I.C.M. - B

Department of National Defence,
H. Q. C. 55- M-1671 (ICM)
OTTAWA, 23 Rd. May, 1945

To:- Commandant # 66 VALCARTIER Military Detention Barracks.

1. Soldier under sentence	C-122870, Pte. P.J. MERCIER.
2. PLEASE STATE:-	
(i) Date of sentence	4 April 45
(ii) Sentence	120 Days.
(iii) Date you received soldier	11 April 45
(iv) (a) Can soldier read and write?	Yes
(b) Religion	R.C.
(c) Married, Widower, Single	Single
(d) What Army trade has soldier?	None
(v) (a) Conduct of soldier	Very Good
(b) Industry of soldier	Bartender
(c) Remission earned:-	
(i) Number of days actually earned	15
(ii) Number of days obtainable to date	15
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	Polyurie nocturne et lombalgie à surveiller.
(a) Whether detention will seriously aggravate soldier's condition.	Non
(b) Whether further confinement is likely to prove fatal.	Non
(vii)(a) Whether in your opinion conduct of soldier warrants suspension of sentence?	Yes J. C. Brown Capt
(b) Moral effect confinement has had?	Good
(c) If returned to Army, is soldier likely to become a good soldier?	Yes
(viii) Date term will expire if all remission earned from now on.	27 June 45

LHC/IL

(A. E. Walford)
Major-General
Adjutant-General.

Signature: Lieut Colonel Capt
Commandant.

Date of Report: May 26th 1945

5M-1-45(M-4515)

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 -M-1671(ICM)
OTTAWA, 23 Rd. May 1945

Your File -Q. 39-M-4790

District Officer Commanding,
Military District # 5,
QUEBEC, Que.

C-122870, Pte. P.J. MERCIER.

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in # 66 VALCARTIER Military Detention Barrack, under your command, a sentence of 120 Days detention awarded by a Standing Court-Martial on the 9Th. day of April 1945

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

EM-2-45(M-4516)
LHC/IL

HQC.55-M-1671 (JAG/D)

9 May 45

District Officer Commanding,
Military District No. 5,
QUEBEC, Que.

Standing Court-Martial
C.122870, Pte. Paul Joseph MERCIER,
General List, C.A. (Att. A-13 CITC, CA)

Receipt is acknowledged of your Q.39-M-4790 (JA) dated 1st May, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M. 228.

EFM
Capt

//AB

for (R.J. Orde), Brigadier,
Judge Advocate-General.

Noted
G.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
MAY 10 1945

5M-3-45(M-4664) I.C.M. - L 4338

REVIEW OF SENTENCE

DATE MAY 10 1945

H.Q.C. FILE: 55-

1. NO. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES A.W.L. from 31 July 44, arrested 28 March 45 - 8 Mos.

8. PREVIOUS CONDUCT ~~ENROLLED~~ ENLISTED 8 Mar. 43 AGE 20

nil. A

9. STATEMENT OF ACCUSED Home on leave father not well, afraid to come back.

10. RECOMMENDATION

IN REPLY PLEASE QUOTE No. Q. 39-M-4790 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

QUEBEC, P.Q., 1 May 45.

311205

THE SECRETARY,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
MAY 3 1945
File C 55-M-1671
Chgd. to
Referred to JAG.

STANDING COURT-MARTIAL
C-122870, Pte. Paul Joseph MERCIER
General List,CA, (Att. A-13 CITC,CA).

1. Reference your HQC. 55-M-1671 (JAG/D-4) dated 24 Apr 45.

2. The proceedings of the m/n SCM are returned herewith together with MFM 288 duly completed.

JAC/C.

(Edmond BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

NAT. DEF. B. 440
25M-4-44 (A221)
H.Q. 1772-39-787

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of C-122870 (Number) Private (Rank) Paul Joseph MERCIER (Name in full)

General List, C.A., (Unit) attached to A-13 C.I.T.C., C.A. (Attachment (if any))

Sentenced to 120 days detention

on 9 April 1945 at Valcartier Camp, P.Q.

being served at Military Detention Barracks, Valcartier Camp, P.Q. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment Enlisted on 8 Nov 43 aged 19 years 2 months

Medical grade or category "A"

FIRST TRIAL—PART II

To The Adjutant-General, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~XX~~) committed to undergo his sentence, which I recommend should (~~XX~~) be ~~XXXXXXXXXXXXXXXXXXXX~~ (reviewed on 9th July 1945,) (date) for reasons given in paragraph X.

Place QUEBEC, P.Q.,

Date 1st May 1945.

(Edmond BLAIS) - Brigadier, D.O.C., MD No.5. (Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 268
(Army Form A-3160)
2M—9-43 (1868)
H.Q. 1772-49-3018

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be posted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
MAY 31 1945	No Suspension or Remission No further Review	Adjutant-General for Superior Military Authority	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
1) DESERTION: Having been absent without leave from 0630 hrs, 31 Jul 44, until apprehended by Civil Auth. at Ville La Salle, Montreal, Que., at 1530hrs, 28 Mar 45, dressed in civilian clothes. Cost of apprehension: $22.95.	31 Jul 44	
2) LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND NECESSARIES, in the amount of $2.36.	4 Apr	9 Apr 45
Captain, Signature of Officer making entry Adjutant A-13 C.I.T.C., CA.		

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
	Character: Good. Ability and usefulness as a soldier: Fair. I do not wish to recommend a remission of sentence at the present time.	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
1-5-45.	Revision of Sentence recommended on 9th July 1945.	(Edmond BLAIS) -Brigadier, D.O.C., MD No.5.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

A

Formule de procès verbal de cour martiale permanente

/P.Q.

Procès verbal d'une cour martiale permanente tenue à No.54 CIBTC., A.C., Valcartier,

le 9ème jour d'avril 1945 à 10:15 heures,

pour le procès de C-122870, Soldat Paul-Joseph MERCIER, Liste Générale, A.C.,
Matricule Grade Nom et prénoms

att. A-13 CITC., A.C.,
Unité Détachement, le cas échéant

PRÉSIDENT: Major Armand SYLVESTRE, Président Permanent, C.M.D., Q.G., R.M. No. 5.

PROCUREUR: Lt.(A/Capt.) Pierre TASCHEREAU, Procureur Permanent, Q.G., R.M. No. 5.
Grade Nom et prénoms Unité Détachement, le cas échéant

~~XXXXX~~ ~~XX~~ OFFICIER DÉFENSEUR: Lt. P. LEDUC, Liste Générale, A.C., att. A-13 CITC., A.C.
Grade Nom et prénoms Unité Détachement, le cas échéant

VERDICT: La Cour déclare le prévenu non coupable de l'accusation de désertion, mais coupable d'absence sans permission sous le premier chef d'accusation, et coupable sous le deuxième chef d'accusation.

SENTENCE: La Cour condamne le prévenu à la détention pendant CENT VINGT (120) jours, et à une suppression de solde jusqu'à ce qu'il ait remboursé les frais d'appréhension et de retour à son unité, savoir: $22.95 et la valeur des effets perdus, savoir: $2.36.

2.36

25.31

Signé à VALCARTIER, P.Q. ce 9ème jour d'avril 1945.

-Major

Président de la cour martiale permanente
Q.G., R.M. No. 5.

M.F.B. 1486A
5M-6-44 (4820)
H.Q. 1772-39-2096

Extracts entered as No. 36913 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 21st day of April 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non Monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~xxxxxx~~ ~~xxxxxxxxxxxxxxxx~~

~~xxxxx~~:

Question à l'accusé. Vous opposez-vous à Mlle Thérèse Leclerc comme sténographe ?

Réponse: Non Monsieur.

La sténographe ~~xxxxxxxxxxxxxxx

CHARGE SHEET

in the case of P. Mercier Private Pte.

The accused, No C-122870 Private Paul Joseph MERCIER, General List, C.A., attached to A-13 C.I.T.C., C.A., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE: Sec.12(1)(a) Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he

at Valcartier Camp,P.Q., at 0630 hours, on the 31st July 1944, absented himself without leave from A-13 C.I.T.C., C.A., until apprehended by Civil Authorities at Ville La Salle, Montreal, P.Q. on the 28th day of March 1945, at 1530 hours, dressed in civilian clothes. Cost of apprehension and return to his unit: $ 22.95.

SECOND CHARGE: Sec. 24(2) Army Act.

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND NECESSARIES,

in that he

at Valcartier Camp,P.Q. on the 4th April 1945, was deficient of the following articles, viz:

(Equipment and clothing)

	CARO 1862	Less 25% CARO 3464	
Clo. Div. "A"			
1 Dressing first field	0.21	0.16	0.16
Clo. Div. "B"			
1 Shirt khaki cotton	1.25	0.94	0.94
Clo. Div. "C"			
1 Cap comforter	0.41	0.31	
1 Comb hair	0.04	0.03	
2 Towels hand	0.62	0.46	
2 Socks black prs	0.56	0.42	
1 Pin collar safety	0.06	0.04	1.26

TOTAL NET.....$ 2.36

Valcartier Camp,P.Q., this 5th day of April, 1945.

D Menard

(D. Menard) Colonel,
O.C. A-13 C.I.T.C.,C.A.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non Monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~xxxx

TEMOIN DE LA POURSUITE: E-464584, Cpl, H. TURCOTTE, A-13 CITC., A.C., étant dûment assermenté, est interrogé par le Procureur:

Q. Quelles sont vos fonctions?

R. Quartier-Maître de la 9ème Infanterie.

Q. A quelle unité?

R. A-13.

Q. Est-ce que vous connaissez l'accusé?

R. Oui Monsieur.

Q. Voulez-vous dire son nom?

R. C-122870, Pte P.J. Mercier. (témoin indique l'accusé.)

Q. Est-ce que vous avez eu l'occasion de faire l'inspection du kit de l'accusé?

R. Le 4 avril, lorsqu'il s'est rapporté à moi, il a rapporté les articles suivants:

1 coat waterproof;
1 battledress blouse;
1 battledress trouser;
1 boots ankle
2 drawers woolen
1 pr. puttees;
1 shirt khaki cotton;
2 shirts woolen;
1 belt waist L/B
1 brush shaving;
1 brush tooth;
1 razor;
1 braces web;
1 haversack.

il se trouvait à lui manquer les articles suivants:

1 dressing first field;	$0.16
1 shirt khaki cotton	0.95
1 cap comforter	0.31
1 comb hair	0.03
2 towels hand	0.46
2 socks black prs.	0.42
1 pin collar safety	0.04
	$2.37

Q. Est-ce que le 25% est enlevé?

R. Oui Monsieur.

Q. Sur quoi vous êtes-vous basé pour faire ces constatations?

R. M.F.B. 375, Monsieur.

INTERROGE CONTRADICTOIREMENT PAR L'OFFICIER DEFENSEUR.

Q. Vous dites que le total est $2.37?

R. Oui Monsieur.

LE PROCUREUR NE DESIRE PAS INTERROGER DE NOUVEAU.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83(B).

LE TEMOIN SE RETIRE.

D

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: L'accusé désire rendre témoignage sous serment, Monsieur.
(Voir page D-3 et suiv.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non Monsieur.

~~XXXXXX~~
~~XQuestion à l'accusé.~~ ~~Avez-vous l'intention de citer des témoins à l'appui de vos réponses?~~

~~XRéponse:~~

TEMOIN DE LA DEFENSE:

L'accusé, C-122870, Soldat Paul-Joseph MERCIER, Liste Générale, A.C., att. A-13 CITC., A.C., étant dûment assermenté, est interrogé par l'Officier Défenseur:

Q. En quelle année êtes-vous rentré dans l'Armée?

R. 1943.

Q. Vous avez été appelé ou vous êtes rentré volontairement?

R. Volontairement.

Q. Vous avez signé actif?

R. Oui.

Q. Quand et pourquoi?

R. Pour aller défendre mon pays.

Q. Lors de votre départ du camp étiez-vous en permission?

R. Oui Monsieur.

Q. Où êtes-vous allé?

R. Chez nous à Cornwall, Ont.

Q. Etes-vous marié?

R. Non.

Q. Vos parents vivent-ils?

R. Oui.

Q. Sont-ils en bonne santé?

R. Mon père n'est pas en bonne santé.

Q. Votre père est-il encore malade?

R. Il est malade, il a toujours été malade, ça fait bien longtemps qu'il est malade. Il y a à peu près un mois il a reçu les derniers sacrements pour la deuxième fois.

Q. Pendant votre absence quelles étaient vos intentions?

R. J'ai été chez nous une secousse, après ça j'étais supposé m'en revenir ici.

Q. Vous n'êtes pas revenu, pourquoi?

R. J'avais peur.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR.

Q. Qu'est-ce que vous avez fait pendant votre absence?

R. J'ai resté chez nous.

Q. Tout le temps?

R. Pas tout le temps, Monsieur. J'ai parti au bout de 21 jours. J'ai parti pour venir ici j'ai reviré en chemin, j'ai eu peur et j'ai retourné chez nous.

Q. Dans l'acte d'accusation on dit que vous avez été absent du 31 juillet 1944?

R. Oui Monsieur.

Q. Jusqu'au 28 mars cette année, est-ce exact?

R. Je me rappelle pas quelle date qu'ils m'ont pris.

Q. Ca fait une semaine, une semaine et demie?

R. A peu près.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83(B).

L'ACCUSE REPREND SON SIEGE

LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE.

L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non Monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Non Monsieur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

"F"

MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE

- - - - - - - - - - -

A 10:25 heures a.m., le 9ème jour d'avril 1945 la Cour s'est ajournée.

A 15:25 heures p.m., le 9ème jour d'avril 1945 la Cour se rassemble.

- - - - - - - - - - -

LE PROCES SE POURSUIT.

DAILY ORDERS PART II
by
COLONEL P.E. POIRIER, M.M.
commanding

A-13 CANADIAN INFANTRY TRAINING CENTRE

Order No.184
3 Aug 44
Valcartier, Que.

(Last Orders issued No. 183 d/ 2 Aug 44)

"B" OTHER RANKS

16. ABSENT WITHOUT LEAVE

a) Absent without leave as shown.

C-122870 Pte MERCIER, P.J.
0630 hrs. 31 Jul 44

(Signed) M. DUCLOS) Capt. Adjutant,
A-13 CANADIAN INFANTRY TRAINING CENTRE,
VALCARTIER CAMP, P.Q.

Certified true extract
of Daily Orders Part 11,
No. 184 d/ 3 August 1944.

J.L. Rameau Lt., Lt., Gen. List, C.A.
Off. i/c Records, A-13 C.I.T.C., C.A.

"H"

RECORD of the Declaration of a Court of Inquiry assembled at Valcartier Camp, P.Q.

on the 22nd day of August, 19 44, for the purpose of investigating

and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition,

Equipments, Instruments, Regimental Necessaries, or Clothing of No. C-122870 Pte Mercier, P.

J. Gen. List Att. to A.I.T.C. A-13

DECLARATION

The Court declare that No. C-122870 (Reg'l No.) Private (Rank)

Mercier, P.J. (Full Name) Gen. List Att. to A.I.T.C. A-13 (Unit)

illegally absented himself without leave from A-13 A.I.T.C.,

at Valcartier, P.Q. (Place) at 0630 hours on the 31st day of July 1944

that he is still so absent, and that on the 31st July 1944 he was deficient, and

that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
1 Dressing first field	0 21	1 Comb hair	0 04
1 Coat waterproof	6 91	1 Razor safety set	0 42
1 Battle dress blouse	6 50	2 Towels hands	0 62
1 Battle dress trousers	6 55	2 Socks black prs	0 56
1 Boots ankle pr	5 82	1 Pin collar safety	0 06
2 Drawers woollen	2 80	1 Brace web	0 33
1 Puttees drab	0 97	1 Haversack web	2 29
2 Shirts khaki cotton s.s.	2 50	CARO 1862	$ 40 25
2 Shirts woollen	2 40	CARO 3464 Less 25%	10 06
1 Belt waist L.B.	0 35	total	$ 30 19
1 Brush shaving	0 42		
1 Brush tooth	0 09		
1 Cap comforter	0 41		

L.P. Proulx Capt. R.22eR. President
(Name) (Rank) (Unit)
Att. to A.I.T.C. A-13

G.E. Morency Lieut R.A. Levis Member
(Name) (Rank) (Unit)
Att. to A.I.T.C. A-13

J.I. Leveille Lt. Gen. List Member
(Name) (Rank) (Unit)
Att. to A.I.T.C. A-13

Signed at Valcartier Camp, P.Q.

this 22nd day of August 19 44

P.E. Poirier, Colonel, O.C. A.I.T.C. A-13
(Name) (Rank) (Unit)

Signature of Commanding Officer

J.L. Rameau L.D. Lieut. General List, C.A.
(Name) (Rank) (Unit)

Certified true copy (Signature of Officer having custody of original record)

Off. i/c Records,
A-13 C.I.T.C., C.A.

M.F.B. 375
A.F.B. 136
250M—1-44 (3476)
H.Q. 1772-20-247

"I"

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, PUBLISHED IN ROUTINE ORDER 1877, AND IN GENERAL ORDER No. 127, 1942.

(Apprehension by or Surrender to Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by (~~surrendered to~~)

Strike out words not applicable

Reg. No. 14489 2/Cst. Thos. M. Lybbert, R.C.M.Police
(Name of Peace Officer or Constable)

at Ville LaSalle, Montreal, Que. (Place) at 3:30 P.M. (Hour)

on the twentieight day of March 1945

Strike out words not applicable

and at the time of arrest (~~[illegible]~~) he was (~~[illegible]~~) (dressed in civilian clothes).

Regimental particulars of officer or soldier referred to above.

No.

Rank Private

Name Paul MERCIER

Unit 7th Infantry, Val Cartier.

Description

Age Born 21 August 1924

Height Five feet, six inches.

Complexion medium

Hair Dark brown curly

Eyes Brown

Marks Appendicitis scars.

Signature of peace officer or constable by whom arrest, or to whom surrender, was made, or of officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.

Thos. M. Lybbert 2/Cst.

(Constable) (or Officer in Charge of Police Station)

Strike out words not applicable

(Thos. M. Lybbert) Reg. No. 14489

M.F.M. 317
[illegible]-2-45 (8516)
H.Q. 1772-30-1935

"J" No. 412

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 58/4015
DATED JUNE 5th, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE
ORDER 1877, 1942
(TRANSPORTATION ONLY)

C.S. Symonds
President Board

I.....Capt Thériault R.I.....No. 6 Dist Det R.C.A.S.C.....
Hereby certify that I (issued) the hereinafter itemized transportation for escort to proceed from.....Valcartier Camp.....(place) to.....Montreal P.Q.....(place) and return to .....Valcartier Camp.....for the purpose of escorting
.....C-122870.....Pte.....Mercier P.....(Abs).....
(Number) (Rank) (Name in Full)
.....A-11 C.A.T.C. P.Q.....
(UNIT) (Attachment, if any)
alleged to be a deserter or an absentee without leave, the facts date and particulars of (the transport warrants issued) and the cost therof for said soldier and escort being as follows:-

PARTICULARS.		COST
	T.W.	Autobus. C-949134 $ 2.00
Transport Warrant C-949135 issued on March 31st, 1945 covering transportation of Two Escorts: Escorts from Valcartier Camp, P.Q. to Montreal, P.Q. and return to Valcartier Camp, P.Q.		10.92
	Tax.	1.65
Transport Warrant C-949135 issued on March 31st, 1945 covering transportation of the Absentee from Montreal, P.Q. to Valcartier Camp, P.Q.		2.75
	Tax.	.40
	Total	17.70

Dated at Valcartier Camp.....this...4th...day of...Apr.....A.D. 1945

J. Thériault
.....Capt. C.S. & T.O. Valcartier Camp, P.Q.....
Signature, Rank, Unit, attachment (if any) and appointment of officer (issuing transport warrants)

Received Original copy No. 412

"K"

75

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(INCIDENTAL EXPENSES)

Complete description

Strike out words not applicable

Members of escort

Name and description of soldier escorted

I, Myself E-615558 Sgt Leclerc B. & D-119229 Pte Fulham H.
(No.) (Rank) (Name) (Unit)
as ~~(escort)~~ R/K (commander of escort) consisting of
All Attached to C.I.T.C. A-13 Valcartier Camp P.Q.
detailed to proceed from Valcartier Camp P.Q. (Place) to Montreal P.Q. (Place)
to return C-122870 Pte Mercier P.
alleged to be a deserter ~~or absentee without leave, to~~ Valcartier Camp P.Q. (Place)
hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
2 April 45.	
4 Lunches @$0.75 For escorts	$ 3.00
3 April 45.	
3 Lunches @ $0.75 For escorts and prisoners	$ 2.25
Total	$ $5.25

Dated at Valcartier Camp P.Q. 4th day of April A.D. 19 45.

E 615558 Sgt Leclerc B.
(Signature and rank (Commander of escort))
~~(Rank)~~
Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1481
75M—2-45 (8826)
H.Q. 1772-99-1850

"Y"

M.F.B. 258
50M—9-43 (5992)
H.Q. 1772-99-670
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-122870	Private	Paul Joseph MERCIER,	General List, C.A., attached to A-13 C.I.T.C., C. A.

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 11 days in military custody, making a total of 11 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20 yrs, 7 mos

6. The date of his attestation specified in his attestation paper is 8 November 1943

9. The accused is in possession of or entitled to no military decoration, or military reward

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of April 45 J L Ramsay Lt
Officer i/c Records

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. C-122870 Name Mercier, P.J. Sqn., Battery, or Company } Corps C.I.C. Date of enlistment } 8 Nov 43 G.C. Badges } Tradesmen's Rates of Pay } M.F.M. 6 (A.F.B. 122) 500M—11-41 (2498) H.Q. 1772-39-1032

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. One Signature O.C. Company, etc. } Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY

G L Nameau Lt., Gen.List,CA.
Off. i/c Records, A-1½ C.I.T.C.,CA.

D.F.Wardle
Lieutenant Colonel

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. D 122270 Pte Mercier, P.

of 9th Inf Coy A-13 is in a Good state of health,

and fit to undergo trial by Court martial.

G. Drolette Capt (R.C.A.M.C.) AF.
Medical Officer
M.O. A.M.C. A.D.S. VALCARTIER

Station Valcartier Que.

Date 9 APR 45.

M. F. B. 246

50M—5-43 (334)
H.Q. 1772-29-480

PRECIS OF EVIDENCE

in the case of

No. C-122870 Private Paul Joseph MERCIER, General List, C.A., attached to A-13 C.I.T.C., C.A.

CHARGES: - (1) WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

(2) LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND NECESSARIES.

To prove the first charge, the following evidence is available:

Documentary: - M.F.B. 375,
M.F.M. 215,
M.F.B. 1481,
M.F.B. 1482,
Extract from Part 11 Order of A-13 C.I.T.C. C.A., No. 184 dated 3 Aug 44, respecting the absence of the accused.

To prove the second charge, the following evidence is available:

Documentary: - M.F.B. 375.

Verbal: - E-464584 Cpl H. Turcotte, N.R.M.A., C.A. who will give evidence as to recoveries and deficiencies at kit inspection.

H.Q.C.55-M-1671 (JAG/D-4)
Your File - Q.39-M-4790

24 Apr 45.

District Officer Commanding,
Military District No. 5,
Quebec, Que.

STANDING COURT-MARTIAL

C/122870, Pte. Paul Joseph MERCIER
General List, C.A.,
(Att. A-13, C.I.T.C., C.A.)

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

JOGR/ET

(R.J.Orde) Brigadier,
Judge Advocate-General.

THIS COPY FOR H.Q. C.55-M-1671
M.D. 5.39-M-4790

G.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. C.122870 Name MERCIER, Paul Joseph

Rank Pte Unit Gen List C.A. att A 13 C.I.T.C. CA

Charge (1st) A.A. 12 (1) (a) - Desertion

(2nd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 31-7-44; (2) 4-4-45

Date of Arrest (1) 28-3-45 Charge Signed 5-4-45

Orders for D.C.M.

Place and Date of Trial No. 54 C.I. (B) T.C. CA Valcartier 9-4-45

Sentence Det 120 days; stoppages $25.31

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36913

Date 21-4-45

MEMO Guilty A.W.L.

M.D. 5 - A 13 CITC CA

Absent Sentence

8 mos. Det 120 days

for Judge Advocate General

1-45(M-4629)

No irregularities noted.

except.

1- Signing officer does not show his rank on MFB 305

No comments.

23-4-45

IN REPLY PLEASE QUOTE
No. Q:39-M-4790

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Quebec, P.Q., April 18th. 1945.

THE JUDGE ADVOCATE GENERAL,
Dept. of National Defence,
Ottawa, Ont.

C. 55-M-1671

STANDING COURT-MARTIAL
C/122870, Pte. Paul Joseph MERCIER,
General List, C.A.,
(Att. A-13, C.I.T.C., C.A.)

Please find enclosed herewith the proceedings of the m/n Standing Court-Martial, which are forwarded to you pursuant to C.A.R.O. 4565 (11)(a).

(ARMAND SYLVESTRE) - Major,
Permanent President S.C.M.

36913

N.D. 23
1,500M -7-42 (3219)
H.Q. 1773-101-23

H.Q.C. 55-M-1672

CONFIDENTIAL

M.F.B. 5070
DM—4-45 (10M)
H.Q. 201-1-60

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MABON. JACK WATSON B.46416 TPR.

CONFIDENTIAL
H.Q.C. 55-M-1672

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				D. Adm.	NEW FILE C.R.		APR 20 1945
MAY 29 1945	5/45	P.A.	E.A.M.	JAG	passed		5-5-45
JUN 7 1945				Admin	Per Resolution C.R. JUN 4 1945		
	25.6.45	PA		Admin	Per Resolution C.R. JUN 1 9 1945		
JUL 19 1945	14/8/45			Admin	PER B.F. JUL 20 1945		
JUL 23 1945	23/7/45	P.A.		J.C.M.	Per Resolution C.R. JUL		
AUG 13 1945	13.8.45	PA		Admin	PER B.F. AUG 14 1945		
				CMBR	Per Resolution C.R. OCT 1 5 1945		
OCT 19 1945				JAG	Pass proceedings, pls.	ABO	17-10-45
OCT 21 1945				CMBR	with [illegible] pls	JAS	19.10.45
OCT 22 1945	22-10-45			JAG	To obtain proceedings, pls	ABO	22-10-45
OCT 31 1945				J.A.G.	PER B.F. NOV 1-1945		
NOV 3-1945	2-11-45	PA		J. A. G.	Per Resolution C.R. NOV 2 1945		
				J.A.G.	With Papers C.R. NOV 8 1945		
NOV 9-1945				CMBR	—	Jm	8.11.45
DEC 10 1945	28/11/45			Adm 3	Recommendation	JAS	NOV 15 1945
DEC 12 1945				Admin	With Papers C.R. DEC 11 1945		
DEC 17 1945	17/12/45	PA		JAG	With Papers C.R. DEC 15 1945		
DEC 28 1945	28/12/45	PA		D. Adm.	PER B.F. DEC 28 1945		
JAN 18 1946	17/1/46	PA		Admin	PER B.F. JAN 18 1946		
				JAG	With Papers C.R. FEB 2 1946		
FEB 5-1946				CMBR	—	BO	4.2.46.
FEB 6-1946	7-2-46	PA		Adm 3	To make pls	Adm	6 Feb 46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

T-36-10-282 Vol.3 (AJAG)

T-20-C-3828 T-20-C-11839
T-20-M-14999 T-20-M-6073
T-20-P-4584 T-20-S-10664
T-20-T-272.

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

Headquarters, Military District 2,
159, Bay Street, Toronto, Ontario.

31 Jan 46

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

5345
FEB 1
File C-3-3-Mc. 1672
Charge to
Referred to

S.U.S. ex U.K. - Remission of Sentences

B-79433	Pte. CLARKE R.F.	(1029(9))	-	17 Dec 45
B-69528	Tpr. GOURLEY J.L.	(1029(5)(C)(i))		17 Dec 45
B-46416	Tpr. MABON J.W.	(1029(5)(C)(i))		14 Dec 45
B-75181	Tpr. McKEOWN L.D.	(1029(8))	-	14 Dec 45
B-130650	Pte. PASQUACH R.H.	(1029(9))	-	17 Dec 45
B-39576	Spr. STURROCK J.	(1029(9))	-	17 Dec 45
B-66777	Pte. TUCKER D.	(1029(9))	-	14 Dec 45

Reference K.S.674(A) dated 14 Nov, 22 Nov, 23 Nov and 3 Dec 45.

2. Herewith completed Appendices "G" to CARO 5913 and AFA.3104 referring to the marginally named SUS.

3. The marginally named SUS were discharged under the provisions of CARO 1029 and on the dates as indicated after the name in each case and were granted remissions of sentences effective date of discharge.

(C. C. MANN)
Brigadier
D.O.C. M.D.2

CC - D.O.C.
M.D.3

noted
JCK

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CoM.

NDHQ File No.
District File No. T-20-M-4490

PART I

No. B-46416 Rank Tpr. Name Jack Watson MABON
Unit 14th Princess Louise Dragoon Guards) now No. 2 District Depot, C.A.

PART II

Date of Trial 11th Feb. 1945
Charge(s) AWL. (AA Sec. 15(1))

Sentence 2 years' Imprisonment with Hard Labour
Date of Sentence 11th Feb. 1945
Confirmation - (a) Authority : Brig. J.S. Lind Comd. 12 Cdn. Inf. Bde.
(b) Date : 12th Feb. 1945

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act (xxxx

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B.46416 Tpr Mabon, J. W. Unit 4 P.L.D.G.

Sentenced to 2 years imprisonment with hard labour 11 Feb 45

Age on, and date of, enlistment 19 25 Sep 40 Term of service Duration.

FIRST TRIAL.

For details of offence, see paragraph VII.

For C.O.'s remarks, see paragraph IX.

II.—To ..... Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.

For C.O.'s remarks, see paragraph XII.

IV.—(5) To ..... Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude

(*22949) Wt.26650/311 60,000 11.42 A.& E.W.Ltd. Gp.698 Forms/A.3104/11.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	No Remission Return to Canada in Custody under Sentence	(Beverley M[illegible]), Brigadier, A/ Deputy-Adjutant General, Canadian Military Headquarters	
11 Dec 45	Remit Effective Dated Discharge.	7 APR 1945 Arthur E. Potts Major D.O.C.	

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
FIRST CHARGE - AA Sec 15(1) - WOAS - AWL **VII.**—First Trial. in that he, in the field, absented himself without leave from the unit lines of the 4th PLDG from 1800 hrs the 20 Dec 44 until apprehended by the Military Police in Salerno at 1210 hrs 7 Jan 45. Signature of Officer making entry.	20 Dec 44	11 Feb 45
VIII.—Second Trial. Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature

T-30-10-232 Vol.3(AJAG)
T-20-P-4584
T-30-C-2828
T-20-S-10664
T-20-G-11839
T-20-T-272
T-20-Y-14999
T-20-M-6075

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
14th December, 1945.

15331

The Officer Commanding,
No. 2 District Depot, C.A.,
Stanley Barracks,
TORONTO, Ontario.

6 DEC 15 1945
File
Chgd. to
Referred to

S.U.S. ex U.K. - Remission of Sentences

B-79433	Pte. CLARKE, R.F.	(1029(9)
B-69528	Tpr. COURLEY, J.L.	(1029(5)(C)(i)
B-46416	Tpr. MABON, J.W.	(1029(5)(C)(i)
B-75181	Tpr. McCROWN, L.D.	(1029(8)
B-180650	Pte. PASQUACH, R.H.	(1029(9)
B-59576	Spr. STURROCK, J.	(1029(9)
B-66777	Pte. TUCKER, D.	(1029(9)

Reference K.S. 674(A) dated 14th November, 22nd November, 23rd November and 3rd December, 1945.

2. The District Officer Commanding, Military District No. 3, has advised that the marginally-named SUS were despatched to No. 2 District Depot, C.A. for discharge under the provision of C.A.R.O. 1029 as indicated after each name and remission of balance of sentence.

3. The District Officer Commanding, M.D. 2, has remitted the balance of the sentence now being served by the marginally-named SUS effective the date of discharge and hereby authorizes discharge as indicated above.

4. Enclosed herewith Appendix "G" to C.A.R.O. 5213 effecting remission.

5. May Promulgation of the remission be made to the said respective SUS effective the date of discharge, Parts IV and V of the said form completed and the form then returned to this Headquarters, please.

P.J. Flynn
(P.J. Flynn)
Major
M.D. 2.

A.J.A.G.

COPY TO : The Secretary, (FOR INFORMATION)
Department of National Defence,
OTTAWA, Ontario.

The District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

IN REPLY PLEASE QUOTE

No. K.55-M-5504-C (DAPM)

EM/EB

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

KINGSTON, Ontario, 8th December, 1945.

CENTRAL REGISTRY ARMY
COMP. SEC.
14161
DEC 10 1945

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

B.46416 Tpr. MABON, J.W.

Reference your HQC 55-M-1672 Adm 3(a)3 Confidential dated 17 Nov 45.

2. Please be advised that the marginally named Soldier Under Sentence was released from No.89 Military Detention Barracks, Fort Henry, Barriefield, Ontario on the 7 Dec 45 and was despatched to No.2 District Depot, under escort, on the same date for a Remission of his Sentence and his ultimate discharge from the Canadian Army.

E H Watts Major,
for (G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No.3.

noted for the file
EB

noted
OCB

N.D. 23
DAPM—10-44 (5769)
H.Q. 1772-101-23

Reader

RECEIVED
NOV 19 1945

3A3

PA on Cmy file per GAB.

UER V CIA NR 5

FROM CMDC 3 KINGSTON ONT 191140R

TO SECTY DND OTTAWA ONT

GR 36 ET

KD 536 RESTRICTED

DELET HQC 55-M-1672 ADM 3(A)3 CONFIDENTIAL DATED 17 NOV REFERS

46416 TPR MABON J ACKNOWLEDGED

91151R IB B

63459

COPY

VER V CIA NR 2

CIB V CIA NR 6 & &

FROM CMDG 3 KINGSTON ONT 061115R

TO DOC MD NO 2 TORONTO ONT

RPTD OC NO 2 D D TORONTO ONT

RPTD THE SECTY DND OTTAWA ONT

GR 129 BT

KD 591 RESTRICTED

RELETYPE KS 674(A) DATED 16 and 22 NOV 45 STOP

FOLLOWING SOLDIERS UNDER SENTENCE PRESENTLY

HELD 89 MDB WILL CEASE ATTACHMENT THAT UNIT

AND BCOS 3 DISTRICT DEPOT TO 2 DISTRICT DEPOT

WEF 7 DEC 45

B.46416 TPR MABON J.W.

B.64780 PTE ST ARNAUD R A

STOP THESE SUS WILL BE DESPATCHED UNDER ESCORT

AND WILL ARRIVE TORONTO UNION STATION 1730

HOURS SAME DATE STOP REQUEST COMMANDING TWO

HAVE ESCORT DETAILED TO MEET THIS TRAIN ON

ARRIVAL AT TRAINSIDE AND TAKE OVER THESE SUS AT

THAT POINT STOP ADDSD COMMANDING TWO RPTD OC

2 DD AND DEFENSOR

BT 061130R IB AR

CR(C)
PA on file
C 35- M-1627

Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE
ARMY

HQC 55-M-1672
Adm 3(d)3

AIR MAIL

CONFIDENTIAL

OTTAWA, Ontario,

17 Nov 45

District Officer Commanding
Military District No 3
KINGSTON Ont

B-46416 Tpr MABON J W
CM Board of Review

Ref telegram AG 0267 d/18 Oct 45 Review. and T-20-M-4490(AJAG) d/7 Nov 45:

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation:

"Release on 11 Dec 1945"

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. ~~xxxx

HQC 55 M-1672 CMBR 1) /N
12 Nov 45
Case No 0819

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: B-46416 TPR. WABON, J W

2. Unit at date of offence: 4 P.L.D.G. C.M.F.

3. Charge: AA Sec 15 (1) WOAS was AWL from 20 Dec 44 until apprehended 7 Jan 45.

Plea: Guilty

4. Place and Date of Trial: in the field - Italy - 11 Feb 45.
(FGCM) (~~XXX~~) (~~XXX~~)

5. Finding: Guilty

6. (a) Sentence: 2 yrs. imp WHL

(b) Date of Sentence: 11 Feb 45.

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: No 89 MDB in M.D. 3

(N.B. - Discharged under RO 1029 ( ) for
wef)

Case No----------

CONDUCT

11. (a) Prior to conviction: Offence: Date Sentence

(1) Civil convictions: NIL

(

(2) Court Martials: NIL

(3) Summary Convictions: 11 AA Sec 15 CO's punishment
1 AA Sec 40 " "
2 AA Sec 11 " "

(b) After conviction:

Earliest date of release 10 Jun 46

(c) Date of enrolment/enlistment: 25 Sep 40 Present Age: 23

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances).

Accused did not testify, nor did his Defending Officer say anything in his behalf. He was in a rest position in A Echelon of his unit when he went absent for 18 days.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc)

Reviewing Officer: At the time that accused committed this crime his unit had been in action for a long time and had been promised a rest, which due to the changing circumstances of the war, could not be granted. Assuming that the accused had been with the unit all during the Italy Campaigns, recommend release before Christmas. He has been in custody now for almost a year.

Reviewed by ..... Capt
Capt. J. Leslie, Cadrem.

---

14. Recommendation of the Board:

For remission on 11 Dec 45
or as soon as may be after the return of the SUC to Canada, whichever is the later.

Date- NOV 14 1945

Secretary
Courts Martial Board of Review

26

IN REPLY PLEASE QUOTE

No. T-20-M-4490 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

7th November 1945

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario.

Army
7789
NOV 8 1945
File 55-M-1672
Chgd. to
Referred to JAG

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

B-46416, Tpr. J.W. MABON

Reference H.Q.C. 55-M-1672 (JAG/D-6) dated 2nd November, 1945.

2. Herewith Proceedings of Field General Court-Martial referring to the marginally-named soldier.

(A.E. Potts)
Major-General
D.O.C. M.D. 2.

25

N.D. 23
3000M—10.44 (5769)
H.Q. 1772-101-23

RECORDED AT CMHQ IN AB 160, 4X-108

FIELD GENERAL COURT-MARTIAL

CFAB6 (in lieu of AFA3) 40/F & S/1668 (4436) 4/38B

Convened by Order of Brig J S Lind Comd 12 CIB dated 10 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B46416	Spr		Jack Watson	MASON,	4 PLDG.

PROCEEDINGS REVIEWED Capt

Kent Irvine 4 Apr 45.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 27 Feb 45 Cdn. Base Det. 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Field in (country) Italy on (date(s)) 11 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed. WMWS

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn NOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 2225 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by const.martial instead of being dealt with summarily by the CO.(2)~~ WMWS

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans. .....~~

~~The interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans. .....~~ WMWS

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No, sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 62(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) WMWS The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H F Hoskin	Westmr R (M)
Member	Capt	L C A Moore	P L Yeo
Member	Lt	J A Cambridge	Westmr R (M)
Judge-Advocate	Capt	W M W Shaw	H&S Cdn Corps Dis
Prosecutor	Lt	W R Chamberlain	4 PLDG
Defending Offr	Lt	P H Calder	4 PLDG

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea ..... (1) WMWS

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

WMWS A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

WMWS A10. The Court (~~is adjd and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No, sir (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B 46416 Tpr Jack Watson MABON 4th Princess Louise Dragoon Guards, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Army Act
Sec 15(1)

When on Active Service, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field absented himself without leave from the unit lines of the 4th P.L.D.G. from 1800 hours the 20 of December 1944 until apprehended by the Military Police in Salerno at 1210 hours 7th January 1945.

In the field
9 Feb 45

(C. PETCH) Lt-Col.,
Commanding Officer
4th Princess Louise Dragoon Guards.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

10 Feb 45

(J S H Lind) Brig
Comd 12 Cdn Inf Bde

23

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40(FAR/1697 (3668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B 46416	Tpr		Jack Watson	Mabon	4 PLDG

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 10 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	H F Hoskin	Westmr R (M)

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by CO 12 Cdn Indep MG Coy	(PL Fus)
Capt or Lt	To be detailed by CO Westmr R (M)	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	To be detailed by CO 4 PLDG	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	W M W Shaw	HQ 5 Cdn Armd Div

On Active Service in the Fd

in ITALY (Country.) — (J S H Lind) (Signed personally. RP 105 fn 2.) — Brig (Rank.)

Date 10 Feb 45 — Commanding 12 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

WMWS

In my opinion due to military exigencies it is necessary for this Court to sit on Sunday and to sit after 1800 hrs.

H. F. Hoskins Major
President

21

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B46416 Tpr Jack Watson Mabon of the 4th Princess Louise Dragoon Guards, Canadian Army Overseas.

By direction of the Commanding Officer, Evidence is taken on Oath.

1st Witness

Prosecution

A 88065 Tpr Wilson, G.E., 4 PLDG, having been duly sworn states:-

I am and was at all times material hereto, A88065 Tpr Wilson, G.E., a member of "D" Sqn 4 PLDG. During the month of Dec 44 I proceeded to "A" Echelon of the 4 PLDG on draft. Tpr Mabon, whom I recognize here as the accused, was on the draft with me and we arrived at "A" Echelon 4 PLDG, at Villanuova together.

The accused declines to cross examine the Witness.

G.E. Wilson
G.E. Wilson, Tpr.

2nd Witness

Prosecution

B 73285 L/Cpl Mabbott, L. 4 PLDG, having been duly sworn states:-

I am and was at all times material hereto, B73285 L/Cpl Mabbott, 4 PLDG. On 20 Dec 44 I was a Cpl in "H.Q." Sqn and on that date I was acting as Orderly Sgt. On the 20 Dec 44 Tpr Mabon, whom I recognize here as the accused, arrived on a draft and was available for duty. When I came to look for Tpr Mabon to do some work I could not find him. I reported the fact to the Sqn SSM, and that he was AWL, from approximately 1800 hours 20 Dec 44.

The accused declines to cross examine the Witness.

L. Mabbott
L. Mabbott, L/Cpl

3rd Witness

Prosecution

C70458 RSM W.H. Barnes, 4 PLDG, having been duly sworn states:-

On the 20 Dec 44 I was SSM of "H.Q." Sqn 4 PLDG. A draft was received by me in which B46416 Tpr Mabon, J.W., whom I recognize here as the accused, answered to his name. Later, on 20 Dec 44 while searching for Tpr Mabon, ~~Cpl Mabbott reported to me that~~ Tpr Mabon could not be found, I reported him as ~~XXX~~ AWL as of 1800 hours 20 Dec 44. Since that date I have not seen Tpr Mabon except in custody.

I present to the Court a certificate inn accordance with Sec 163 (i) (j) of the Army Act purporting to be signed by the O.C., 246 Provost Coy. This document refers to the accused man.

The accused declines to cross examine the Witness.

"A"

W.H. Barnes
W.H. Barnes RSM

Cont.....

The certificate referred to by the witness, produced, read over to the accused, marked exhibit "A", signed by me and attached hereto.

.....
W.A.Down Capt

The accused having been duly warned as follows:-

"Do you wish to make any statement or to give evidence upon Oath? you are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given as evidence", declines to make any statement or to give evidence.

Certified that Rules of Proceedure 4 (c) (d) (e) and (f) have been complied with.

This Summary of Evidence consisting of two (2) pages was taken down by me in writing in the prescence and hearing of the accused.

In the field
9 Feb 45.

(W.A. Down) Capt.
4th Princess Louise Dragoon Guards.

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"A"
WMWS

1331

CERTIFICATE OF ARREST.

Certificate in accordance with the Army Act Section 153 (1) (A).

I, Capt. E. Braithwaite

certify that :-

No. B46416 Rank Pte Name HABON J.W.

Unit 17 Coy P.L.D.G. was arrested at Salerno

at 1210 hrs hours on the 7 Jan 45

Signature of P.M., A.P.M., or other officer into whose custody the above named was taken on arrest.

E. Braithwaite Capt.

O.C., 246 Provost Company Commanding.

Date 7 Jan 45

Exhibit "A" to the Summary
dated 9 Feb 45

133/174.7.DG/21-4/44

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 46416	Tpr	MABON, J.W.	4th P.L.D.G.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Ignoring in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 15(1) 11 times.
For AA Sec 40 1 times.
For AA Sec 11 2 times.
For ..... times.

Date of first entry in Field Conduct Sheet 2.4.41

Date of last entry in Field Conduct Sheet 13 Jul 44

lotP 2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

*Strike out if not applicable.

lotP *3. ~~The accused at the present time is under sentence for ... beginning on the ... day of ...~~

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for 35 10 feb days in military custody, *i.e.*, ... days in open arrest, 35 10 feb days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 23 years

6. The date of his ~~calling up for military service~~ attestation is 25.9.40

lotP ~~The service which the accused is allowed to reckon is ...~~

†State the military decorations (if any) held by accused.

8. The accused is in possession of† CVSM & Clasp

lotP ~~9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously~~, without reduction, to the present date—

	~~Date of Promotion.~~
~~In the substantive rank of~~	
~~In the war substantive rank of~~	
~~In the acting rank of~~	

"B" omuss

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

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Wt 55960/1602 20,000 2/44 51-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N I L		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 9th day of Feb 45.

W.H. Powell

(W.H. POWELL) Capt
Adjt., 4th Princess Louise Dragoons

No B46416 Name Mabon, J W | Sqn, Battery, or Company | Corps CIC | Date of enlistment 25.9.40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P43/198 (5438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 25 Mar 41 Last entry 4 mar 41 Cases drunk NIL					
Chippawa	2/4.41	Pte		AA Sec 40 not alert as sentry	Sgt Graham	28 days Det'n	2.4.41	Maj Bruce	
Nanaimo	1.6.41	Pte		AA Sec 15(1) AWL 2L30 hrs 1.6.41 to 0600 hrs 2.6.41	Sgt Thompson	5 dys C.B.	2.6.41	Maj Roy	
Nanaimo	9.6.41	Pte		AA Sec 15(1) AWL 8 hrs	Sgt Graham	3 dys C.B.	10.6.41	Mal Roy	
Hamilton	21.8.41	Pte		AA Sec 15(1) AWL 2359 hrs 2L.8.41 to 0400 1.9.41	Sgt Graham	28 dys det'n	6.9.41	Lt-Col Cororer	
Toronto	6;10.41	Pte		AA Sec 15 AWL 1400 hr 6.10.41 to 2300 hr 12.10.41	Cpl Zinger	7 dys C.B.	18.10.41	Capt Bradley	
Kingston	9.1.42	Pte		AA Sec 15 AWL breaking barracks AA Sec 11 Out of bounds	Lt Duncan	168 hrs det'n	12.1.42	LtCol Sinclair	
UP Park Camp	14.3.42	Pte		AA Sec 15 AWL 1945 hr 14.3.42 to 0245 hr 15.3.42	Sgt Neil	14 days C.B.	26.3.42	LtCol Sinclair	
UP Park Camp	9.4.42	Pte		AA Sec 15 AWL 2245hr 9.4.42 To 0020 hr 10.4.42	Sgt Cocker	3 dys det'n	10.4.42	LTCOL Sinclair	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Park Camp	15642	Pte		AA Sec 15 AWL 2245 hr 15.6.42 to 2315 hr 15.6.42	Pte Lopkoski	7 dys C.B.	16.6.42	Maj Roy	
" " "	301042	Pte		AA Sec 15 AWL 2245 hr 30.10.42 0200 hr 31.10.42	L/C Hucker	7 dys C.B.	31.10.42	Maj Roy	
" " "	17.1.43	Pte		AA Sec 15 AWL 2245 hr 16.1.43 to 0020 hr 17.2.43	Cpl Stephenson	7 dys CB	17.2.43	Capt Winfield	
" " "	12.6.43	Pte		AA Sec 15 AWL 26 days	doc'y	28 days det'n	17.7.43	LTcol Alexander	
				Blood Donar 27.5.44					
Field	13Jul 44	Pte		AA Sec 11 Breaking curfew	doc'y	Forf 2 dys pay	24 Aug 44	LtCol Mathers	

CERTIFIED TRUE COPY taken from records in my possession 9 Feb 45

(W.H. Powell) Capt.,
Adjt., 4th Princess Louise Dragoon Guards.,
Officer having Custody of Original.

LIST OF WITNESSES

For the prosecution

A88065	Tpr	Wilson, G.E.	4th P.L.D.G.
B73285	L/Cpl	Mabbott, L.	4th P.L.D.G.
C70458	RSM	Barnes, W.H.	4th P.L.D.G.

For the Defence

nil

List of Exhibits

1. Certificate of apprehension

Prosecuting Officer

Capt W.A. Down 4th P.L.D.G.

Defending Officer

I request that the convening Officer detail an Officer to defend me.

In the field

J.W. Mabon

J.W. Mabon Tpr

WMWS

15

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

WITNESS

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No, sir.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. No, sir.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(c), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

14

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 3592 in the Record of Courts-Martial kept in the office of the Judge-Advocate-General this 17 day of May 1945

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B46416 Spr Jack Watson MABON, 4 PLDG

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Accused under sentence for~~ ..... ~~beginning~~ on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 35 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned with hard labour for two years.

(Sgd) W M W Shaw Capt — Judge-Advocate, if any. 11 Feb 45 — Date awarded. (Sgd) [illegible] Major — President. (RP 45, 59)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence of the court.

I ~~direct that the accused be not committed to~~ prison or detention barracks until further orders.(1) 502

(1. AA 57A. Delete if not used.)

Date 12 Feb 45 — (Sgd) J. D. Lewis Brig. — Commanding 42 Can Inf Bde. — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B46416 Spr. Jack Watson Mabon	14 Feb 45	[illegible] Capt

Jn Lt. Col. C. Patch. D.C. 4 Pl. Bde.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

HQC 55-M-1672
(NAG/D-6)

OTTAWA, 2 November, 5

District Officer Commanding
Military District No 2
TORONTO Ontario

B-46416, Tpr MABON, J W

The proceedings in respect of the marginally-named soldier, which were forwarded to you under cover of our HQC 55-M-1672 Adm 3(b)2 dated 6 Jun 45, are urgently required at this headquarters. May they be forwarded to this headquarters as soon as possible, please.

E.L.M

for (R J Orde) Brigadier
Judge Advocate General

/jm

13

URGENT MESSAGE

ARMY MESSAGE

UNCLASSIFIED

(INCOMING)

PLACE FROM: LONDON, ENGLAND.

DATE & TIME: 011710/NOV 45

C.G.S. M.S. D.M.O. & P. JUDGE ADVOCATE GENERAL (ACTION)

A 15340

UNCLASSIFIED

JAG 911

ORIGINAL FGCM PROCEEDINGS B.46416 MABON FORWARDED THIS HQ 10/MABON JW/1 OF 6 APRIL 1945 AND ACK YOUR HQC 55-M-1672 (JAG/D) OF 24 MAY 1945. NO COPY AVAILABLE HERE. FORWARDING BOMBER FORTHWITH ORIGINAL PROCEEDINGS ALL OTHER FGC'SM REQUESTED

CANMILITRY

30103/MMD/011530R/NOV 45

THIS MESSAGE RECEIVED IN

CLERK

12

[redacted]

M.F.M. 339 2224/3-44 14000
H.Q. 1772-39-2389 K.F. 4468

COPY 2 ACTION

CRAIG PRINTERS LIMITED

CODEWORD MESSAGE

ARMY MESSAGE

UN CLASSIFIED

(INCOMING)

PLACE FROM: LONDON, ENGLAND.

DATE & TIME: 011710/NOV 45

C.G.S. M.S. D.M.O. & P. JUDGE ADVOCATE GENERAL (ACTION)

A 15340

UNCLASSIFIED

JAG 911

ORIGINAL FGCM PROCEEDINGS B.46416 MABON FORWARDED THIS HQ 10/MABON JW/1 OF 6 APRIL 1945 AND ACK YOUR MGC 55-M-1672 (JAG/D) OF 24 MAY 1945. NO COPY AVAILABLE HERE. FORWARDING BOMBER FORTHWITH ORIGINAL PROCEEDINGS ALL OTHER FGC'SM REQUESTED

CANMILITRY

30103/MMD/011530R/NOV 45

THIS MESSAGE RECEIVED IN

CLERK

M.F.M. 339 22M-3-44 (4050)
H.Q. 1772-99-2000 K.P. 4465

COPY 3 ACTION

CRAW PRINTERS LIMITED

ARMY MESSAGE
(OUTGOING)

FILE: H.Q.C.55-L-1364(JAG/D-6)

CIPHER

PLACE: OTTAWA

DATE: 23 OCT 45

TO

CANMILITARY

UNCLASSIFIED

JAG 911 PLEASE FORWARD BY BOMBER MAIL FIELD GENERAL COURT MARTIAL PROCEEDINGS RE G ONE SEVEN ONE SEVEN ONE PTE LEWIS W (.) B SIX SEVEN TWO SEVEN EIGHT PTE FERGUSON E A (.) F FIVE FOUR SIX FOUR THREE PRIVATE OLIVER B (.) E FOUR SIX FOUR ONE SIX TPR MAHON J W (.) L SEVEN NINE ONE SIX PTE TMOTCHIE I L (.) E THREE FIVE TWO FIVE ONE PTE OUELLETTE L (.) D ONE TWO FIVE ONE TWO SIX SAPPER TETRAULT M

DEFENCE

COPIES FOR:

H.Q.C. 55-F-498

H.Q.C. 55-O-236

H.Q.C. 55-M-1672

H.Q.C.55 -T-612

H.Q.C. 55-O-237

H.Q.C.55-T-292

10

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER

IF THIS MESSAGE IS CLEARED TO BE PUBLISHED, INDICATE BELOW.

DEGREE OF PRIORITY: IMPORTANT

TIME OF ORIGIN: 231705 Q

SIGNED (R.J.Orde) Brigadier Judge Advocate General

COPY 4 - D.S.D. INFORMATION COPY

(Army)

Files Nos: KS 674 (..)
and Personal files.

C
O
P
Y

CR(C) Pls PA on HQC 55-[illegible]237

Colonel,
D Adm.

Kingston, Ontario, 18 Sep 45.

Commandant, 89 Military Detention Barracks, Barriefield, Ont
AJAG, MD No3, Kingston, Ont
Officer Commanding, 3 District Depot, Kingston, Ont
District Pay master, MD No 3, Kingston, Ont
District Medical Officer, MD No 3, Kingston, Ont
DAPM, MD No 3, Kingston, Ont
District Records Officer, MD No 3, 2nd Echelon (Central) Brockville, Ont
DS & TO, MD No 3, Kingston Ont
DAQMG, MD No 3, Kingston, Ont
Officer Commanding, 3 Ordnance Depot, RCOC, Kingston, Ont
OIC 2nd Echelon (Central) MPO 315, Brockville, Ont
Commandant, Ottawa Area Command, Ottawa, Ont
Officer Commanding, 33 Coy, C Pro C, Ottawa, Ont.

SUS EX-ITALY AND UNITED KINGDOM GO 131/44
89 Military Detention Barracks.

Under HQS 8536-6 Vol. 2 Adm 3(b)2 dated 27 Apr 45 and HQS 8536-6 Vol 2 Adm 3(b)SC(A) dated 1 Jun 45 National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy and the United Kingdom to #89 Military Detention Barracks, Fort Henry, Barriefield, Ontario.

2. Under HQC 9039-1-1 Adm 3 dated 15 Jun 45 National Defence Headquarters lays down the policy to be followed in the remission and suspension of sentences of soldiers under sentence in order that the situation in regard to accommodation at #89 Military Detention Barracks at Fort Henry may be alleviated.

3. Consequently it is considered the undermentioned soldiers under sentence who have served one-half their sentence should now be sent to their home District Depots for discharge and granted a remission of the unexpired portion of their sentence

MILITARY DISTRICT No 1		SENTENCE	RECOM AS TO DISCH BY CMHQ	RECOM AS TO DISCH BY DOC MD 3
A-60141	Pte JACKSON R O	2 yrs imp	RO 1029(8)	RO 1029(8)
A37629	Pte POTENTIER J A	4 yrs p.s.	RO 1029(8)	RO 1029(8)
A-60556	Pte SAUVE A H	3 yrs p.s.	RO 1029(8)	Some other para of RO 1029

MILITARY DISTRICT No 2

B-55595	Pte ADAMS W	2 yrs imp H.L. ign	RO 1029(9)	RO 1029(9)
B-87278	Pte FERGUSON EA	1 yr imp dis ign	RO 1029(9)	RO 1029(9)
B-133077	Pte EDMOND RH	1 yr detn	RO 1029(8)	RO 1029(8)
B-118162	Pte MCCLUMCHY H	3 yrs 6 mos p.s.	RO 1029(8)	)some other
B-2254	Pte ZUPPA[illegible] J	15 mos imp h.l.	RO 1029(8)	)para of RO
B-111809	Pte HOWDEN H G	3 yrs p.s.	RO 1029(8)	)1029.

CMBR (Att'n. Capt. O'Keefe):

No proceedings forwarded by CMHQ.

20/10/45 for J.A.G.

.....//2

MILITARY DISTRICT No 4		SENTENCE	RECOM AS TO DISCH BY CMHQ	RECOM AS TO DIS BY DOC MD 3
D-106067	Pte CLOUTIER R	15 mos imp HL	RO 1029(8)	Some other para of RO 1029
D-138043	" CHAUVETTE J A	18 mos imp HL	RO 1029(8)	RO 1029(9)
D-129672	" LAVALLEE LP	5 yrs PS	RO 1029(8)	Some other para of RO 1029.
D-127541	Pte RING H R	2 yrs det	RO 1029(8)	RO 1029(8)
D-15629	Pte DESSUREAULT P	18 mos imp HL	RO 1029(8)	RO 1029(8)
MILITARY DISTRICT No 5				
E-14661	Pte COTE A	2 yrs imp HL	RO 1029(8)	RO 1029(8)
E-35251	Pte OUELLETTE L	15 mos det	RO 1029(8)	Some other para of RO 1029.
MILITARY DISTRICT No 6				
F-45059	Pte EMBREE E G	4 yrs PS	RO 1029(8)	Some other para of RO 1029
F-86922	Cpl GIDNEY J R	18 mos det 16 mos det	RO 1029(8)	RO 1029(8)
F-50282	Pte GOODWIN H M	14 mos detn	RO 1029(8)	Some other para of RO 1029
F-54709	Pte MacDONALD F	18 mos imp HL ig	RO 1029(9)	RO 1029(9)
MILITARY DISTRICT NO 7				
G-23263	Pte CLARKE L E	5 yrs PS	RO 1029(8)	Some other para of RO 1029
G-17111	Pte WISEMAN T G	2 yrs detn	RO 1029(8)	RO 1029(8)
MILITARY DISTRICT No 10				
H-20086	Pte CORMACK R G	1 yr det 1 yr det	RO 1029(8)	RO 1029(8)
MILITARY DISTRICT No 11				
K-67375	Pte QUICKFALL CF	18 mos imp HL	RO 1029(8)	RO 1029(8)
MILITARY DISTRICT No 12				
L-86781	Pte LOVE I W	18 mos imp HL	RO 1029(8)	Some other para of RO 1029
L-7916	Pte TROTCHIE I J	12 mos det	RO 1029(8)	RO 1029(8)
L-27320	Pte WIEDER J	6 mos det & 6 mos imp dis ign 6 mos det(concur)	RO 1029(9)	RO 1029(9)
MILITARY DISTRICT No 13				
M-35593	Pte BELCOURT E	13 mos imp HL dis ign	RO 1029(9)	RO 1029(9)
M-11741	Pte HARGREAVES T	18 mos imp HL	RO 1029(8)	RO 1029(8)

(NOTE: Pte CORMACK R G - Sentence expires 29 Sept 45)

8

4. The above soldiers will be despatched from 89 Military Detention Barracks to their Home Depots for discharge under suitable escort to be arranged by the DAPM, MD 3, such escort being provided from 89 Military Detention Barracks or 33 Coy, C Pro C.

5. It is requested that after arrival at the various home District Depots the GOC-in-C, Pacific Command, or District Officer Commanding concerned, will arrange the soldier's discharge. In this connection this Headquarters has shown opposite the name of the soldier to be discharged the recommendation as to how the discharge is to be carried out by CMHQ and directly opposite this the District Officer Commanding, MD 3, has made his own recommendation as to how such personnel

...../3

should be discharged which in a very few cases does not agree with the recommendation of CMHQ.

6. The recommendation of the District Officer Commanding, MD 3, has been made after careful review of Army Form AFA 3104, Review Sheet, the conduct of the soldier under sentence while in detention, the seriousness of the offence committed while on Active Service and whether or not the soldier has been wounded in the front line or rendered effective service in the front line and that his offence while serious before the cessation of hostilities, the reason for exemplay punishment does not exist to the same extent now and it is felt that an injusitce would be done by having such personnel discharged under RO 1029(8) and forfeit gratuities they have earned. However as to the exact Section under which the soldier under sentence is to be discharged is according to instructions from National Defence Headquarters at the discretion of the GOC-in-C, Pacific Command, or the District Officer Commanding where discharge of the soldier under sentence is to be carried out.

7. It is requested that after arrival at the various home District Depots for discharge the GOC-in-C, Pacific Command, and the District Officers Commanding concerned will arrange for the remission of sentence o f these soldiers as set out under HQC 9039-1-1 Adm 3 dated 15 Jun 45 which allows remission of one-half the sentence and that such remission be made effective the date of discharge.

8. The AJAG MD 3, will prepare the necessary Order of Release and forward it to the Commandant, 89 Military Detention Barracks.

9. The DS & TO, MD 3, will issue the necessary transportation.

10. The above mentioned soldiers will cease attachment to 89 Military Detention Barracks and be struck off strength 3 District Depot to the various District Depots for discharge effective the date they are despatched to their home District Depots in accordance with instructions received from National Defence Headquarters.

11. The Commandant, 89 Military Detention Barracks, will advise this Headquarters when the a bove personnel are ready for despatch in order that the GOC-in-C, Pacific Command, and the various District Officers Commanding concerned may be advised of the a rrival of this personnel at least twenty-four hours in advance.

12. The Officer in charge, 2nd Echelon (Central), Brockville, will be requested by wire to forward the documents of the above mentioned soldiers immediately to the various home District Depots.

13. For the use of the GOC-in-C, Pacific Command, and the various District Officers Commanding concerned, all available AFA 3104's and Review Sheets will be forwarded by Special Delivery addressed to the GOC-in-C, Pacific Command, or the District Officer Commanding concerned. In cases where Army Form AFA 3104's or Review Sheets should not be available National Defence Headquarters will be requested by wire to forward s ame by Special Delivery to the GOC-in-C, Pacific Command, or the various District Officers Commanding concerned.

14. After s entence has been remitted and the soldier discha rged the GOC-in-C, Pacific Command, a nd the various District Officers Commanding are requested to make the necessary entry in the AFA 3104's and forward direct to National Defence Headquarters, in care of Major Parlee, Administration Branch, National Defence Headquarters.

Sgd for:
(W K MacGregor) Major
DAAG MD3.

/mw

HQC 55-M-1672
Adm 3(b)2

OTTAWA, Canada

CONFIDENTIAL

6 Jun 45

District Officer Commanding,
Military District No 2,
TORONTO, Ontario

B.46416 Tpr MABON, J W
SUS ex Italy - No 89 MDB

Ref T-36-10-282 A4 and further to this HQS 8536-6 Vol 2 dated 6 Jun 45:

2. Enclosed herewith Proceedings of FCCM and AFA 3104 with reference to the above SUS.

3. When these documents have served their purpose, may they be returned to this HQ, pls, with reference to the above file number.

(A E Walford)
Major-General
Adjutant - General

Encl. 2

WOP:da

THIS COPY FOR

H.Q. C.55-M-1672
M.D. 10/Mabon, JW/1

GS

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. B.46416 Name MABON, Jack Watson

Rank Tpr Unit 4th Princess Louise Dragoon Gds, CAO.

Charge A.A. 15(1) A.W.L.

Date of Crime 20-12-44

Date of Arrest 7-1-45 Charge Signed 9-2-45

Orders for ~~D~~FG.C.M. Brig Comd 12 CIB

Place and Date of Trial In the field; 11-2-45

Sentence Imprisonment W.H.L. 2 yrs.

Date of Confirmation 12-2-45

Date of Promulgation 14-2-45

Entered in Records of J.A.G. as No. 3592

Date 10-~~8~~5-45

MEMO Balance of sentence remitted by Conf. Auth. 14 12 45

Reviewed at CMHQ

Absent	Sentence
19 days	Imprisonment W.H.L. 2 yrs.

5

for Judge Advocate-General

10M-1-45(M-4629)

Quote No. H.Q.C.55-M-1672
(JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

OTTAWA, Canada
24th May 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

B-46416 Tpr MABON, J.W.

1. Receipt is acknowledged of your 10/Mabon, J.W./1 dated 6th April 1945, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

A.F. A3104 is also acknowledged.

E.L.M.
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

4

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

4 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

B.46416 Tpr Mabon J.W.
SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of **imprisonment with hard labour**

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

W a Stirling Major
for (A E Walford)
Major-General
Adjutant-General

Encl. 3

3512

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WOI

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Mabon, J.W./1

CANADIAN MILITARY HEADQUARTERS

LONDON 6 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

A.55-M-1672

B-46416 Tpr Mabon, J.W.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 11 Feb 45 for an absence without leave of 17 days commencing immediately after his arrival at "A" Echelon of his unit in the field. The earliest date on which he should be released if he earns full remissions for good conduct while serving his sentence is 10 Jun 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence.

5. In view of the circumstances surrounding the offence of which this soldier has been convicted and his previous record, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has not misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be ~~returned to Canada~~ in custody under sentence. Herewith original proceedings of the FGCM held 11 Feb 45, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E.G. WEEKS), Major-General
In charge of Administration
Canadian Military Headquarters

Enc. 4.

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1/39a CMHQ 1000-76
40/P & S/803 (6739)

REVIEW OF SENTENCE

SPECIAL REVIEW

DATE :

FILE : 10/MABON, J.W/1

1. NO., RANK AND NAME: B.46416 Tpr Mabon, J. W.

2. UNIT AT DATE OF OFFENCE: 4 P.L.D.G.

3. AT PRESENT ON STRENGTH OF: "X2" List. 4 P.L.D.G.

4. DATE OF SENTENCE: 11 Feb 45

5. AWARD: 2 years imprisonment with hard labour.

6. CONFIRMED SENTENCE: AS Awarded.

7. BEING SERVED AT: Italy.

8. OFFENCES:
AA Sec 15(1)- WOAS - AWL -from the lines of 4 P.L.D.G. until apprehended after 17 dys, 18 hrs.

8 (a) PRESENT AGE: - 24 years. (MFM 2)

9. PREVIOUS CONDUCT: - Enlisted 25 Sep 40.
Charged under AA Sec 15(1) - 11 offences.
AA Sec 11 - 2 offences.
AA Sec 40 - 1 offence.
Maximum punishment awarded - 28 dys detn (3 times) - AWL 10 dys;AWL 26 dys & Sec 40(not alert as sentry).
(From MFM 6)

10. CONDUCT WHILE UNDER SENTENCE:

11. EARLIEST DATE OF RELEASE: - 10 Jun 46.

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS B-46416 Tpr Mabon, J.W. of 4 P.L.D.G. was by Field General Court-Martial held in the field convicted of the offence(x) of Absence without leave

and by a sentence signed on the 11th day of February, 1945 sentenced to undergo imprisonment with hard labour for 2 years

said sentence of imprisonment commencing on the aforesaid day, and such sentence has been confirmed by Comd 12 Cdn Inf Bde as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 6th day of April, 1945

(Beverley Matthews) Brigadier
A/ Deputy Adjutant General
Canadian Military Headquarters

H.Q.C.55-M-1673 CONFIDENTIAL

M.F.R. No.

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MACNEIL. RAYMOND LOUIS F.89027 PTE.

CONFIDENTIAL H.Q.C. 55-M-1673

CENTRAL REGISTRY	DATE	FILE OR REF.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
(If purpose for which concerned cannot be expressed on one line, add minute to file and enter here "With Minute")							
				D. Adm.	NEW FILE C.R.		APR 30 1945
JUL 4 - 1945	5/45	PA	F.L.M.	DOS	pass to	wd	5-5-45
	4.7.45		wd	Adm	For Revocation C.R. JUL 4 - 1945		
	JUL 26 1945			I.C.M.	For Regulation C.R. JUL 16 1945		
				I.C.M.	For Revocation C.R. AUG 29 1945		
SEP 18 1945				Adm	Report, Pleas set		18/9/45
	28/9/45		was	CMBR	Returned		20 Sep
SEP 25 1945	11 24			Adm	Min. pls.		25/9/45
SEP 27 1945	27/10/45		was	CMBR	PER B.F. SEP 28 1945		
SEP 28 1945				Adm	Attn Adm 26/12		27/9/45
SEP 29 1945				Admin	For Regulation C.R. SEP 27 1945		
OCT 1 1945	1/10/45	PA	was	CMBR	Returned Min.		29 9/10
OCT 9 - 1945	5/10/45			Wg. Reviewer	For Regulation C.R. OCT 2 1945		
OCT 10 1945	10 10 45			Admin	PER B.F. OCT 11 1945		
	28 10	PA		CMBR	PER B.F. OCT 14 1945		
JAN - 4 1946	4/1/46	PA	was	CMBR			
JAN 26 1946	24/1/46	PA	was	CMBR	For Revocation C.R. JAN 8 1946		
				JRB	For Regulation C.R. MAY 10 1946		
JUN 3 - 1946	1/6/46			WGRW	405-M-12564		MAY 29 1946

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the officer's file number.

PASS THIS FILE IN ENVELOPE

XLRPG V LRIE SER 90

FROM CANMILITARY 201900B

TO CDN O2E AAI

A2640 BT

RESTRICTED PARA 1 ALL FGCM PROCEEDINGS MENTIONED HEREIN RECEIVED 17 APR 44 ENDORSED BY MGA 19 APR AS FOLLOWS

PARA 2 REF E23552 BARRETTE E48485 BOUDREAU D137492 LA VALLE F89027 MCNEIL E42153 MICHAUD E5597 ROBITAILLE E100631 TAPP ENDORSED QUOTE I CONFIRM THE FINDINGS AND SENTENCE AND I DIRECT THAT A PART OF THE SENTENCE NOT EXCEEDING 2 YEARS SHALL BE SERVED IN A MILITARY PRISON UNQUOTE (.) PHYSICAL CONDITION ROBITAILLE TO BE INVESTIGATED

PARA 3 REF D58511 LAMBERT G49997 MARTIN G17547 TRAVERS ENDORSED QUOTE I CONFIRM THE FINDINGS AND SENTENCE AND I DIRECT THAT A PART OF THE SENTENCE NOT EXCEEDING 2 YEARS SHALL BE SERVED IN A MILITARY PRISON (.) UNQUOTE(.) TRAVERS WILL BE EXAMINED BY MEDICAL BOARD BEFORE UNDERGOING SENTENCE (.)

PARA 4 REF E42091 LAPOINTE ENDORSED QUOTE I CONFIRM THE FINDING AND SENTENCE BUT I REMIT ONE YEAR PENAL SERVITUDE (.) I DIRECT THAT A PART OF THE SENTENCE NOT EXCEEDING TWO YEARS SHALL BE SERVED IN A MILITARY PRISON UNQUOTE

PARA 5 REF D163119 OLIGNY ENDORSED QUOTE I CONFIRM THE FINDINGS AND SENTENCE BUT REMIT ONE YEAR PENAL SERVITUDE AND I DIRECT THAT A PART OF THE SENTENCE NOT EXCEEDING 2 YEARS SHALL BE SERVED IN A MILITARY PRISON UNQUOTE

PARA 6 REF G23263 CLARKE ENDORSED QUOTE I CONFIRM THE FINDING AND SENTENCE BUT REMIT 2 YEARS PENAL SERVITUDE AND I DIRECT THAT A PART OF THE SENTENCE NOT EXCEEDING 2 YEARS SHALL BE SERVED IN A MILITARY PRISON UNQUOTE

PARA 7 REF D150148 LEONARD E57725 OUELLETTE ENDORSED QUOTE I CONFIRM THE FINDINGS AND SENTENCE BUT I REMIT TWO YEARS PENAL SERVITUDE(.) I DIRECT THAT A PART OF THE SENTENCE NOT EXCEEDING 2 YEARS SHALL BE SERVED IN A MILITARY PRISON UNQUOTE

PARA 8 REF G49702 RICHARD ENDORSED QUOTE I CONFIRM THE FINDINGS AND SENTENCE BUT REMIT 1 1/2 YEARS PENAL SERVITUDE(.) I DIRECT THAT A PART OF THE SENTENCE NOT EXCEEDING 2 YEARS SHALL BE SERVED IN A MILITARY PRISON UNQUOTE

PARA 9 REF D106052 DAOUST ENDORSED QUOTE I CONFIRM THE FINDINGS BUT (.) COMMUTE THE SENTENCE TO READ QUOTE TO UNDERGO IMPRISONMENT FOR 2 YEARS UNQUOTE AND I CONFIRM THE SENTENCE AS SO COMMUTED UNQUOTE(.) SENTENCE FOR AWL AT 15 CANNOT EXCEED IMPRISONMENT

PARA 10 REF E10528 BLAIS ENDORSED QUOTE I CONFIRM THE FINDING AND SENTENCE UNQUOTE (.) RETURN BLAIS UK EARLIEST TO SERVE SENTENCE

BT 202235 MJT A.2

R SRL 90 202236 NAB KK

CERTIFIED TRUE COPY WM [illegible] AT CMHQ IN AB 160 H H-125
Capt, ADJA, 5 Cdn Armd Div

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFAB 40/P & B/1698 (3884))

Convened by Order of Lt-Col R C Clark A/Comd 21 Cdn Inf Bde dated 20 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F89027	Pte		Raymond Louis	MacNEILL	C B Highrs

CANADIAN SECTION DISCIPLINE & PAY 30 MAR 1944 A.P.O. 650 ENGELAND

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ITALY on (*date(s)*) 22 Mar 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1050 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) WMWS ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

WMWS A5. President to accused: ~~Do you object to~~ ~~as interpreter~~ ~~Ans~~

The Interpreter is sworn.(1) Do you object to A57385 Sgt Henhaff as shorthand writer? Ans No
The shorthand writer is sworn.(1) BW

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	GCA Macartney	Irish RC
Member	Capt	PJP Baker	Perth R
Member	Capt	RS Blair	11 CIB Sp GP (PLF)
Judge-Advocate	Capt	WMW Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	OJ Price	CBH
Defending Offr	Capt	AO Gunn	CBH

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea WMWS ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in A8 rank and name of the accused making the plea.)

WMWS A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

WMWS A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 86, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Yes.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~their~~ plea(s) of Guilty to Not Guilty on the charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on X charge(s). X Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

No. F89027 Name MC NEIL Raymond | Sqn, Battery or Company | Corps C.I.C. | Date of enlistment 23 Jun 43 | Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/Pdd/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8/7/43	Pte		A.A. Sec 40		10 days Forf of pay	PLF DO	26 d/23 Jul 44	
"	22/3/44	Pte		A.A. Sec 40, AA Sec 9(2) A.A. Sec 8(1)		3 years Penal Servitude	CBH DO	31 d/ May 44	

Certified true extract from MFM 4

(J.E. Campbell) Captain
for Officer i/C
Canadian Section G.H.Q. 2nd Echelon, A.A.I.

(PTO)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.) NEWS

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No, Sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes Thru Def Offr.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 71(D)

(1. When several accused tried separately see RP 71(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 300, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : F89027 Pte Raymond Louis MacNEILL

Charge.	Plea.	Finding.	
(Insert "alternative" where applicable.)	(See instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 40	guilty	guilty	
2nd AA 9(2)	guilty	guilty	
3rd AA 8(1)	guilty	guilty	
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

WMWS ~~At present under sentence for ..... beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To suffer penal servitude for the term of three years.

(Sgd) W.M.W. Shaw Capt — Judge-Advocate, if any. 22 Mar 44 — Date awarded. (Sgd) GCA Macartney A/Maj — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for superior authority

Date 24 Mar (Sgd) RC Clark Lt-col A/Commanding 11 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : I confirm the findings and sentence and I direct that a part of the sentence not exceeding 2 years shall be served in a military prison.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1)

(1. AA 57A. Delete if not used.)

Date 19 Apr 44

(Sgd) "P. J. Montague" Maj-Gen
Major-General i/c Administration
Commanding Canadian Military Headquarters
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F.89027 PTE MacNEILL R.L.	26 Apr 44	Robert [illegible] Capt.

~~Captain~~ Commandant.
~~7 Bde~~ Field Punishment Camp.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused F89027 Pte MacNeil, Raymond Louis, "C" Coy, Cape Breton Highlanders, Canadian Army Overseas is charged with:

First Charge
A.A. Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field at 1715 hrs 29 Feb 44 did discharge firearms in a locality inhabited by military and civilian personnel thereby endangering the lives of said personnel.

Second Charge
A.A. Sec 9(2)

WHILE ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

at Lanciano at approx 1715 hrs 29 Feb 44 when ordered by Sgt Sullivan, E.J. to hand over his weapon did not do so.

Third Charge
A.A. Sec 8(1)

WHILE ON ACTIVE SERVICE STRIKING HIS SUPERIOR OFFICER BEING IN THE EXECUTION OF HIS DUTY

in that he

at 1720 hrs 29 Feb 44 after having been ordered to deliver up his arms to Sgt Sullivan E.J. struck with his fists the body of Lieut. D.G.L. Fraser.

In the Field,
17 day of March 1944

(Sgd) R.B. Somerville Major
A/Officer Commanding
Cape Breton Highlanders.

To be tried by Field General Court Martial.

In the Fd,
20 Mar 44.

(Sgd) R.C. Clark Lt-col
A/Comd 11 Cdn Inf Bde

WMWS

Date.29.Mar.44.....

Medical Officer's Certificate

I certify that No F89027 Pte MacNeill, R.L., of the Cape Breton Highlanders Regt., is fit to undergo trial by Field General Court Martial.

(Sgd) H.C. Peco Capt RCAMC
(Signature of Medical Officer)

Field.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA81)
40/PAM/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.89027	Pte	Raymond Louis	MacNEILL	C B Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 20 Mar 44 endorsed by me, (~~or by my offr or my staff for me~~), " To be tried by Field General Court-Martial ". RCC

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) RCC

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder. RCC

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a fit Offr as President, for the reasons shown attached hereto.~~ RCC

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
A/Major	G C A Macartney	Ir RC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by	11 Cdn Inf Bde Sp Gp (PLR)
Capt	To be detailed by	Perth Regt

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lt	To be detailed by	C B Highrs

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	W W Shaw	HQ 5 Cdn Armd Div

On Active Service in the Fd

in ITALY (Country.) (Sgd) R C Clark (Signed personally. RP 105 fn 2.) Lt-col (Rank.)

Date 20 Mar 44 Commanding A/Comd 11 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

WMWS

SUMMARY OF EVIDENCE

Summary of Evidence in the case of F89027 Pte MacNeil, Raymond Louis, "C" Coy, Cape Breton Highlanders, Canadian Army Overseas is charged with, one offence under A.A. Sec 40, one offence under Sec 9(2) of the Army act, and one offence under Sec 8(1) of the Army Act.

The Commanding Officer directs that the evidence be taken upon oath.

First Witness: Lieut Duncan G.L. Fraser, platoon commander of #15 platoon "C" Coy Cape Breton Highlanders having been duly sworn states:

I am Lieut. Duncan F.L. Fraser "C" Coy Cape Breton Highlanders, I am platoon commander of #15 platoon of which F89027 Pte MacNeil, Raymond Louis is a member, at approx 1715 hrs 29 Feb 44 the Coy was marching to a billet area near Lanciano, when I heard a TMC being fired in the rear of my platoon. I turned around and saw Pte MacNeil firing his TMC I said to F59794 Sgt Sullivan Enoch J., place Pte MacNeil under arrest. Sgt Sullivan put Pte MacNeil under arrest and ordered him to hand over his TMC. Pte MacNeil would not hand it over. I also told Pte MacNeil he was under arrest and to hand over his weapon to Sgt Sullivan. He said "who do you think you are". Pte MacNeil then through down his weapon and attacked me striking me several times in the body with his fists. Pte MacNeil then stopped and took off his equipment. I saw F55421 Pte Reardon William coming up the path and he looked as if he was going to assist Pte MacNeil. I then got in touch with Cpl Heustis and ordered him to take four men and escort Pte MacNeil and to put Pte Reardon under arrest. At no time did I strike Pte MacNeil.

(Sgd) DGL Fraser Lieut.

The accused declines to cross examine the witness.

Second Witness: F59794 Sgt Sullivan Enoch J. "C" Coy, Cape Breton Highlanders, having been duly sworn states:

I am F59794 Sgt Sullivan Enoch J. "C" Coy, Cape Breton Highlanders, platoon Sgt of #15 platoon of which F89027 Pte MacNeil Raymond Louis is a member. On the 29 Feb 44 at approx 1715 hrs while marching into the rest area by sections I heard a TMC being fired. Lieut. Fraser ordered me to place Pte MacNeil under arrest I went back and told MacNeil he was under arrest. I noticed his TMC was cocked and I ordered him to give it to me, he refused to do it. Lieut. Fraser then ordered him to give me his TMC, Pte MacNeil asked Lieut. Fraser who he thought he was. Pte MacNeil then dropped his TMC and struck out at Lieut. Fraser with his fists. Lieut. Fraser jumped away from Pte MacNeil. F55421 Pte Reardon William then dropped his Bren gun and made for Lieut. Fraser. Lieut. Fraser got away from them and went down the road, while all this was going on there was just the four of us present.

(Sgd) E.J. Sullivan Sgt

The accused declines to cross examine the witness.

Third Witness: M106487 Pte Derksen William, "C" Coy, Cape Breton Highlanders having been duly sworn states:

I am M106487 Pte Derksen William "C" Coy, Cape Breton Highlanders. On the 29 Feb 44 or there abouts towards the latter part of the afternoon Cpl Heustis ordered me to escort F89027 Pte MacNeil Raymond Louis to the Coy billets. He offered no resistance. Pte MacNeil did not act as if he were drunk.

(Sgd) W Derksen

The accused declines to cross examine the witness.

"A"

WMWS

The accused was warned as follows:

Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so. But whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused: I have nothing to say at this time.

(Sgd) R.L. MacNeil

I certify that R.P. 4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 17 day of March 1944.

(Sgd) O.J. Price Capt
Officer taking Summary.

WMMS

I desire the convening officer to detail an officer to represent me at my forthcoming trial by court martial.

I desire the services of Capt A.O. Gunn if he is available.

(Sgd) R.L. MacNeil

WMWS

STATEMENT BY THE ACCUSED

Lt Fraser in front lines did not treat me very well and told some guys what he thought of me. He was scared half the time running in and out.

PLEA IN MITIGATION

On behalf of accused that possibly if not confined for any length of time, would be worthy of being a Cdn soldier in Cdn Army.

WMW Shaw Capt.

Substitute for AFB 296
MFB 355

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No. F89027 Rank Pte NAME MacNEIL, Raymond Louis UNIT CBH

AGE 22 MARRIED or SINGLE Single NO OF DEPENDENTS Nil

DATE OF ATTESTATION 24 June 41

No of days in Close arrest awaiting trial

Civil Military 18 days Hospital Total 18 days

Dates of appointments, promotions etc (if any)

Decorations Canadian Volunteer Service Medal

In the Field
Date 18 Mar 44

(Sgd) R.T. Bonnell Capt
Officer i/c Regtl Books
Cape Breton Highlanders

NOTE: Certified true copy of MFM 6 must accompany this form.

"B"

WMWS

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No. F89027 Name MacNeil R.L. Sqn., Battery, or Company Corps CIC Date of enlistment 23 June 41 G.C. Badge Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 8 Sep 41 No. and date of last drunk 8 Sep 41 Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. C.P McPherson Capt Character Bad

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30-7-42	Pte	2	WOAS Drunkenness 27 Apr 43 in that he in the town of Guildford at approx 2305 hrs 30-7-42 was drunk and disorderly AA Sec 19.	Documentary Evidence	Admonished	5-8-42	Lt Col AB Noble	
Field	19-8-42	"		WOAS Disobeying a lawful command in that he when ordered to go on duty on the sanitary truck refused to do so AA Sec 9(2)	L/Cpl Thursman Pte Krocker	14 days CB	20-8-42	AB Noble Lt Col	
Field	24-10-42	"		WOAS Conduct to the prejudice of etc in mess hall ahead of parade Sec 40	Sgt Kelly	7 days CB	26-10-42	R.T. Bonnell Capt	
Field	13-11-42	"		Unlawfully did assault and beat Frederick John Maley an offr of Malyan (22)	Police Sgt	3 mos hard labour Wormwood	3-12-42	Magistrate of Godalming	

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				the county and in the execution of his duty Sec 12 of the Prevention Crimes Act 1811	Police Sgt Lach (21)	Scrubs			
Haig Bks	28-3-43	Pte		AA Sec 15(1) WOAS absent from tattoo 1 hr absent from parade 45 mins.	A/Cpl Mills A Cpl Stanley JR	GJ 7 days CB	29-3-43	R.T. Sanson Capt	
Field	3-6-43	Fus		AA 40 Conduct - discharged rifle without authority.	L/Cpl Long	10 days pay	9-7-43	Major W.H. Reid	
Field	26-7-43	"		AA Sec 40 - Neglect - unshaven on parade.	Documentary Sgt Brown LD	7 days CB	26-7-43	Capt K.M. Harrison	

Certified true copy

(Sgd) O J Price Capt

MEMORANDUM

TO:

Department of National Defence,
(Army)

CMBR

HQ 405-M-12,564 Adm 3(b)2
FD 416
OTTAWA, Ontario 9 Nov 45

MINISTERS OFFICE
NOV 12 1945
DEPT. N. D. OTTAWA

F.89027 Pte MCNEIL, R L

To note para 2 at folio 9 hereunder, and folio 4

2. May the M.S. be infm direct through SE(AG) the decision of the Board.

R. Beaulieu
for (M Noel) Major
Brigadier
Acting Adjutant-General

WOP/6293/da

MILITARY SECRETARY
1036-24
NOV 12 1945
RECEIVED

MEMORANDUM

TO:

M.S.

Department of National Defence,
(Army)

HQ 405-M-12,564 Adm 3(b)2

OTTAWA, Ontario 9 Nov 45

S.E. 7794B/6741B d/5 Nov 45
Min File: 1038-24

F.89027 Pte MCNEIL, R L

Confidential file is charged to CMBR and it is stated that it cannot be released. Presumably the sentence is under review.

2. CMBR will be requested to infm direct the result of review.

(M Noel)
Brigadier
Acting Adjutant-General

FINAL

WCP:de

9

SPECIAL ENQUIRY

Date NOV 5 1945

To: D Admin

No. 7794B/6741B

Reply addressed to M.S will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

OFFICE OF THE MINISTER OF NATIONAL DEFENCE

MEMORANDUM

2 Nov 45

MIN. FILE 1036-24

H. Q. FILE 405-M-12,564

A.G (Co-ord 3)

F.89027 - Pte MCNEIL, R.L.

With reference to your memorandum of 29 Oct 45 (S.E. 6741B) may I be informed, please, of the result of the review which has been made of this case.

Colonel,
Military Secretary.

RECEIVED
NOV 6 1945
ADMIN.
331

MEMORANDUM

Department of National Defence,
(Army)

M.S.

HQ 405-M-12,564 FD 416 Adm 3(b)2

OTTAWA, Ontario 29 Oct 45

S.E. 6741B d/17 Oct 45

F.89027 Pte MCNEIL, R L

The confidential file is at present charged to CMBR and it is stated that it cannot be released at this time. It is presumed that the sentence is under review by that Board.

(A E Walford)
Major-General
Adjutant-General

FINAL

WOP:da

1036-wfa

6

MINISTERS OFFICE
OCT 31
DEPT. N.D. OTTAWA.

PC-55-M-1673

405-R-12564

SPECIAL ENQUIRY

Date OCT 17 1945

To: D Admin

No. 6741B

Reply addressed to M.B will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

October 13th, 1945.

Mrs. Donald McNeil,
137 Reserve Street,
Glace Bay, Nova Scotia.

Dear Mrs. McNeil:

Re: K.89027, R. L. McNeil

I have your recent letter in which you are good enough to forward your son's regimental number.

As stated in my letter of October 3rd, the Minister does not feel that he would be justified in ordering the release of a soldier from detention except on the advice of the officers having jurisdiction over such matters. He has, however, instructed that your letter be passed to the appropriate officers of the Department with the request that a report be prepared of any review which may have been made on your son's case.

Yours very truly,

(H. L. Cameron) Colonel,
Military Secretary.

RECEIVED
OCT 17 1945
ADMIN.
38

A.G. (Co-ord.3) Min. File 1036-24

May the attached correspondence be returned with a report on any review which may have been made of this case, please.

Colonel,
Military Secretary.

COPY

Oct 19/45

Dear Sir:

In reply to your letter received today for my son's re gemental number who is now finishing his term in dorchester penintenary I would be very grateful if you would please interced for my son's release to help me get along my husband is old and sick. I have 2 sick son's home unable to work now that(with T.B.) winter is coming on I will find it impossibl to get along with out some help he could get work to help out and more over help out with outside work hoping you will intercede for me I am yours,

Mrs Donald McNeil,
137 Reserve St.,
Glace Bay, N.S.

My son's number is

F.89027 R.L. McNeil.

2

COPY

Oct 5/45

Dear Sir:

Just a line concerning my son Raymond McNeil who was court martial March 22/44 in Itley now finishing his sentence in Dorchester Penitentiary I and his mother wrote to the Justice Department about his case and they told us your Depertment had all to do with these cases so Im asking this little favor of you he has 20 full months done now over half his time would be very grateful to you if you would grant him a parole he could get a job if he was released and as far as his record in civilian life he never had one charge against him being that the war is over and he has all that time done will you please try and do something about geting him a parole.

Oblige.

Donald McNeil,

137 Reserve Street,
Glace Bay, Nova Scotia
Cape Breton

2

C O P Y

Sept 27/45

Dear Sir:

Just a line to ask a special favor of you its about my son Raymond R.L. McNeil at present doing time in Dorchester penitentiary he was Court Martial in Itley March 22 1944 for a three year term I think they should be a little mercy in his behalf after serving that much time he had a perfect record before he he joined the forces he never even had a drunk charge against him went active when he was a mere boy of 19 years being that the war is over please try and do something on his behalf and i would be very grateful for it.

Oblige

Mr Donald McNeil

137 Reserve St.,
Glace Bay,
C.B. N.S.

IN REPLY PLEASE QUOTE
No. H.Mc-1006 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Cny file pls
GBB.

Headquarters, M. D. No. 6,
Halifax, N. S., 31 Oct 45. 194

GENERAL MILITARY ARMY
6826
NOV 3 1945
File C55-M-1673
Clngd. to C7 GR 14-10-45
Referred to

CONFIDENTIAL

Secretary,
Department of National Defence,
Ottawa, Ontario.

F-89027 Pte. R. L. MacNEIL
Ex-Dorchester Penitentiary

Reference HQC.55-M-1673 Adm 3(b)3 d/24 Sep 45.

2. Forwarded herewith completed Form of Remission of sentence remitting 1 yr, 5 mos and 17 days of his sentence, effective 5 Oct 45.

3. Also forwarded herewith Army Form A3104 re the m/n man duly completed in Part VI.

(J.C. Stewart) Brigadier,
D. O. C., M. D. No. 6.

N.D. 25
3000M—10-44 (5769)
H.Q. 1772-101-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF
SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No: _____
District File No: ~~H. Ms-1006~~

PART I

No. ~~F-89027~~ Rank ~~Private~~ NAME ~~Raymond Louis MacNEIL~~
Unit ~~Discharged from No. 6 District Depot, C.A., admitted Dorchester Penitentiary.~~

PART II

Date of Trial ~~22nd March, 1944.~~
Charge(s) ~~Sec.40 A.A., Conduct to the Prejudice of Good Order and Military Discipline, Sec.9(2)A.A., NOAS, Disobeying a Lawful Command Given by His Superior Officer, Sec.8(1)A.~~ Striking his superior officer, being in the execution of his office.
Sentence ~~Three (3) years penal servitude.~~
Confirmation -(a) Authority: _____
(b) Date : _____

PART III
REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit (~~commute~~)(~~mitigate~~) ~~XXXXXXXXXXXXXXXXX~~ one (1) year, five (5) months and seventeen (17) days of his sentence, effective 5th October, 1945.

Signed at Halifax, N. S., this
26th day of September, 194 5

(J. ~~C.~~ STEWART) Brigadier,
D. O. C., M. D. No. 6.

PART IV
PROMULGATION

Remission (~~commutation~~)(~~mitigation~~) promulgated and extracts taken at Halifax, N.S. this 5th day of October, 1945.

Sgd. Philip Morash Lt.
Officer i/c Documents.
(Unit, attachment and appointment to be stated) for (G.A.BRAINE) Capt.,
Records Officer, No.6 D.D.,C.A.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. F-89027 Rank Pte. Name MacNEIL, R.L.
The sentence of Three (3) years penal servitude
awarded by F.G. Court-Martial on the _____ 194 ,
has been remitted 1 yr 15 mons 17 days
on the 5 Oct 1945, by D.O.C., M.D.No.6.
Unit _____

Certified True Extract of Daily Orders Part II of No. 6 District Depot,C.A.
No. 287 Place Halifax, N.S. Date 5 Oct 45.

Sgd. L.H. LeBlanc Capt.
Adjutant
(L.H. LEBLANC) Captain,
A D J U T A N T,
No. 6 District Depot,C.A.

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. F-89027 Pte. MacNEILL, Raymond Louis Unit C.B.H.

Sentenced to 3 years penal servitude. on 22 Mar 44.

Age on, and date of enlistment 19 yrs 9 mos 26 Jun 41 Term of service

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place

Date

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to) (of which I remit) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on (3).

Place

Date

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To

Superior Military Authority.

This man was again convicted on and sentenced to and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place

Date

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to) (of which I remit) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of and be reviewed on (3).

Place

Date

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

/5

(20612) Wt.48072/2276 100,000 5/42 A.& S.W.Ltd. Gp.698 Forms/A3104/12

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	No remission. B/F 25 May 45	(E. G. Weeler Brigadier) Deputy J.A. Gen. Bde. G.H.Q. 1 Echn. 12 SEP 1944	
	No Remission Return to Canada in Custody Under Sentence	(Beverley Matthews), Brigadier, A/Deputy-Adjutant General, Canadian Military Headquarters 7 APR 1945	
	No remission B.F. Sept. 12/45	for D.O.C. MD 3	
26 Sep 45.	Sentence remitted effective 5th October, 1945.	(J. C. Stewart) Brigadier, D. D. C., M. D. No. 6.	

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.		
1st Charge - A.A. Sec 40	29 Feb 44	22 Mar 44.
2nd Charge - A.A. 9 (2)	29 Feb 44	22 Mar 44.
3rd Charge - A.A. 8 (1)	29 Feb 44	22 Mar 44.
Signature of Officer making entry.		

VIII.—Second Trial.

Signature of Officer making entry.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
2 May 44.	I recommend that the sentence be NOT reduced	J. B. McKeil Lt.Col.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
12 May	I recommend that the sentence be NOT reduced.	R. Allen Lt.Col. A/Comd 11 C.I.B.

Maj Stillwell HQC 55-M-1673

1- Partially completed precis at fly-leaf.

2- Cannot make recommendation until some indication of conduct since conviction.

3- AFA 3104 sent to Mr D3 (see folio 18) but this man apparently in Deserters (see folio 17)

CMBR-2 Hold for report from MD7 [illegible] for [illegible]

7 Sep 45.

[illegible]

HQC 55- -M-1673

PAGE 1.

Case No----------

REVIEW OF SENTENCE

1. No, Rank and Name: F 89027 Pte MacNEIL, RAYMOND LOUIS

2. Unit at date of offence: Cape Breton Highlanders

3. Charges: Sec 8(1) Striking his superior officer in that he on 29 Feb 44 after having been ordered to deliver up his arms attacked with his fists the body of Lt Grace

Sec 40: Conduct to the prejudice of good order and military discipline in that he on 29 Feb 44 did discharge firearms in a locality inhabited by military and civilian personnel thereby endangering the lives of said personnel

Sec. 9(2) Disobeying a lawful command in that he when ordered to hand over his weapon did not do so

4. Place and Date of Trial: Field, 22 Mar 44

5. Finding: Guilty as charged (accused pleaded guilty)

6. (a) Sentence; Penal servitude, 3 years

(b) Date of Sentence: 22 Mar 44

7. Date of Confirmation: 14 Apr 44

8. Date of Promulgation: 26 Apr 44

9. Being served at in MD 7

Apparently at Dorchester Penitentiary, Dorchester NB

Now DC may cease
will be remined 2 c by ws
when half sentence completed

(N.B. - Discharged under RO 1029 (8) for misconduct
wef Probably
).

Case No_____

CONDUCT

11. (a) Prior to conviction:

Date of enlistment: 23 JUN 41

Date of enrolment: Age:

6 previous military convictions (not serious) and one civil conviction in England for assaulting a Police Offr for which he was sentenced to 3 months hard labour.

(b) After conviction:

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances).

Item 10 omitted: Plea in mitigation by defending Offr "possibly if not confined for any length of time would be worthy of being a Can soldier in the Can Army"

13. Recommendations: (State by whom made, e.g., CMHQ, DCO, Reviewing Cfrm, etc).

CMHQ: Serve sentence in full and thereafter be discharged for misconduct

Reviewed by _____
J T BAETT CAPT

---

14. Decision of the Board:

DATE _____194---

_____
Chairman/Member/Secretary.

F-89027 Pte. MacNEIL, R.L.: A.F.A.2104 is forwarded herewith, received from N.D.3 referring to your MQC 55-M-1673 d/26 Jul 45. Conduct whilst in detention c/s was good. Discharged and admitted to Dorchester Penitentiary. Review underway now. Warden, Dor.Pen., reports conduct and industry have both been good. Under our M.Mc-1006(JAG) 4/7 Sept 45 referring to your MQC 55-M-1673 d/26 Jul 45 added to ND-Q advice was requested if remission was to be made w.e.f. 22 Sept 45.

(Mc-1006)

...../3

IN REPLY PLEASE QUOTE No. H. Mo-1006 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

341636

Headquarters, M. D. No. 6,
Halifax, N. S., 7 Sept 45.

SEP 13 1945

Secretary,
Department of National Defence,
Ottawa, Ontario.

F-89027 Pte. MacNEILL, Raymond Louis
Dorchester Penitentiary, N.B.

Reference your HQC.55-M-1673 d/26 Jul 45.

2. The m/n man having been sentenced to three years penal servitude on the 22 Mar 44 is at present serving sentence in Dorchester Penitentiary, New Brunswick.

3. Army Form A3104 is on file at this HQs.

4. This man will have served half his sentence on the 22 Sept 45.

5. The Warden of Dorchester Penitentiary reports that since admittance this soldiers' conduct and industry have been good.

6. In view of letter received under date 4th Sept 45 from D.O.C., M.D.No.3, addressed to Commanding Six and Capt. Parles of Adminstrative Branch of N.D.H.Q.(for information), it is asked whether or not this case will be reviewed in the usual manner under R.O. 5913.

(J.C. Stewart) Brigadier,
D. O. C., M. D. No. 6.

To file
This letter was not located but reply made at folio 20 upon inquiry appearing in mid II at folio 19
10 10 45

21

HQC 55-M-1673
Adm 3(b)3

CONFIDENTIAL

OTTAWA, Ontario
24 Sep 45

District Officer Commanding,
Military District No 6,
HALIFAX, N.S.

F.89027 Pte MACNEIL, Raymond L

Ref H.Mc-1006(JAG) dated 7 Sep 45.

2. Encl herewith is AF A3104 in connection with this soldier's sentence.

3. It is noted that it is proposed that remission be effected 22 Sep 45.

4. This HQ has no objection to remission in this case.

5. May action as outlined in this HQ Circular Letter R.852(a) dated 8 Sep 45 be followed pls.

for (A E Walford),
Major-General,
Adjutant-General.

WBC:SP

D. Adm -
Gordon - Stilwell
spoke re call
from Col. North
W a S.

III CMBR
It appears this is
due of same do. cons
referred to in conversation
of Col North & D Adm.
Median is complete
Thanks -
to D Adm

Doc 6 reports on H.171-1-7 d/14/9/45

F-89027 Pte. MacNEIL, R.L.: M.F.A3104 is forwarded herewith, received from M.D.3 referring to your HQC 55-M-1673 d/26 Jul 45. Conduct whilst in detention c/s was good. Discharged and admitted to Dorchester Penitentiary. Warden, Dor.Pen., reports conduct and industry have both been good. Under our H.Mc-1006(JAG) d/7 Sept 45 referring to your HQC 55-M-1673 d/26 Jul 45 advice was requested if remission was to be made w.e.f. 22 Sept 45. (Mc-1006)

D. Admin!

Letter referred to is not on this file.
Suggest Doc 6 be told to proceed with remission and for that purpose AFA 3104 returned to him.

21/11/45

W A Stikell
CMDR

/3

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DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55-M-1673 (ICM)

NDHQ Ottawa, Ont

26 Jul 1945

District Officer Commanding

Military District No 3

Kingston, Ont.

CONFIDENTIAL
F.G.C.M.

F.89027 Pte MACNEIL Raymond Louis

89 MDB

Ref MS 674

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford), Capt
Major-General,
Adjutant-General.

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3

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

K.S.674(A) K-55-Mo-3923-C;K-55-Mo-3942-C;K-55-M-1193-C;K-55-P-4384-C;K-55-P-4384-C

KINGSTON, Ont. 1 July, 1945.

The Commandant, No 89 Military Detention Barracks, Barriefield, Ont.
AJAG Military District No 3, Kingston, Ont.
Officer Commanding, No 3 District Depot, Kingston, Ont.
District Paymaster, Military District No 3, Kingston, Ont.
District Medical Officer, Military District No 3, Kingston, Ont.
DAPM Military District No 3, Kingston, Ont.
Officer Commanding, No 3 Ord Depot Coy, RCOC, Kingston, Ont.
DS & TO Military District No 3, Kingston, Ont.
DA & QMG Military District No 3, Kingston, Ont.
Officer Commanding, No 33 Coy, C Pro C, Porters Island, Ottawa, Ont.

SUS Ex-Italy GO 131/44
No 89 MDB, Fort Henry, Barriefield, Ontario

Further reference to this Headquarters Letter file, mentioned as above and dated the 26th and 28th days of June, 1945, and HQS 8536-6 Vol 2 Ads 3(b)2 dated the 25th June, 1945 from National Defence Headquarters, Ottawa, Ontario.

2. The undermentioned SUS now presently held at No 89 Military Detention Barracks, Fort Henry, Barriefield, Ontario, who were sentenced in Italy by General Court-Martial to serve Penal Servitude will be despatched under escort from Kingston, Ontario, at 1332 hours on the 5th day of July, 1945 via GNR and will arrive in Halifax, NS, at 2230 hrs on the 6th day of July, 1945;

F.55412 Pte Macneil, H J	3 yrs Penal Servitude	1029(8)
F.89027 Pte Macneil, R L	3 yrs Penal Servitude	1029(8)
F.55365 Pte Newman, J E	4 yrs Penal Servitude	1029(8)
F.30979 Pte Paul, J P	3 yrs Penal Servitude	1029(8)
F.54802 Pte Poirier, E F	3 yrs Penal Servitude	1029(8)

3. The AJAG, MD No 3, will prepare the necessary release form "D" referred to in HQS 8536-6 Vol 2 d/20/4/45 for all of the above mentioned SUS.

4. The District Officer Commanding, Military District No 6 will prepare the necessary re-committal warrants for these soldiers when they are discharged in his District.

5. The DA & QMG, MD No 3, will issue the necessary movement instructions for the 6 escorts and the above mentioned soldiers under sentence.

6. The DAPM, MD No 3 will arrange for sufficient escort to guard the movement of these SUS from Kingston to Halifax, N S, said escort personnel to be detailed from the Staff of No 89 MDB and No 33 Coy, C Pro C.

7. All SUS will be SOS No 3 District Depot, Kingston, and will cease to be attached to No 89 MDB, Fort Henry, Barriefield, Ontario, on the 5th day of July, 1945. The Commandant No 89 MDB will advise this Headquarters when these SUS are ready for despatch immediately, in order that the DOC MD 6 may be advised as to the number being despatched.

8. The Officer in charge of 2nd Echelon (CENTRAL) has been advised by this Headquarters, that the above mentioned SUS are to be SOS of No 3 District Depot, Kingston on the 5th day of July, 1945, and he was requested to forward all documents of each soldier direct to the Officer Commanding No 6 MD, Halifax, N.S.

(Sgd) R M Merritt, Major
for (W E MacGregor) Major,
DAAG, MD No 3

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Copies to:
The Secretary,
National Defence Headquarters,
Ottawa, Ontario.

The Warden,
Dorchester Penitentiary, Dorchester, N.B.

District Officer Commanding,
Military District No 6,
HALIFAX, N.S.

Officer Commanding,
No 1 Det No 33 Coy, C Pro C,
Place de Armes, St,
KINGSTON, Ont.

Officer Commanding,
No 6 District Depot,
HALIFAX, N.S.

Officer in Charge,
2nd Echelon, Central,
MPO 315,
BROCKVILLE, Ontario.

(Sgd) C L Potts, Major
for District Officer Commanding,
Military District No 3,
KINGSTON, Ont.

noted on cards

THIS COPY FOR: H.Q. C.55-M-1673
M.D. 10/MacNeil, R/2

FIELD GENERAL

GS MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. F.89027 Name MacNEIL, Raymond Louis

Rank: Pte Unit "C" Coy Cape Breton Highlanders, CAO.

Charge (1) A.A. 40 WOAS, Conduct to the prejudice...

(2) A.A. 9(2) WOAS, disobeying a lawful.....

(3) A.A. 8(1) WOAS Striking his superior....

Date of Crime (1) 29-2-44; (2) 29-2-44; (3) 29-2-44.

Date of Arrest Charge Signed 17-3-44

Orders for ~~XXX~~ FG C.M. Lt Col A/Comd 11 Cdn Inf Bde

Place and Date of Trial In the field; 22-3-44

Sentence Penal servitude 3 yrs.

Date of Confirmation 19-4-44

Date of Promulgation 26-4-44

Entered in Records of J.A.G. as No. 3594

Date 10-5-45

~~REMO~~ Conf Auth directs that a part of the sentence not exceeding two years shall be served in a military prison.

Reviewed at CMHQ.

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for Judge Advocate General

10M-1-45 (M-4629)

Quote No. H.Q.C.55-M-1673 (JAG/D-)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada

25 May 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

F.89027 Pte. Raymond Louis MacNeil,
"C" Coy., Cape Breton Highlanders, CAC

1. Receipt is acknowledged of your **10/MacNeil, RL./2** dated **6 Apr** 1945, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

A.F.A3104 is also acknowledged.

EAM
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

MM

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HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

4 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

F.39027 Pte MACNEIL, R L

SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of **penal servitude.**

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

for (A E Walford) Major
Major-General
Adjutant-General

Encl. 3

3-94

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BOMBER
CONFIDENTIAL

AIR MAIL Quote No. 10/MacNeil, R. /2

CANADIAN MILITARY HEADQUARTERS

LONDON 6 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

L.55-14-1673

F-89027 Pte MacNeil, R.L.

1. The m/n soldier is now serving a sentence of 3 years penal servitude awarded by FGCM 22 Mar 44 for the following offences:- striking his superior officer (AA Sec 8(1)), disobeying a lawful command (AA Sec 9(2)) and discharging fire arms in a locality inhabited by military and civilian personnel, thereby endangering their lives (AA Sec 40). He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released, if he continues so to do, is 21 Mar 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the 3 offences of which this soldier has been convicted, his previous record, which includes one other conviction by FGCM and a civil conviction for assault, and all available reports, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has not misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 22 Mar 44, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters

Enc. 4.

1/39a CMHQ 1000:76 40/P&S/803 (6739)

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS F-89027 Pte MacNeil, R.L. of Cape Breton Highlanders was by Field General Court-Martial held in the field convicted of the offence(s) of Striking his superior officer, Disobeying a lawful command and Conduct to the prejudice of good order and military discipline and by a sentence signed on the 22nd day of March, 194 4 sentenced to undergo Penal servitude for 3 years

said sentence of penal servitude commencing on the aforesaid day, and such sentence has been confirmed by P.J. Montague, Major-General, i/c Adm., CMHQ as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 6th day of April, 1945.

(Beverley Matthews) Brigadier
A/ Deputy Adjutant General
Canadian Military Headquarters.

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Extracts entered as No. 3599 in the Record of Courts Martial kept in the office of the Judge Advocate General this 17 day of May 1945.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F.89027 Pte Raymond Louis MacNEILL

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 40	guilty	guilty	
2nd AA 9(2)	guilty	guilty	
3rd AA 9(1)	guilty	guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~He is present~~ under sentence for ..... ~~beginning on (date)~~ .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for the term of three years

(Sgd) W.M.W. Shaw, Capt — Judge-Advocate, if any. 22 Mar 44 — Date awarded. (Sgd) G.C.H. Macartney Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for superior authority.

Date 24 Mar 44 (Sgd) R.C. Clark Lt-Col Commanding 11 Cdn Inf Bde.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence. I direct that a part of the sentence not exceeding 2 years shall be served in a military prison

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) (P. J. Montague) Major-General, Vice Adjutant General, Canadian Military Headquarters

Date ..... Commanding ..... 19 APR 45 Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Promulgated and extracts taken in the case of F-89027 Pte MacNEILL, R L G B Highrs

(a) (Dated) 26 April 44 (Signed) Robert Clark Captain Commandant, 7 Cdn Field Punishment Camp.

No illegalities or irregularities such as would warrant a withholding confirmation.

R. McLeod Capt Judge Adv

ENTERED IN RECORDS OF C.M. HH 125

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40/P.A.S/1068 (2864)

Convened by Order of Lt-col R C Clark A/Comd 11 Cdn Inf Bde dated 20 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.89027	Pte		Raymond Louis	MacNEILL	C B Highrs

CANADIAN SECTION DISCIPLINE & PAY SECTION 20 MAR 1944 ITALY G.H.Q.

E/53

PROCEEDINGS REVIEWED

R. Dearlove Capt. 15 May 44.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

(19)

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ..... on (date(s)) 22 Mar 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 113, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1050 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans~~ ~~The Interpreter is sworn.~~(1) Do you object to A5385 Sgt McLellan BA as shorthand writer? Ans No. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G.C.H. Macartney	Irish R.C.
Member	Capt	P.J.F. Beker	Perth R
Member	Capt	R.S. Blair	11 CIB Sp Sp (P.L.F)
Judge-Advocate	Capt	W.M.W. Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	O.J. Price	C.B.H.
Defending Offr	Capt	A.D. Gunn	C.B.H.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (A) plea (s).

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. Yes .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on ..... charge(s). ~~The accused is (are) so informed and he (they) change(s) his (their) plea(s)~~ on ..... charge(s). ~~Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. ..... Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No, Sir
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes thru def offr. .....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 120. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused F89027 Pte. MacNeil, Raymond Louis, "C" Coy. Cape Breton Highlanders, Canadian Army Overseas is charged with:

First Charge
A.A.Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field at 1715 hrs 29 Feb 44 did discharge firearms in a locality inhabited by military and civilian personnel thereby endangering the lives of said personnel.

Second Charge
A.A.Sec 9(2)

WHILE ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

at Lanciano at approx 1715 hrs 29 Feb 44 when ordered by Sgt.Sullivan, E.J. to hand over his weapon did not do so.

Third Charge
A.A.Sec 8(1)

WHILE ON ACTIVE SERVICE STRIKING HIS SUPERIOR OFFICER BEING IN THE EXECUTION OF HIS DUTY

in that he

at 1720 hrs 29 Feb 44 after having been ordered to deliver up his arms to Sgt.Sullivan E.J. struck with his fists the body of Lieut.D.G.L.Fraser

In the Field,
17 day of March 1944

.....(J.S.Weir) Lt-Col
Officer Commanding,
Cape Breton Highlanders.

To be tried by Field General Court-Martial.

(R C Clark) Lt-col
A/Comd 11 Cdn Inf Bde

In the Fd
20 Mar 44

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FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2)
40/F&N/1697 (2068)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.89027	Pte		Raymond Louis	MacNEILL	C B Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 20 Mar 44 endorsed by me, (~~or in manner of my standing orders~~), "To be tried by Field General Court-Martial". RCC

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reasons to support practicability~~) RCC

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder. RCC

4. (~~I am satisfied that appropriate arrangements have been made for the defence of the accused by an officer qualified to act as counsel in the trial~~). RCC

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
A/Major	G C A Macartney	Ir RC

MEMBERS.

Capt	To be detailed by	11 Cdn Inf Bde Sp Gp (PLF)
Capt (Rank.)	To be detailed by (Named or detailed. RP 106.)	Perth Regt (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lt	To be detailed by	C B Highrs

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	W W Shaw	HQ 5 Cdn Armd Div

On Active Service in the Fd

in ITALY (Country.)

R C Clark (Signed personally. RP 105 fn 2.)

Lt-Col (Rank.)

Date 20 Mar 44

Commanding A/Comd 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

WMWS

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Medical Officer's Certificate

Date 22 Mar 44

I certify that No. F 89027 Pte MacNeil R.T. of the Cape Breton Highlanders Regt., is fit to undergo trial by Field General Court Martial.

H C Keeo Capt

Signature of Medical Officer

RCAMC

Field

8

Statement by the accused

Lt. Fraser in front lines did not treat me very well and told some guys not to talk of me. He was scared. Half the time running in and out.

Plea in Mitigation

on behalf of accused that possibly if not confined for any length time would be worthy of being a good soldier in our Army.

Wm W Shaw
capt

7

I desire the convening officer to detail an officer to represent me at my forthcoming trial by court martial.

I desire the services of Capt A.O. Quard if he is available.

R. L. McNeil
.....

Womajs

6

SUMMARY OF EVIDENCE

Summary of Evidence in the case of F89027 Pte.MacNeil,Raymond Louis, "C" Coy. Cape Breton Highlanders,Canadian Army Overseas is charged with, one offence under A.A. Sec 40 , one offence under Sec 9(2) of the Army Act,and one offence under Sec 8(1) of the Army Act.

The Commanding Officer directs that the evidence be taken upon oath.

First Witness: Lieut Duncan G.L. Fraser,platoon commander of # 15 platoon "C" Coy.,Cape Breton Highlanders having been duly sworn states;

I am Lieut. Duncan G.L. Fraser "C" Coy. Cape Breton Highlanders,I am platoon commander of # 15 platoon of which F89027 Pte.MacNeil Raymond Louis is a member, at approx 1715 hrs 29 Feb 44 the Coy was marching to a billet area near Lanciano,when I heard a TMC being fired in the rear of my platoon,I turned around and saw Pte.MacNeil firing his TMC I said to F59794 Sgt.Sullivan Enoch J.,place Pte.MacNeil under arrest Sgt.Sullivan put Pte MacNeil under arrest and ordered him to hand over his TMC ,Pte.MacNeil would not hand it over. I also told Pte.MacNeil he was under arrest and to hand over his weapon to Sgt. Sullivan. He said "who do you think you are" Pte.MacNeil then through down his weapon and attacked me striking me several times in the body with his fists. Pte.MacNeil then stopped and took off his equipment. I saw F55421 Pte. Keardon William coming up the path and he looked as if he was going to assist Pte.MacNeil I then got in touch with Cpl.Heustis and ordered him to take four men and escort Pte.MacNeil and to put Pte.Keardon under arrest.At no time did I strike Pte.MacNeil.

Signed. D.G.L. Fraser Lieut

The accused declines to cross examine the witness.

Second Witness: F59794 Sgt. Sullivan Enoch J. "C" Coy. Cape Breton Highlanders,having been duly sworn states;

I am F59794 Sgt. Sullivan Enoch J. "C" Coy.,Cape Breton Highlanders,platoon Sgt of # 15 Platoon of which F89027 Pte.MacNeil Raymond Louis is a member on the 29 th Feb 44 at approx 1715 hrs while marching into the rest area by sections I heard a TMC being fired. Lieut. Fraser ordered me to place Pte.MacNeil under arrest I went back and told MacNeil he was under arrest I noticed his TMC was cocked and I ordered him to give it to me ,he refused to do it. Lieut.Fraser then ordered him to give me his TMC,Pte.MacNeil asked Lieut. Fraser who he thought he was,Pte.MacNeil then dropped his TMC and struck out at Lieut. Fraser with his fists. Lieut. Fraser jumped away from Pte.MacNeil. F55421 Pte.Keardon William then dropped his Bren gun and made for Lieut. Fraser. Lieut. Fraser got away from them and went down the road,while all this was going on there was just the four of us present.

Signed.....E.J. Sullivan

The accused declines to cross examine the witness.

Third Witness: M106487 Pte.Derksen William,"C" Coy,Cape Breton Highlanders having been duly sworn states;

I am M106487 Pte.Derksen William "C" Coy.,Cape Breton Highlanders on the 29 Feb 44 or there abouts towards the latter part of the afternoon Cpl. Heustis ordered me to escort F89027 Pte.MacNeil Raymond Louis to the Coy. billets he offered no resistance Pte.MacNeil did not act as if he were drunk

Signed W. Derksen.....

The accused declines to cross examine the witness.

"A"
Comments

5

The accused was warned as follows:

Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so. But whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused: I have nothing to say at this time.

Signed R.L. McNeil....

I certify that R.P.4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 17 day of March 1944.

.....(O.J.Price) Capt.
Officer taking Summary

4

MFM 6
(A.F.B. 122)
40/PAS/156 (3438)

No F89027 Name MacNeil R.L. Sqn, Battery, or Company | Corps CIC | Date of enlistment | 23 June 41 | Badges | Service or Proficiency Pay |

Date of last entry in Company Conduct Sheet | 8 Sept 42 | No and date of last drunk | 8 sept 42 | Period not reckoning towards freedom from extra fine | N/A | Sheet No 1 | Signature OC Company, etc | C.P.McPherson Capt. | Character Bad

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30-7-42	Pte	2	WOAS Drunkenness 27 Apr 43 ~~xxxx~~ ~~xxxxxxxxxxxxxxxxxxxx~~ in that he in the town of Guildford at approx 2305 hrs 30-7-42 was drunk and disorderly AA Sec 19	Documentry evidence	Admonished	5-8-42	Lt Col AB Noble	
Field	19-8-42	"		WOAS Disobeying a lawful command in that he when ordered to go on duty on the sanitary truck refused to do so AA Sec 9(2)	L/Cpl.Thursman Pte Knocker	14 days C.B.	20-8-42	AB Noble Lt Col	
Field	24-10-42	"		WOAS,Conduct to the prejudice etc in mess hall ahead of parade Sec 40	Sgt Kelly D	7 days C.B.	26-10-42	R.T.Bonnell Capt.	
Field	13-11-42	"		Unlawfully did assault and beat Frederick John Maley an officer of the county and in the execution of his duty Sec 12 of the Prevention Crimes act 1811	Police Sgt Malyan (22) Police Sgt Serufs Lach (21)	3 months hard labour Wormwood	3-12-42	Magistrate of Godalming.	

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Haig Bks Ewelott	28 Mar 43	Pte		AA Sec 15 (1) WOAS Absent from tattoo 1 hr Absent from parade 45 mins.	A/Cpl.Mills GJ A/Cpl.Stanley JR	7days C.B.	29 Mar 43	R.T.Sanson Capt.	
Field	3 June 43	Fus		AA-40 Conduct- discharged rifle without authority.	L/Cpl.Long Documentry	10 days pay	9 Jul 43	Major W.W. Reid	
Field	26 July 43	"		AA Sec 40- Neglect- unshaven on parade.	Sgt Brown LD	7 days C.B.	26 Jul 43	Capt.K.M.Harrison.	

Certified True Copy. [signature] Capt

Substitute for AFB 295
MFB 555

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

NO F89027 RANK Pte NAME MacNEIL, Raymond Louis UNIT CBH

AGE 22 MARRIED or SINGLE Single NO. of DEPENDENTS nil

DATE OF ATTESTATION 24 June 41

No of days in Close Arrest awaiting trial _____

Civil _____ Military 18 days Hospital _____ Total 18 days

Dates of appointments, promotions etc (if any) _____

Decorations Canadian Volunteer Service Medal

In the Field

DATE 18 Mar 44

R. D. Bowles Capt.
Officer i/c Regtl Books

Cape Breton Highlanders
Unit

NOTE: Certified true co py of MFM 6 must accompany this form.

"B"
WOMOS

2

H.Q.C. 55-1-1674 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MARTIN. WILLY G.49997 PTE.

CONFIDENTIAL
H.Q.C.55-1-1674

CENTRAL REGISTRY	DATE	P.A. OR D.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				D. Adm.	NEW FILE C.R.		
MAY 28 1945	28/5/45	P.A.	E.L.M.				
					passed per		25-5-45
JUL 13 1945	13/7/45	PA		Admin	Sent to		12.7.45
JUL 26 1945	JUL 25 1945	Pa		I.C.M.			
				I.C.M.	AUG 29 1945		
					Fol 22		OCT 18 1945
OCT 22 1945	22/10/45	PA			Passed per		19.11.45
					Papers C.R. NOV 8 1945		
NOV 9 - 1945							
NOV 1945	12/11/45	PA		Adm 3	To note remission		9/11/45
NOV 23 1945	23/11/45			D. Adm.	Per legislation C.R. NOV 22 1945		
DEC 9 - 1945	9/11/46	PA	was		PER REQUEST 18 NOV 9 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

CR-55-M-1674

IN REPLY PLEASE QUOTE No. J/38-M-946 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

~~405-M-35821~~

SAINT JOHN, N.B., 1 Nov 45.

Directorate of Records
A.G.
NOV 3 1945
Nat. Defence Hq
Ottawa, Canada

7342
NOV 5 1945
CENTRAL REGISTRY Army
File CJS-M-1674
Chge. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ont.

G-49997 Ex-Pte. MARTIN, W.

Enclosed please find AFA 3104 and original copy of Remission Form re the m/n ex-soldier.

2. Please note the balance of the marginally-named's sentence of Penal Servitude was remitted effective 25 Oct 45.

3. This soldier was discharged from the Canadian Army (Active) prior to remittance of sentence, and Part V of the Remission form has not been completed.

(D.R. Agnew) Brigadier,
District Officer Commanding,
Military District No. 7.

Encls. 2.

noted
9 nov 45
A McLeod
CMBR-5

32

Noted
Ld.

FORM OF REMISSION, COMMUTATION OR MITIGATION
OF SENTENCE BY COURT-MARTIAL

To:
The Warden,
Dorchester Penitentiary,
DORCHESTER, N.B.

N.D.H.Q. File No HQC 55-M-167A (JCM).....
DISTRICT FILE No. J/38-M-948 (JAG).....

PART I

No. G-49997..... Rank Pte..... Name MARTIN, W.....
Unit .. Royal 22nd Regt.....

PART II

Date of Trial 23 Mar 44.....
Charge (s) Disobeying a lawful command given by his superior Officer.....
A.A. Sec. 9 (2).....
.....

Sentence: Three years penal servitude.....
Date of Sentence: 23 Mar 44.....
Confirmation:..... (a) Authority:- Major-General i/c. Admin. CMHQ..
(b) Date :- .....

PART III - REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~xxxxxxxxxxxxxxxxxxxx~~ the balance of the period of penal servitude awarded G-49997 Pte. Martin, W. effective 25 Oct 45 and I do hereby order you to release the said soldier.

Signed at Saint John, N.B., this 22nd day of October 1945.

.....D.R. Agnew.....
(D.R. Agnew) Brigadier,
(Appointment) (District Officer Commanding, M.D. No. 7).
To be signed by the remitting authority personally.

PART IV - PROMULGATION

Remission (commutation) (mitigation)* promulgation and extracts taken at Dorchester Penitentiary Dorchester NB, this 29th day of October 1945.

Warden, Dorchester Penitentiary.
(1) .....
(~~Officer i/c Prisoners~~)

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. ..... Rank ..... Name .....
The sentence of .....
awarded by Standing (District) (Field-General)* Court-Martial on the
..... has been .....
.....

UNIT .....

Certified true extract of Daily Order Part II of
No. ..... Place .....Date .....

.....
Adjutant

* Strike out and initial words not applicable.

31

Army Form A 3104.

CANADIAN ... 2 APR 1944 ... C.A.O. ... CIRCULATION

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

E123

C.A.O. Case of No. G49997 Pte Martin W Unit R 22e R

Sentenced to Three years penal servitude on 23 Mar 44

Age on, and date of, enlistment 20, 2 Dec 42 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To ..... Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offences, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To ..... Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(6) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude

30

(*22948) Wt.20636/311 60,000 11/42 A.& E.W.Ltd. Gp.698 Form A.3104/11.

VI. Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
11 JUN 44	No remission	[illegible] MAJ-GEN GOC 1 CDN DIV	
	No remission. B/F 23 Mar 45.	[illegible] Brigade 10 Gen. Reg. C.R.R. 1 Can. 20 SEP 1944	
	NO REMISSION - RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	[illegible] (Beverley Matthews) Brigadier A/D.A.G. C. M. H. Q. 9 APR 45.	
	BALANCE OF SENTENCE REMITTED EFFECTIVE 25 OCT 45.	D.R. Agnew (D.R.Agnew) Brigadier District Officer Commanding Military District No 7	

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

	Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.	Sec 9 (2) AA - WOAS Disobeying a lwaful comd·given by his superior officer	8 Mar 44	23 Mar 44
	[illegible] Capt Signature of Officer making entry.		
VIII.—Second Trial.			
	Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
9 May 44	No remarks	[illegible] Major Commdg Regt Capt.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
26 Mar 44	I recommend that the sentence be served in full	[illegible] Brig 28

Diam

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO A.S.D., WOODS

BRANCH	TIME	SIGNATURE

R.C. SIGS
SST
NATIONAL DEFENCE BLDG.
OCT 20 1945
(OTTAWA)
ARMY SIGNAL OFFICE

RECEIVED
OCT 20 1945

3A

VER V AC NR 88

FROM CMDG 7 ST JOHN NB 2010500

TO ADJ GEN DND OTT

GRS 36 BT

A7787 UNCLASSIFIED RETEL RANKS 1027 DATED 19TH OCT 45 STOP BALANCE OF SENTENCE REMITTED EFFECTIVE 25TH OCT 45 STOP IMMEDIATE ACTION BEING TAKEN

BT 20 DL B

1220B

201849

69544

27

HQC 55-M-1574, Adm 3(a)

AIR MAIL

OTTAWA, Ont, 19 Oct 45.

District Officer Commanding,
Military District No 7,
ST JOHN, N.B.

G-49997 - Pte MARTIN W

1. Ref ranks 1027 this date:-

2. Enclosed herewith AF A3104 for the m/n soldier.

(A E Walford)
Major-General,
Adjutant-General.

(Encl 1).

GDB:mw

26

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

HQC 55-M-1674, Adm 3(a)

M.F. N. 3349
ISSUE 3-41 (1024)
K.F. 1249 H.Q. 1713-39-500

CIPHER

ARMY MESSAGE

(OUTGOING)

OTTAWA, Ont

FILE: 19 Oct 45.

District Officer Commanding,
Military District No 7,
ST JOHN, N.B.

PLACE: This message to be sent in Cipher

DATE:

RANKS: 1027 (RESTRICTED)

REVIEW REF AC 0267 D/18 OCT 45 REFERS

G-49997 Pte MARTIN W (.) CMBR RECOMMENDS

IMMEDIATE RELEASE (.) AG CONCURS (.) ACK

ADJUTANT GENERAL

Infm copy to:

AG
CMBR
JAG

Code Read
22/10/45
GDB

GDB:mw

G D Butler Capt
for (A E Walford)
Major-General, Adjutant-General.

IMMEDIATE

1005

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED			

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

25

AIRMAIL

COPY

DEPARTMENT OF NATIONAL DEFENCE

"CONFIDENTIAL"

Army

Saint John, N.B. Sep 5, 1945.

J/38-D-1535 (JAG) J/38-G-1590
J/38-M-946 J/38-F-981
J/38-G-1591 J/38-B-2545

IMMEDIATE ATTENTION CMBR

Secretary,
Dept. of National Defence,
OTTAWA.

G-57819 DESGAGNES J.G. G-4761 GILLILAND A.J.
G-49997 MARTIN W. G-22229 FOURNIER L.J.
G-51151 GALLANT, J.G. G-3918 BEERS W.A.

Reference your Ranks 6089 Unclassified, Urgent, dated 3 Sep 45.

Herewith M.F'sM.288 and/or Army Forms A3104, Concerning marginally named.

On 25th Aug 45, accompanied by the District A.J.A.G., I visited the Dorchester Penitentiary and personally interviewed all the marginally named as well as others hereunder mentioned.

The Warden of the Penitentiary reported that these men were all much superior to the ordinary criminal type usually found in such institutions; their individual conduct had been excellent and he was of the personal opinion that these men should be released at a very early date.

I am satisfied that all of these men will have immediate employment when released. My chief concern is to see that these men are rehabilitated as soon as possible and before they would be influenced by other inmates of the criminal type. It is my feeling that the loss of rehabilitation grants and gratuities is in itself considerable punishment and would, in most cases, offset the balance of sentence to be served.

In addition to the marginally named, the following discharged soldiers from this district were interviewed, viz.

G.23363 Pte. R. Gorman
Your file ref. H.Q.C.55-G-957
G.1564 Pte. Joseph Surrette
Your file ref. H.Q.C.55-S-1045
G.60520 Pte. O.J.H. LaFleur
Your file ref H.Q.C.55-F-477

Of those named in the above paragraph, it is noted that Ptes Surrette and LaFleur have served only a small proportion of their sentence.

With reference to G.4761 Pte. Gilliland, A.J., one of the marginally noted, remission of the balance of sentence was ordered in this case, effective 31st Aug 45, and Form of Remission will be forwarded as soon as completed and returned by the Penitentiary Officials.

(over)

24

During my interview with the Warden of the Penitentiary, I was informed that there were a number of discharged soldiers undergoing sentence from other military districts. In view of the above, no immediate action was taken as it was felt that this might lead to criticism from outside sources if there was any great disparity in the treatment of soldiers discharged from this district as compared with those discharged from other districts and as it was my intention to discuss this problem with the D.O.C. of the district concerned.

(Signed)
(D.R. Agnew), Brigadier
District Officer Commanding
Military District No. 7

HWH/W

HQC 55-[illegible]-1674 (CMHR) - 1/ecb
6 Sep 47
Case No--------0001

REVIEW OF SENTENCE

1. No, Rank and Name: G.49997, Pte. Martin, W.

2. Unit at date of offence: R.22nd R. - CMF - Italy

3. Charge: AA 9(2) - W.O.A.G. in the Field, at 1100 hrs 8 Mar 44 left his sentry post and refused to return to his post when ordered by a superior officer to do so, stating that he was afraid.

4. Place and Date of Trial: In the Field - Italy - 22 Mar 44

5. Finding: Guilty

6. (a) Sentence; Three years penal servitude

(b) Date of Sentence: 23 Mar 44

7. Date of Confirmation: 19 Apr 44

8. Date of Promulgation: 30 Apr 44

9. Being served at Dorchester Penitentiary in MD 7

(N.B. - Discharged under RO 1029 ( ) for
wef).

23

Case No ------

(In simple cases this sheet need NOT be used - See ITEM 12).

RECORD OF PROCEEDINGS

10. (a) Prosecution:

Proved that accused while on sentry duty in front line, returned to his platoon after a barrage started, stating that the shelling was too heavy for him to stand. His Pl Comd ordered him to return to his post but he refused, stating he was afraid.

(b) Defence:

	Accused testified?	Yes	No
	Under oath?	Yes XXXX	No
None - pleaded guilty		XXXX	XXX

(c) Closing address by Defence in mitigation of punishment, etc.

By accused

By Defending Offr

None appearing

72

Case No_____

CONDUCT

11. (a) Prior to conviction: **Excellent**

Date of enlistment: **21 Dec 42**

Date of ~~enlistment~~: Age: **22**

(b) After conviction: **Good. Has earned full remissions to date. Earliest date of release 1 Jun 46 (approx)**

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances).

13. Recommendations: (State by whom made, e.g., CMHQ, DCC, Reviewing Offr, etc).

CMHQ: To serve full sentence and be dismissed for misconduct.

RO: Release 1 Nov 45. Soldier very young at time of crime, has excellent record; was probably a bit bomb happy.

Reviewed by [illegible] Capt

---

14. Recommendation of the Board

Immediate Release.

22

Date OCT 10 1945

[illegible] Major
Secretary
Courts-Martial Board of Review

Note

Case to be reviewed by DLG 7 on 1 Oct 45
(Extract from Monthly Return)

OC
Cofa

12 Sep 45

21

INCLUDE ORIGINATOR'S NO. AS INTRODUCTION IN TEXT OF MESSAGE.

CLEAR

ARMY MESSAGE

(OUTGOING)

FILE: HQ 55-1-49 PD 2 Adm 3(b)

PLACE: OTTAWA, Ont.

DATE: 3 Sep 45

TO:

District Officer Commanding,
Military District No. 7,
SAINT JOHN, N.B.

RANKS 6089 (UNCLASSIFIED) URGENT ACTION (.) SUPERIOR MILITARY AUTHORITY AT NDHQ WILL SPECIALLY REVIEW CASES OF UNDERMENTIONED SUG (.) SEND IMMEDIATELY CONFIDENTIAL AIRMAIL SPECIAL DELIVERY MARKED quote IMMEDIATE ATTENTION CMBR unquote MFM 288 OR ARMY FORM A3104 AND LATEST REPORT ON CONDUCT AND REPORT ANY ACTION TAKEN BY YOU UNDER RO 5913 FOR:

G-57819 DESGAGNES J G
G-49997 MARTIN W
G-51151 GAILLANT J G
G-4761 GILLILAND A J
G-22229 FOURNIER L J
G-3918 BEERS W A

ADJUTANT GENERAL

WAS:mw

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT, INCLUDING { WIRELESS

E. W. Sandiner Capt for (A E Walford)
Major-General, Adjutant-General

SIGNED

DEGREE OF PRIORITY: IMPORTANT

TIME OF ORIGIN: 1243

SINGLE FORM FOR CLEAR MESSAGE

USE FOR ADDITIONAL DISTRIBUTION

20

COPY

CSS - M 1624
CK(C) - PA on file
W J Bowden
Admin (B)

VER V CIA NRS 49

FROM CMMG 3 KINGSTON ONTARIO 261820Q

TO DOG MD NO 7 ST JOHNS N B

RPT TO SNOTT HQ OTTAWA

GMS 235 BT

9230 RESTRICTED HQLNT RS 674(A) DATED 27 JUL 1945 STOP THE FOLLOWING NOS PRESENTLY HELD AT SERIAL 2069 WILL BE DESPATCHED UNDER ESCORT AND WILLARRIVE AT FREDRICTON NB AT 1105 HRS ON THE 1 AUG 1945 FOR DISCHARGE UNDER RO 1029(6) REPEAT EIGHT AND GRANTED A REMISSION OF THE UNEXPIRED PORTION OF THEIR SENTENCE STOP G FOUR NINE THREE SIX NINE GRIFFS JA STOP G TWO THREE FOUR SIX THREE LANTRIGHT L STOP G FOUR EIGHT FOUR NONORT LEBLANC H J STOP G TWO SEVEN FOUR ONE CHESTNUT G R STOP G FIVE SIX SEVEN NINE SIX BOUDREAU G STOP G FOUR NINE NINE NINE SEVEN MARTIN W WILL ALSO BE DESPATCHED AT THIS TIME FOR DISCHARGED UNDER RO 1029(6) AND FOR HIS RE/COMMITTAL TO DORCHESTER PENITENTIARY WHERE ACCOMMODATION IS AVAILABLE AT PRESENT IS ACCORDANCE WITH THIS HQS LETTER RS 674(A) DATED 26 JUNE 45 STOP O I/C 2ND REGIMENT CENTRAL HAS BEEN XXXXX ADVISED TO FORWARD ALL DOCUMENTS OF THESE SOLDIERS DIRECT TO OF NO 7 D D STOP REQUEST XXX TRAIN BE MET ON ITS ARRIVAL BY ESCORTS AND THIS PERSONNEL ESCORTED TO NO 7 DD STOP ADVISE CMMG SEVEN RPTD DEFENSOR

BT 2232CLSQ

GY B

original on 8554 L-Vis
noted on cards
fc

19

DEPARTMENT OF NATIONAL DEFENCE
- Army -

RQC 55- M-1674 (ICM)

NDHQ Ottawa, Ont

26 Jul 1945

CONFIDENTIAL
F.G.C.M.

District Officer Commanding

Military District No 3

Kingston, Ont.

G 49997 Pte Martin, Willy

Ref
K.55-M-5605-C.

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford), Capt
Major-General,
Adjutant-General.

18

EW/EB

IN REPLY PLEASE QUOTE No. K.55-M-5605-C(DAPM)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

3
2

328121

KINGSTON, Ontario, 9th July, 1945.

CONTROL SECRETARY, ARMY
JUL 11 1945
C.55-M-1674
Checked by
Returned to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

S.U.S. EX-ITALY G.O. 131/44
No.89 M.D.B. Fort Henry Barriefield, Ontario.

G.49997 Pte. MARTIN, W.

Reference this Headquarters' letter K.S. 674 dated 28th June, 1945 and H.Q.S. 8536-6 Vol.3 Adm 3(b)2 dated 25th June, 1945.

2. The Commandant, No.89 Military Detention Barracks, Fort Henry, Barriefield has advised this Headquarters that the marginally named soldier is presently confined to the Hospital at No.89 Military Detention Barracks and cannot be moved to No.7 District Depot at the present time.

3. As soon as this soldier is free of disease and is ready for movement, the Commandant, No.89 Military Detention Barracks will advise this Headquarters and action will be taken to have him returned to his District Depot.

4. Passed for your information.

t Watts
Major,
for (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Copy to: The Commandant,
No.89 M.D.B.,
Fort Henry,
BARRIEFIELD, Ontario.

OR

NAT. DEF. W 440
2500M 4-44 (4320)
H.Q. 1772-38-767

noted on card
PS.

17

THIS COPY FOR:

H.Q. C.55-M-1674
M.D. 10/Martin, W/2

GS

MEMORANDUM - ~~DISTRICT~~ FIELD GENERAL COURT-MARTIAL

No. G.49997 Name MARTIN, Willy

Rank Pte Unit R.22e R CAO CMF

Charge A.A. 9(2) WOAS, Disobeying a lawful.....

Date of Crime 8-3-44

Date of Arrest Charge Signed 18-3-44

Orders for ~~D~~ FG C.M. Brig Comd 3 Cdn Inf Bde

Place and Date of Trial In the field; 23-~~2~~3-44

Sentence Penal servitude 3 yrs.

Date of Confirmation 19-4-44

Date of Promulgation 30-4-~~45~~ 44

Entered in Records of J.A.G. as No. 3593

Date 10-5-45

MEMO Conf Auth directs that a part of the sentence not exceeding two years shall be served in a military prison.

Reviewed at CMHQ.

Balance of sentence remitted by Conf. Auth. 25-6-45

for Judge Advocate-General

10M-1-45(M-4629)

16

Quote No. H.Q.C.55-M-1674
(JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada
24th May 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

G.49997 Pte. MARTIN, W.

1. Receipt is acknowledged of your 10/Martin, W/2 dated 9th April 1945, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

A.F. A3104 is also acknowledged.

WBB:ELM

E. L. M.
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

15

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

4 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

G.49997 Pte MARTIN, W

SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of **penal servitude.**

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

W a Stilwell Major
for (A E Walford)
Major-General
Adjutant-General

Encl. 3

14

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Martin, W/2

CANADIAN MILITARY HEADQUARTERS

LONDON 9 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

8.555-M-1674

G.49997 Pte Martin, W.

1. The m/n soldier is now serving a sentence of 3 years penal servitude awarded by FGCM 23 Mar 44 for an offence under AA Sec 9(2). He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released if he continues so to do is 22 Mar 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the serious nature of the offence of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para.8 of Appx to C.A.R.O. 1029, and it is so recommended. This soldier probably realised that his wilful disobedience would lead to punishment and possible eventual discharge.

6. It has accordingly been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 23 Mar 44, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters.

Enc.4.

13

1/39a CMHQ 1000-76
40/P & S/803 (6739)

?

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS G.49997 Pte Martin, W. of R 22e R was by Field General Court-Martial held in the field convicted of the offence(x) of **disobeying a lawful command given by his superior officer** and by a sentence signed on the 23rd day of March 1944 sentenced to undergo **penal servitude** for 3 years

said sentence of **penal servitude** commencing on the aforesaid day, and such sentence has been confirmed by **Maj-Gen i/c Admin, CMHQ** as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 9th day of April 1945.

(Beverley Matthews) Brigadier
A/ Deputy Adjutant General
Canadian Military Headquarters.

12

ENTERED IN RECORDS OF C.M. HHH-127

E 103

Correspondence to be PINNED here.

Army Form A.3.

CANADIAN SECTION DISCIPLINE & PAY SECTION 2 APR 1944 G.H.Q. Base

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-Second day of March, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~xxxx

ER3

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G 49997 Pte Willy MARTIN, Royal 22e Regiment	First Charge Sec 9 (2)	guilty	guilty. To undergo penal servitude for a period of three (3) years. A.J.J.	I reserve confirmation of the finding and sentence for superior authority. 26 Mar 44

I confirm the finding and sentence and I direct that a part of the sentence not exceeding 2 years shall be served in a Military Prison.

P J Montague

(P. J. Montague) Maj General
i/c Administration
Canadian Military Headquarters

9 APR 1944

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) Brigadier (*Signed*) Major

Commanding 3 Cdn Inf Bde *President.*

Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 23rd day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 23rd day of March 1944

R. J. Major

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19

P J Montague

Confirming Officer.

Promulgated and extracts taken in the case of

Promulgated and extracts taken in the case of G-49997 Pte Martin, W * R 22e R

(a) (Dated) 30 Apr 44 (Signed) RAOC Personnel Assistant Ass-Dept. R 22e R

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(20704) W.L.47533/242. 25,000 2/42 A.& E.W.Ltd. Gp.698
(21785) W.L.19898/1259 40,000 7/42 " "

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field

on the 23rd day of March 1944 by order of

Brigadier L. S. Gibson

Commanding 3 Can Inf Bde

dated the 22nd day of March 1944

President.

Major L J Ou Can/Yorks R.

Members.

Capt J M Barry Can/Yorks R.

Capt H Tellier R22eR.

~~Judge Advocate.~~

Trial of* 549997 Pte Welly Martin R22eR.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that capt H Dube is not available to serve owing to the fact that he took the summary of evidence.

Capt H Tellier, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut J A Geroldami R22eR.

Counsel‡ or defending officer† Lieut P R de Saint Victor R22eR.

At 1450 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q7296. Wt. W2068/C111. 40,000 mcs. 11-40. R. & R., Ltd. G65/711. Forms A 9/50.

10

B

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

N.B. The accused having pleaded Guilty to The first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

"B2"

CHARGE SHEET

The accused G.49997 Private Willy MARTIN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:-

Charge
AA Sec 9 (2)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field, at 1100 hours on 8 Mar 1944, refused and did not return to his post of sentry when ordered to do so by Lieut. L. Turcotte, R.22e.R., saying he was afraid.

J.G. Charlebois
(J.G. CHARLEBOIS) Major,
T/Commanding Royal 22e Regiment.

In the Field
18 Mar 1944

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
22 Mar 44

T G Gibson
(T G Gibson), Brigadier
Commanding, 3 Cdn Inf Bde

R.J. Smith Major

9

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined No. 6 [illegible]

Rank Pte. Name Martin W. of Royal 22nd Regiment

and in my opinion he is fit/~~unfit~~ to undergo Trial by Court Martial.

Station In the Field

Date 23 March 1944

[illegible] Major

[illegible]

Medical Officer.

8

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court ~~having~~ been re-opened, the accused ~~is~~ again brought before it, ~~and the charge~~ to which he has pleaded ~~"Guilty"~~ read to him ~~again~~.]

The accused G 49997 Pte Willy Martin is found guilty of the first charge as laid.

H.J.G.

†The summary (or ~~abstract~~) of evidence is read, marked M signed by the President, ~~and~~ attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No

Answer. The accused in mitigation of punishment says :—

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

H.J.G.

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

7

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No

Answer.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut J A Geolami R22e R is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked B, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* No

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* N/A

[Instruction.—If by reason of the nature of the service of the accused in a disciplinary corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused. No

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

6

F

Sentence.

The Court sentence the accused Pte Willy Sentence

Mart in to undergo penal servitude for a period of three (3) years.

A.J. Gill Major

Extracts entered as No. 5573 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 17 day of May 1942

LIST OF WITNESSES FOR THE PROSECUTION

in the case of

G.49997 Private Willy MARTIN, Royal 22e Regiment

FOR THE PROSECUTION D.63280 L/Sgt Gedbois A.

R.57856 Cpl Michaud T.

FOR THE DEFENCE NIL

I hereby acknowledge receipt of a true copy of a Summary of Evidence taken prior to my trial by FGCM. I furthermore acknowledge receipt of a true copy of a charge sheet upon which I am being brought into Court Martial.

I desire the services of an officer to represent me at my trial.

I desire the services of LIEUT. AUDRIN.

if he is available.

Martin W pte

In the Field
18 Mar 44

A.G.Mc Major

5

M

SUMMARY OF EVIDENCE

In the case of G.49997 Private Willy MARTIN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service.

By direction of the Commanding Officer, this Summary of Evidence is taken under oath.

1st Witness For Prosecution

D.63280 L/Sgt Gadbois A. Royal 22e Regiment, having been duly sworn states:-

" I am D.63280 L/Sgt Gadbois A. of R.22e.R. posted to "C" Coy.

At 1205 hrs on 8 Mar 1944 G.49997 pte Martin W. was on sentry duty on the front line. His sentry duties were to end at 1300 hrs. When he appeared in the billets at 1205 hrs I asked him why he was not at his post. He said it is shelling too close. I told him to return to his post and he refused. So I reported this to my pl comd Lieut Turcot. Lieut. Turcot himself ordered him to return to his post. I was present when Lieut Turcot gave this order to the accused whom I now recognize. He still refused saying he was afraid. Lieut Turcot placed him under open arrest.

The accused declined to cross examine the witness.

Gadbois A. L/Sgt.

2nd Witness For Prosecution

E.57856 Cpl Michaud T. Royal 22e Regiment, having been duly sworn states:-

" I am E.57856 Cpl Michaud T. of R.22e.R. posted to "C" Coy.

G.49997 Pte Martin W. was detailed for sentry duty from 1100 hrs to 1300 hrs on 8 Mar 1944. At around 1215 hrs he came in the billets. Lieut. Turcot asked him why he was not at his post. He answered that there had been some shelling and that he was scared. Lieut. Turcot told him to return to his post. Pte Martin whom I now recognize as the accused, refused to go. So Lieut. Turcot placed him under open arrest.

The accused declined to cross examine the witness.

Michaud T. Cpl

The accused having been duly cautioned in French in accordance with RC 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

Y Duchesneau
Officer taking Summary

In the Field
18 Mar 44

Major

4

A

No. E-49997 Name MARTIN W. Sqn., Battery, or Company "C" Coy Corps R 22e R. Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /B136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Temp. Crime sheet - 10 March 1944.					

(P.T.O.)

"D"

TEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment
G-48222	Pte	Martin W.	Royal 22e Regiment

The following is a fair and true summary of the entries in the imental and squadron, battery or company conduct sheets of the used, exclusive of convictions by a court martial or a civil court summary awards under section 47 of the Army Act, and of cases in ch trial has been dispensed with:-

	Within last 12 months		Since Enlistment
FOR		Times	Times
FOR		Times	Times
FOR		Times	Times
FOR		Times	Times

Number of instances of gallantry or distinguished conduct,

or N/A

There are no entries in the conduct sheets of the accused

The accused has not been previously convicted, or,

vious convictions of the accused by a court martial or a civil c ary awards under section 47 of the Army Act, and dispensations h trial under section 73 of the Army Act, are set out in the odule annexed to this statement. N/A

The accused is not under sentence at the present time; or The cused at the present time is under sentence for

N/A beginning on the N/A day of N/A.

The accused has been in confinement, awaiting trial on the present charges for, N/A days in civil custody and 17 d in military custody, making a total of 17 d of which N/A days were spent in Hampton.

5. The present age of the accused according to his record of serv is 21

6. The date of his attestation specified in his record of service is 2-12-42

7. The service which the accused is allowed to reckon towards discharge or transfer to the service is N/A.

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or award). N/A

11. (If the accused is a warrant officer: The accused before he was de a warrant officer last held the regimental rank of N/A

(In the case of an officer) The accused holds in the army the nk of N/A dated N/A and in his regiment (or corps department) the rank of N/A dated N/A

Certified true extract from Records.
30 Mar 44. Pte Gendley, Lieut.
A.G.M.P. Major

2

H.Q.C. 55-M-1675 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MCDONALD. GORDON ELLIOTT H.100490 PTE.

71-80

CONFIDENTIAL
H.Q.C. 55-M-1675

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				(If purpose for which referred cannot be expressed on the line, add minute to file and enter here "With Minutes")			
				D. Adm.	NEW FILE	C.R.	APR 2 2 1945
MAY 29 1945	28/5/45	P.A.	EKM	JAG	Passed	wof	7-5-45
				admin	JUN 5 1945		
				SE(AG)	SE	wof	6.6.45
				D.A.G.	Memo. Fls. send file to Admin.		7.6.45
JUN 15 1945	15.6.45	PA	wof	Admin	Passed fls.	MBJ	14.6.45
JUL 26 1945		PA		I. C. Wi.			
				CWRR	OCT 2 1945		
				AG	Fol 25	was	OCT 20 1945
				Admin	Passed fls.		20/10/45
				JAG	Re request		14.11.45
NOV 17 1945					to note fls.		16.11.45
NOV 20 1945	20/11/45	PA		Adm	To note remission		19/11/45
NOV 21 1945							
NOV 23 1945	23/11/45	PA		D. Adm.	NOV 22 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : H 100490 Pte Gordon Elliot McDonald, Perth R

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	guilty	
2nd	Not guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

"WMWS" ~~Accused is not to be confined in a military prison or detention barracks until further orders.~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 0 days, of which ~~nil~~ days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned without hard labour for two years

(Sgd) "WMW SHaw" Capt — Judge-Advocate, if any. 24 Nov 44 — Date awarded. (Sgd) "N Hickling" Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the finding and sentence of the Court

I direct that the accused be not committed to prison or detention barracks until further orders.(1) "WMWS"
(1. AA 57A. Delete if not used.)

(Sgd) "I S Johnston" Brig
Commanding 11 Cdn Inf Bde — Confirming Officer.

Date 27 Nov 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H100490 Pte Gordon Elliott MCDONALD	27 Nov 44	"LJM" Lt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Certified true Copy (D M Owen) Capt Cdn Sec GHQ 2nd Echn AAI

RECORDED AT CMHQ IN AB 100 4J-118

CFA96 (To take place of AFA81) 40/P & S/1698 (40/10)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brig I S Johnston, DSO ED Comdl Cdn Inf Bde dated 21 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H 100490	Pte		Gordon Elliott	MCDONALD	Perth R

Proceedings Reviewed
"W P Taylor" Major
DJA 1 a Dec 44
Cdn Sec GHQ 2nd Echn AAI

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 24 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ "WMWS"
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to the interpreter ?~~ Ans ~~.....~~
~~The Interpreter is sworn.(1) Do you object to the shorthand writer ?~~ Ans ~~.....~~
~~The shorthand writer is sworn.(1)~~ "WMWS"
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	N Hickling	IRC
Member	Capt	D M Chisholm	CHH
Member	Lt	L G R Smith	CHH
Judge-Advocate	Capt	WMW Shaw	HQ 5 Cdn Armd Div
Prosecutor	Lt	G A Gallager	Perth
Defending Offr	Lt	T Cooper	Perth

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... "WMWS" (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

"WMWS" A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

"WMWS" A10. The Court (~~adjourned~~ and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form .....

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 69(A) (B); duty and privileges of accused and Defending Offr see RP 69(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No Sir .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s) and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. Do Neither Do you intend to call witnesses on your behalf ?
Ans.....Are they witnesses as to character only ? Ans. "yes" or "no".
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fn 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1) If the finding(s) amounts to a finding of Not Guilty on all charges, and there is no other charge on the charge sheet, the President forthwith announces the proceedings are concluded, and the Court of Inquiry, if any, is dissolved. "YES" or "NO".
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Yes Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A..... and Ex B..... respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes thru def offr .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would effect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6). RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused H 100490 Private Gordon Elliott McDONALD, The Perth Regiment C A ., a soldier of the Canadian Army (CMF), is charged with:

First Charge
Sec 12(1)(a)
Army Act

WHILE ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, when returning to his Company from twenty four hour leave at San Giovanni, absented himself, with intent to avoid front line seavice, from approximately 2030 hrs 12 September 44 until 1600 hrs 13 September 44, whenhe surrendered to Captain P J F Baker at "A" Echelon in the town of San Giovanni.

Second Charge
Sec 24(2)
Army Act

WHILE ON ACTIVE SERVICE, LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING, AND REGIMENTAL NECESSARIES

in that he

In the Field on 17 September 44, was found deficient of equipment, clothing and regimental necessaries as set out hereunder:

Article	Cost of Article	Lost less 25%
1 Brush shaving	.37	.28
. Holdall	.19	.14
1 housewife comp	.17	.14
1 Towel hand	.34	.24
1bottle water	.82	.60
1 carrier wb	.37	.28
1 Frog bayonet	.19	.14
1 haversack	1.79	1.33
1 Helmet steel	1.50	1.00
2 Pouches basic ea 1.19	2.38	1.78
2 straps supp web(ea 13)	.26	.20
1 Bottle oil	.08	.05
1 pullthrough	.10	.08
1 Scabbard Bagnet	.61	.45
1 Blanket	3.07	2.30
Total	$12.28	$9.19
1 Rifle Mk IV		45.48
1 Bayonet MK IV		2.46
	Total Value	$57.13

In the Field
16 Sep 44

"M W Andrew"
(M W Andrew) Lt Col
Comd Perth R

In the Field
16 Sep 44

To be tried by Field General Court Martial

"I S Johnston" Brig
(I S Johnston)
Comd 11 Cdn Inf Bde

"WMWS"
"ISJ"

21 Nov 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (D968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H 100490	Pte		Gordon Elliott	McDONALD	Perth R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 21 Nov 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Judge-Advocate, or (c) a President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Name	Unit.
Major	N H Hickling (Must be named. RP 106.)	I R C

MEMBERS.

Rank.	Name	Unit.
Capt	J F McKnight	Perth R
Capt	D M Chisholm (Named or detailed. RP 106.)	C B H

WAITING MEMBER.

Rank.	Name	Unit.
Lieut	L G R Smith (Named or detailed, if any. RP 106.)	C B H

JUDGE-ADVOCATE.

Rank.	Name	Unit.
Capt	W M W Shaw (Must be named, if any. RP 106.)	HQ 5 Can Armd Div

On Active Service in the Fd

in Italy (Country.)

"I S Johnston"
(Signed personally. RP 105 (or 12))

Brig (Rank.)

Date 21 Nov 44

Commanding II Can Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"WMWS" "IJ"

I certify that this morning I have examined H 1490 Pte Mc[redacted]nald G E and find him fit to undergo trial by court martial.

Station Field
Date 24 Nov 44 "WAWS"

"Undecipherable" Capt
Medical Officer

-1-

Capt McKnight not being available due to sickness Lt Smith waiting member takes his place as a member.

For this witness RP 76 complied with:-

1st Wit) A 11614 RSM Curtis, J.G.F., Perth, duly sworn states:-
Pros'n) Recognize acsd, Pte Mc Donald (pointing)
About 1600 hrs acsd reported to A Ech office. He sd he was AWL from his coy. He was placed under arrest. Was not wearing any equipment. I did not hear any conversation. This was 13 Sep 44. A Ech was at S Giovanni Remainder of Bn was approx 8 miles frwd. They were in the line holding a static position. Acsd belongs to "B" Coy
Xxm:- Heard only part of conversation between Capt Baker and acsd-heard acsd say AWL and under arrest and I immediately went for the Pro.
Capt Baker and the man walked under
Re-exam:- Nil

Court:- Acsd was quite normal. Cant say whether Bn had moved frwd to battle for Cosino.
RP 83(B) complied with

2nd Wit) C 102284 L/Cpl McDougall, B.W. Perth, duly sworn.
Pros'n) states:-
Am in B Coy 12 pl.
Acsd is Pre McDonald (pointing)
On nite 11 Sep 44 a leave party left coy to proceed to S. Geovanni on 24 hr leave-acsd was one of 6. On following night 12 Sep, party started to return to regt, We mounted trucks, acsd on same truck as self. We rode on trucks approx 45 mins towards front. Then dismounted, still light so decided to wait until dark to proceed to coy area., got into slit trenches and waited until dark. After got dark got the men together and acsd was not present. C Coy had gone ahead so thought acsd might have gone with them. We started out an when got to pl made enquiries, so his absence reported to pl Offr. Did not see acsd until after Regt relieved and had ret'd to S Geovanni for a rest on the 15 Sep. Coy was in same position as when we left. When debussed were about 1 1/2 miles from coy. Knew area because coy had been there. We all knew an attack to be put in that night.
We all had equip on debussing. Believe acsd got into slit trench right in front of mine. When moving off called to acsd 4 or 5 times but got

---

-2-

no answer.
Xxm:- Got in slit trenches because knew area and was quite light. One shell dropped in the area while we were there. Slit trenches in an old coy area on reverse part of hill. Rd not under shellfire a fire while we were on it. We got to Coy around 2000 to 2030 hrs. Our pl was up ahead of Coy HQ stopped at Coy HQ to leave small packs. Did not chech at coy HQ for acsd. There was another Pte i/c leave party which reported absence.
Saunders called names we only 4 left C coy had moved off ahead of us and thought he might have got confused and moved off with them. No coy offr or NCO on mounting trucks. We knew where going but no one told us. We found out about attack the night we left coy were told attack would be night 12/13. Am sure we got these orders from pl comd.
Re-exam:- When left coy we were warned that had to return following night to the line. Shell in the area 100 to 200 away. Was only the one shell.
Court :- Acsd in B coy in 12 pl-Don't know definitely what sec he was in at the time. Bn did attack nite 12/13-acsd not with us that nite or following morning and was not with us until relieved for rest. From debussing point A Ech was to rer. Did see acsd

during the 24 hrs in S Geovanni, he was not doing anything in particular
were not too greatly spread out while waiting for darkness. Did not
check the slit trenches.

RP 83(b) complied with

3rd Wit) B 42223 CQMS Hall, W.J. Perth, sworn, states:-
Pros'n QB Coy QMS
Know acsd, Pte McDonald (pointing)
On 17 Sep I made kit inspection of acsd, asked him what he had
done with it and he sd he had left it at front. I made list of kit
deficiencies. Acsd was present when inspection made.
Deficiencies were as follows(items as shown incharge sheet given
by witness) Prices are from current vocabulary rates, isa new list and
cheaper than before.
XXm:- QM of B Coy since Mar 44.
Quite a few men came back and told me had lost equip charge them
unless lost in action, acsd admitted had left everything at front. I man 1
loses while in action and something could not help he is not charged.
Coy area of B coy would be in action but ~~xxxxxxxx~~no reason to lose
equip there. When man comes out and has none of his equip that is pure
carelessness. Cant say how often have charged a man for rifle have had
them pay before this.
Never charged a man coming out of action for loss of rifle.

Re-exam:- nil
Court:- Asked acsd what short and he told me these articles compared with
his pt 111 pay book and articles
Y

---

had been issued previously. Articles deficient were replaced. Acsd
did not sign 913 or anything of that nature to pay for replacement.
Pl Sgt tries to look after kit in front line, acsd pl Sgt did not
have acsd's equip.
Acsd sd merely had left at front.

RP 83(b) complied with
Pros'n closed.

Pros'n closing:- Submit proven. Knew where going when left A Ech and
knew where coy was at front. Got off trucks but not there when ready to ~~go~~
moved. Could not have been lost even if asleep should have gone to
his coy . Ret'd to A Ech without equip, no reason to abandon equip
and therefore lost thru negligence and carelessness.
Def offr in closing:- Contend equip was at front, it was in reserve Coy
position.
Pros'n have not shownthat intended to avoid front line service
possible for man to get lost. If lost for an hr or so and he took cover
possible that could lose coy because of heavy shelling and the attack
that night.
J A sums up: Functions of court, credibilityof witnesses, presumption
of innocence, burden of proof, reasonable doubt. intent ,desertion and
AWL, AA 56 and RP 44 (D)

1st Wit)) A 11346 Sgt Read, AW Perth sworn states:-
(Character)
Was in B Coy. I was pl Sgt 12 pl and acsd was in pl for about
2 mos. pl came thru Gothic line to Coriano. Acsd came to us after
Hitler line, came thru Gothic line, inclined to be a little nervous
but caused no trouble or worry. Never thought he would go AWL. Consider
him normal soldier not outstanding, but always in there.
XXm:- I went to hospital after battle for Coriano. Was LOS for 2 days
while holding, around 9 or 10 Sep.
Re-exam Nil.
Court Nil.

RP 83(b) complied with
Def offr in mitigation:- Acsd clear conduct sheet. Is now 21. Joined Apr42 and discharged
Dec 42 honorably due to physical incapacity, had been in hosp with
pneumonia and nervous type. Regoined 43. Never had leave in Italy.
Soldiered thru Gothic line. Has never been any trouble ask ~~be~~ as lenient
as possible

"WM"Shaw" Capt

Subsitute for AFB 296

or MFB 356

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No N 100490 Rank Pte Name McDonald Gordon Elliott Unit Perth Regt

Age 21 Married or Single Single No of of Dependents Nil
Date of Attestation 28 Jun 43

Number of days in close arrest awaiting trial 6 days "ISJ"

Civil Nil Military 6 days Hospital Nil Total 6 days
Dates of appointments, promotions, etc, (if any)

Nil

Decorations CVSM & CLASP

In the Field

24 Nov 44 "A" "WWWS"

"C H Swartz" Capt Adjt
(Officer i-c Regt'l Books)

The Perth Regiment C.A. (CMP)

No 100490 Name McDonald Gordon Elliott | Sqn, Battery, or Company B | Corps CIC | Date of enlistment 30 6 42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PA5/126 (3428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc W Sharp Lieut | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sulo Camp Man				----------			Mar 7 1944		
								Ex "B" "[illegible]"	

This is a certified true copy of the original document held in my possession as custorian of regimental records.

"P L F Baker" Capt
(PL F Baker) Perth Regiment

(PTO)

W. 44-Mc-2492 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

NOV 10 1945
File 8429
Check by Admin 22-10-45

Winnipeg, Manitoba.
6th November, 1945.

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

REMISSION OF SENTENCE
H-100940, Pte. McDONALD, G.E.

Herewith, for custody, is Form of Remission of Sentence relative to the marginally-named, duly completed in accordance with C.A.R.O. 3974. MFM 288 is also enclosed herewith.

(R.O.C. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

enc.

APPENDIX 'G' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No.
District File No. W.44-Mc-2492(J)

PART 1

No. H-100490 Rank Private Name Gordon Elliott McDONALD

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial 24th November, 1944.
Charge(s)(1) Desertion (2) Losing by neglect
Sentence ..2 years imprisonement without hard labour
Date of Sentence...24th November 1944
Confirmation - (a) Authority Brig. I.S. Johnston, Commanding, 11 Cdn.Inf.Bge.
(b) Date .....November 1944

PART 111

REMISSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby remit the balance of the sentence of imprisonment as of the 30th day of October 1945.

Signed at Winnipeg, Man. this 30 day of October, 1945.

R.O.G. Morton

(R.O.G. Morton) Brigadier, District Officer commanding,
(Appointment) M.D. No.10.
To be signed by the Competent Authority or Superior Military Authority personally.

PART 1V

PROMULGATION

Remission( ) promulgated and extracts taken at Winnipeg, Manitoba, this 30th day of October 1945 (1)

Officer i/c Documents, No. 10 District Depot

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART 11

No H100490 Rank Private Name Gordon Elliott McDONALD

The sentence of 2 years imprisonment without hard labour awarded by District General Court-Martial on the 24th day of November, 194 4 has been remitted as of the 30th day of October, 1945, on the 30th day of October, 1945 by Brigadier R.O.G. Morton, District Officer Commanding, M.D.10.

Unit No. 10 District Depot, CA.

Certified true Extract of Daily Orders Part 11 No. 262 para. 29(1)d/3 NOV. 1945

Place Winnipeg, Manitoba, Date 3rd Nov. 1945.

Adjutant
No.10 District Depot, C.A.

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. H.100490 Pte McDONALD G.E. Unit The Perth Regt.

Sentenced to imprisonment without hard labour for two years. on 24 Nov 44

Age on, and date of, enlistment 20 - 28 Jun 43 Term of service Duration

FIRST TRIAL.

For details of offence, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude

(*22948) Wt.26636/311 60,000 11/42 A.& E.W.Ltd. Gp.498 Forms/A.3104/11.

24

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and rights earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	No remission. E.F. 10 May 45.	W. G. H. Roaf (W. G. H. Roaf) Brigadier O i/c Cdn Sec 1 Ech A.F.H.Q. 8 MAR 1945	
	No Remission Return to Canada in Custody Under Sentence	(Beverley M[illegible]) A/ Deputy-Adjutant General, Canadian Military Headquarters 8 APR 1945	
	No remission. E.F. Nov. 14/45	[illegible] Capt. for DDC MD 3.	
30 Oct. 45.	Sentence remitted as of 30 October, 45.	R.O.G. Morton (R.O.G. Morton) Brig. D.O.C., M.D.No.10.	

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial (1) AA Sec 12(1)(a) Deserting His Majesty's Service - AWL 2030 hrs 12 Sep 44 until 1600 hrs 13 Sep 44, with intent to avoid front line service. AA Sec 24(2) Losing by neglect etc. to value of $57.13. Found guilty on both charges, sentenced to imprisonment without hard labour for two years. Signature of Officer making entry.	12 Sep 44	24 Nov 44
VIII.—Second Trial. Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
28 Nov 44	Recommend no remission of Sentence	[illegible] Lt Col

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
29 Nov 44	I recommend that the sentence be not reduced.	[illegible] Brig Comd 11 Can Inf Bde

COPY

VER V CIA NRS 2 3 & 4

FROM COMMANDING THREE KINGSTON ONT 230955R

TO DOC MD NO 10 WINNIPEG MAN

TO OC NO 10 D D WINNIPEG MAN

TO SECTY IND OTTAWA ONT

GR 147 BT

KD 252 RESTRICTED

RELET KS 674(A) DATED 21 OCTOBER 45 STOP THE FOLLOWING SUS PRESENTLY HELD AT NO 89 MILITARY DETENTION BARRACKS WILL CEASE ATTACHMENT THAT UNIT AND SOS NO 3 DISTRICT DEPOT WEF 24 OCTOBER 45 STOP

H.63778 PTE SHEPIT GE

H.100490 PTE MCDONALD GE

STOP REGIMENTAL DOCUMENTS OF THESE SOLDIERS BEING DESPATCHED REGISTERED MAIL THIS DATE DIRECT TO OFFICER COMMANDING NO 10 DISTRICT DEPOT STOP THESE SOLDIERS WILL ARRIVE UNDER ESCORT VIA CPR AT WINNIPEG 0930 HOURS 26 OCTOBER 45 STOP REQUEST COMMANDING TEN HAVE ESCORT DETAILED TO MEET THIS TRAIN AT TRAINSIDE ON ITS ARRIVAL AS ESCORTS ON TRAIN ARE PROCEEDING WESTWARD STOP ADDRESSED COMMANDING TEN REPEATED OFFICER COMMANDING NO 10 DISTRICT DEPOT AND DEFENSOR

BT 231046R WE B

CR(c) PA on file
CSS-M-1675
WSJ
Admin 3(b)2

noted
PCS.

File: K-55-Mc-3946-C(DAPM)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

SPECIAL DELIVERY

KINGSTON, Ontario,
21st October, 1945.

District Officer Commanding,

Military District No. 10,
WINNIPEG, Man.

H-100490. Pte. McDonald. G.E.

Ref K.S.674(A) d/21/10/45 & HQC 55-M-1675(ICM) d/26/7/45.

2. Enclosed herewith:-

(a) AFA 3104

(b) Review Sheet

3. Pursuant to AA 57A, GO 245/45 and the provisions of CARO 5913, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

4. May a receipt for these documents be forwarded to this Headquarters, please.

Copy to: Secretary,
Dept. of National Defence,
OTTAWA, Ontario.
(for information)

Major,
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

AG 20/10

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

HQC 65-M-1076
Adm 3(a)

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE

PLACE	DATE
OTTAWA, Ont	20 Oct 45.

District Officer Commanding,
Military District No 3,
KINGSTON, Ont

RANKS 1081 (RESTRICTED)

REVIEW REF AG d/18 OCT 45 REF RS

H-100490 PTE McDONALD G E (.)

CMER RECOMMENDS IMMEDIATE RELEASE (.)

AG CONCURS (.) ACK

ADJUTANT GENERAL

Infm copy to: AG
CMER
JAG

GDB:mw

G B Betts Capt

for (A E Walford) Major
Adjutant-General

ORIGINATOR'S INSTRUCTIONS

IMMEDIATE 1120

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED			

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER — CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

HQC 65-M-1675 (CMBR-1)/eh
4 Oct 45
Case No 0212

PAGE 1.

REVIEW OF SENTENCE

1. No, Rank and Name: H-100490 Pte MCDONALD, G.E.

2. Unit at date of offence: Perth Regt CMF

3. Charge: (1) AA Sec 12 (1)(a) - WOAS was AWL for 24 hrs while returning from leave with the intent to avoid front line services.

(2) AA Sec 24 (2) - WOAS losing by neglect C&E to the value of $57.13.

4. Place and Date of Trial: In the field, Italy, 24 Nov 44

5. Finding: Guilty

6. (a) Sentence: 2 years imprisonment with hard labour

(b) Date of Sentence: 24 Nov 44

7. Date of Confirmation: 27 Nov 44

8. Date of Promulgation: 27 Nov 44

9. Being served at 89 M.D.B. in MD 3

(N.B. - Discharged under RO 1029 ( ) for wef).

Case No----------

CONDUCT

11. (a) Prior to conviction: Excellent, Clean Sheet

Date of enlistment: 20 Jun 43

Date of enrolment: Age: 22

(b) After conviction: Good.
(earliest date of release if full remissions are earned and continue to be earned 26 Mar 46)

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

This is a very peculiar case. The intention of the accused to desert by over staying his leave does not appear to be clearly proven. In view of the accused excellent previous record it would not appear that he is the type of soldier to desert. The accused fought very well at both the Hitler and Gothic line battle.

25

13. Recommendations: (State by whom made, e.g., CMHQ, DOC Reviewing Offr, etc).

CMHQ To serve sentence in full and to be discharged for Mis. conduct

Rev Offr. Recommends to be released at once in view of excellent record. Accused should be given benefit of the doubt.

Reviewed by [signature]
A.B. O'Keefe Capt

14. Recommendation of the Board

Immediate Release.

Date OCT 16 1945

[signature] Major
Secretary
Courts-Martial Board of Review

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55- 55-M-1675 (ICM)

NDHQ Ottawa, Ont

26th July 1945

District Officer Commanding

Military District No 3

Kingston, Ont.

CONFIDENTIAL
F.G.C.M.

H.100490 - Pte MCDONALD, Gordon Elliott
~~No 89 MDB~~

Ref

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford),
Major-General,
Adjutant-General.

24

971-80
H.Q.C. 55-M-1675

3

June 14, 1945.

Mrs. Jim McDonald,
424 Lipton Street,
Winnipeg, Manitoba.

Dear Mrs. McDonald,

Re: H-100490, Private G.E. McDonald

With reference to my letter of 1 June, 1945, I have now received a report respecting your son the above mentioned soldier.

I am informed that your son was tried by Field General Court Martial in November 1944 on a charge of desertion. He was found guilty of this charge and was sentenced to two years' imprisonment.

Your son's case has now been reviewed with due consideration to a report by a Neuro-psychiatrist who examined him.

Private McDonald has recently been returned to this country in custody in order that he may serve the balance of his sentence in Canada and it has been decided that he be discharged from the Army on the expiration of his sentence.

You will no doubt be interested to learn that there exists a system of good conduct marks whereby a soldier undergoing detention can earn a remission up to one-third of his total sentence. The ultimate date of your son's release is, therefore, dependent in large part on his attitude and conduct while serving his sentence. In view, however, of the seriousness of the charge, the responsible officers of the Department do not feel that

they

they can recommend any further remission of sentence at this time.

Yours very truly,

(H.L. Cameron) Colonel,
Military Secretary.

WHS
hml

MILITARY SECRETARY
JUN 8 1945
RECEIVED
971-80

MINISTERS OFFICE
JUN 8 1945
DEPT. N. D. OTTAWA.

M.S.

G. 55-M-1675 Adm 3(b)2

6 Jun 45

JUN 7 '45 PM

S.E. 926B d/8 Jun 45
Min. File: 971-80

RECEIVED

W.100490 Pte MCDONALD, C E

This SUS was tried by FGCM 24 Nov 44 on a charge under AA Sec 12(1)(a) - desertion - having absented himself with intent to avoid front line service.

2. He was found guilty of the charge and was sentenced to 2 years imprisonment.

3. This SUS was recently returned from C/S in custody under provisions of GO 131/44 and has been committed to No 89 MDB (Fort Henry).

4. MGA, CMHQ has recommended that in view of the serious nature of the offence committed that this SUS be required to serve his sentence in full and thereafter be discharged for misconduct under CARO 1029(8). It is stated that it is probable that this SUS has misconducted himself for the purpose of obtaining his discharge.

5. This soldier has been examined by the Neuro-psychiatrist and SPO and in making the above recommendation their findings and reports have been given full consideration. It is stated that he is fit to undergo sentence.

for G.A. Nicholls Maj
(A E Walford)
Major-General
Adjutant-General

FINAL

WOP:da

22

MINISTERS OFFICE
JUN 8 1945
DEPT. N.D. OTTAWA.

SPECIAL ENQUIRY

Date JUN 2 1945

No 926 B

To D Admin

Reply addressed to M.S will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned, for the A.G.

for: Adjutant-General

Min. File 971-80

A.G.

May the attached letter please be returned with a report for the Minister's information, of the offence, sentence and any review which has taken place.

Colonel,
Military Secretary.

1st June, 1945.

Mrs. Jim McDonald,
424 Lipton St.,
WINNIPEG, Man.

Dear Mrs. McDonald,

Re: H.100490 Pte. McDonald, C.E.

In the absence of General McNaughton, I have received your letter of 29 May 1945, and I regret to learn that your son is now serving a sentence of detention.

I will ascertain the particulars from the responsible officers of the Department, and will write you again as soon as I have the complete information.

Yours very truly,

(H.L.Cameron) Colonel,
Military Secretary.

B.F. 12 June 45.

JUN 2 1945

C 53- M. 1675

405-M-18882

RO

COPY

424 Lipton St.
Winnipeg, Man.
May 29th, 45

Defence Minister McNaughton,
Ottawa, Ont.

My dear Sir:

My apologies to you Sir, and trusting you will bear with me. Am sure I am displaying ignorance in the manner in which I am addressing you. But am so concerned about my boy, I am sufficiently bold to write you.

My son volunteered for service at age of 18, but was discharged owing to poor health. He volunteered the second time and while serving in Italy last Sept. he was ill with Jaundice and Kidney trouble.

He left the trenches and reported to Headquarters. Was immediately sent to a hospital. Where he spent 30 days. Was then sentence to Jail for 2 yrs.

Recently he was sent to Kingston Ont. I ask you Sir. Is that the way our boys are to be treated.

I have papers to prove he could not remain longer in the firing line, but did all humanly possible. If you so desire I shall send copies.

Will you please look into this matter? and see that he gets an honorable discharge also the money that he should have been receiving all this time.

A good many voters will be influenced by what is done, in this regard. Some wish for all information in order to make an issue of it during the present Campaign. My fore-fathers, our families, and ourselves have not voted naything but Liberal. But I must admit, this has casued an awful sore spot.

Shall withhold information for a sufficient length of time to enable you to give me the needed information if you act immediately.

Respectfully Yours,
"Mrs. Jim McDonald"

My Son concerned is H100490 Pte McDonald C.E.
Box 206 Kingston Ont
formally with Perth Reg't.

"Mrs. McD."

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Quote No. H.Q.C. 55-M-1675(JAG)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada
25 May 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial
H.100490, Pte. McDonald, Gordon Elliott.

1. 10/McDonald R.C.M.P. is acknowledged of your dated 194 , under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your A.F.W.A3104 is also acknowledged, and has been noted.

E F M Capt
for (R.J. Orde), Brigadier,
Judge Advocate-General.

/B

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OFFICE COPY: H.Q. C.55-M-1675
M.D. 10/McDonald, GE/4

GS

MEMORANDUM - ~~DISTRICT~~ FIELD GENERAL COURT-MARTIAL

No. H.100490 Name McDONALD, Gordon Elliott

Rank Pte Unit The Perth Regt CAO CMF

Charge (1) A.A. 12(1)(a) WOAS, Desertion

(2) A.A. 24(2) WOAS, Losing by neglect.....

Date of Crime (1) 12-9-44; (2) 17-9-44

Date of Arrest (1) 13-9-44 Charge Signed 16-9-44

Orders for ~~R~~ FG C.M. Brig Comd 11 Cd n Inf Bde

Place and Date of Trial In the field; 24-11-44

Sentence Imprisonment 2 yrs.

Date of Confirmation 27-11-44

Date of Promulgation 27-11-44

Entered in Records of J.A.G. as No. 3645

Date 14-5-45

MEMO Balance of sentence remitted by Conf. Auth. 28-10-47

Reviewed at CMHQ.

~~B~~ 17

for Judge Advocate General

10M-1-45 (M-4629)

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

7 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

H.100490 Pte McDonald G.E.
SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 24 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of imprisonment

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

for (A E Walford)
Major-General
Adjutant-General

Encl. 3

16

CONFIDENTIAL

AIR MAIL Quote No. 10/McDonald G.E/4

CANADIAN MILITARY HEADQUARTERS

LONDON 8 Apr 45

BOMBER

855-M-1675

Secretary,
Dept of National Defence,
Ottawa, Canada.

H.100490 Pte McDonald,G.E.

1. The m/n soldier is now serving a sentence of 2 years imprisonment awarded by FGCM 24 Nov 44 for an offence under AA Sec 12(1A). He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he could be released, if he continues so to do, is 26 Mar 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and SPO have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the serious nature of the offence of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 24 Nov 44, original AFA 3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

for (E.G.Weeks) Major General
In Charge of Administration
CANADIAN MILITARY HEADQUARTERS

ENC.4.

15

1/39a CMHQ 1000/76 40/P & S/803 (6739)

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS H-100490 Pte McDonald, G.E. of Perth Regt. was by Field General Court-Martial held in the field convicted of the offence(s) of Desertion

and by a sentence signed on the 24th day of November, 1944 sentenced to undergo imprisonment for 2 years

said sentence of imprisonment commencing on the aforesaid day, and such sentence has been confirmed by Comd 11 Cdn Inf Bde as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 8th day of April, 1945.

(Beverley Matthews) Brigadier
A/Deputy Adjutant General
Canadian Military Headquarters

14

RECEIVED 1-JAN 1945 AAG BRANCH G.M.H.Q.

RECORDED AT CMHQ IN AB 160 41-118

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AF13) 40/P & S/1006 (2004)

Convened by Order of Brig I S Johnston, DSO, ED Comd 11 Cdn Inf Bde Dated 21 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.100490	Pte		Gordon Elliott	McDONALD	Perth R

PROCEEDINGS REVIEWED

Verbatim copy 2 Jan 45

REVIEWING OFFICER, AAG BRANCH G.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date(s)*) 24 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2E-151

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	N. Keeping	RCE
Member	Capt	D.M. Kisholm	CBH
Member	Lt	L G R Smith	CBH
Judge-Advocate	Capt	W.M.W. Shaw	Adj Sch and Bns
Prosecutor	Lt	G.A. Gallagher	Perth
Defending Offr	Lt	T. Cooper	"

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea ~~(s)~~ .....

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

~~A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.~~

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

~~A10. The Court (is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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B3/149

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused H.100490 Private Gordon Elliott McDONALD, The Perth Regiment C.A., a soldier of the Canadian Army (CMF), is charged with:

FIRST CHARGE
Sec 12(1)(a)
Army Act

WHILE ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, when returning to his Company from twenty-four hour leave at SAN GIOVANNI, absented himself, with intent to avoid front line service, from approximately 2030 hrs 12 September 44 until 1600 hrs 13 September 44, when he surrendered to Captain F.J.F. Baker at 'A' Echelon in the town of SAN GIOVANNI.

SECOND CHARGE
Sec 24(2)
Army Act

WHILE ON ACTIVE SERVICE, LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING, AND REGIMENTAL NECESSARIES

in that he

In the Field on 17 September 44, was found deficient of equipment, clothing and regimental necessaries as set out hereunder:

Article	Cost of Article	Cost less 25%
1 Brush shaving	.37	.28
1 Holdall c	.19	.14
1 Housewife comp	.17	.14
1 Towel hand	.32	.24
1 bottle water	.82	.60
1 carrier w.b.	.37	.28
1 Frog bayonet	.19	.14
1 Haversack	1.79	1.33
1 Helmet steel	1.50	1.06
2 Pouches basic (ea.1.19)	2.38	1.78
2 straps supp web(ea. 13)	.26	.20
1 Bottle oil	.06	.05
1 Pullthrough	.10	.08
1 Scabbard Bayonet	.61	.45
1 Blanket	3.07	2.30
Total	$12.20	$ 9.19
1 Rifle Mk IV		45.48
1 Bayonet Mk IV		2.46
	Total Value	$57.13

In the Field
16 Sep 44

M W Andrew
a/Lt Col
(M W Andrew) Lt-Col
Comd Perth R.

witness

In the Field
16 Sep 44

To be tried by Field General Court Martial.

I S Johnston
(I S Johnston) Brig
Comd 11 Cdn Inf Bde

21 Nov 44

17

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
H.100490	Pte		Gordon Elliott	McDONALD	Perth R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 21 Nov 44 endorsed by me, ~~[illegible]~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	N H Hickling	I R C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J F McKnight	Perth R
Capt	D M CHISHOLM ~~R L Simmonds~~	C B H ~~P L F~~

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	L G R Smith	C B H

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	W M W Shaw	HQ 5 Cdn Armd Div

On Active Service in the Fd

in Italy (Country.)

I S Johnston
(I S Johnston) (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Date 21 Nov 44

Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (In lieu of AFAS) 40/F & S/1807 (4931)

(See overleaf for oaths and notes for use on trial.)

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I certify that this morning I have examined. 11490 Pte.
McDonald G E and fid him fit/~~unfit~~ to undergo trial by court
martial.
Station. Field
Date. 3.11.15.44.

Medical officer

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Capt McKnight not being available due to sickness Lt Smith acting member takes his place as a member.

Her dis witness RP76 complied with.

1st Wit Pros:- A11614 RSM Curtis, JGF, Perth, duly sworn, states:-
Recognize accd, Pte McDonald (pointing).
About 1600 his accd reported to A Sch office. He sd he was awk from his coy. He was placed under arrest. Was not wearing any equipment. I did not hear any conversation. This was 13 Sep 44. A Sch was at S. Giovanni. Remainder of Bn was approx 8 miles fwd. They were in the line holding a static position. Accd belongs to "B" Coy.
XX m:- Heard only part of conversation between Capt Baker & accd. Heard accd say awk & Capt Baker sd "This man will be placed under arrest" & I immediately went for the Pro.
Re-exam:- nil
Court: Accd was quite normal.
Can't say whether Bn had moved fwd to battle for Coriano.
RP73(B) complied with.

2nd Wit Pros:- C102284 L/Cpl McDougall, BF, Perth, duly sworn, states:-
Am in B Coy 12 Pl.
Accd is Pte McDonald (pointing).
On nite 11 Sep 44 a leave party left coy to proceed to S Giovanni on 24 hr leave. Accd was one of 6. On following night, 12 Sep, party started to return to regt. We mounted trucks, accd on same truck as self. We rode on trucks approx 45 mins towards front. Then dismounted. Still light so decided to wait until dark to proceed to coy area. Got into slit trenches & waited until dark. After get dark get the men together & accd was not present. C Coy had gone ahead so thought accd might have gone with them. We started out & when get to Pl made enquiries, so his absence reported to Pl offr. Did not see accd until after Regt relieved & had rtd to S Giovanni for a rest on the 15 Sep. Coy was in same position as when we left. When dismissed were about 1½ miles from coy. Knew area because coy had been there. We all knew an attack to be put in that night.
We had equip on returning. Believe accd got into slit trench right in front of mens.
When moving off called to accd 4 or 5 times but got

9

no answer.

XX-m:- Got into slit trenches because knew area & was quite light. One shell dropped in the area while we were there. Slit trenches in an old coy area on reverse part of hill. Rd not under shell fire while we were on it. We got to Coy around 2000 & 2030 hrs. Our Pl was up ahead of Coy HQ. Stopped at Coy HQ to leave small packs. Did not check at Coy HQ for acsd. It was another Pl f/c leave party who reported absent.

Saunders called names were only 4 left. C Coy had moved off ahead of us & thought he might have got confused & moved off with them.

No coy offr or NCO on marching trucks. We knew where going but no one told us. We found out about attack the night we left coy. Were told attack would be night 12/13. Can not say we get these orders from Pl comd.

Re-exam:- When left coy we were warned that had to return following night to the line. Shell in the area 100 to 200x away. Was only the one shell.

Court:- Acsd in B Coy in 12 Pl - Don't know definitely what sec he was in at the time.

On Div attack nite 12/13 - acsd not with us that nite or following morning & was not with us until allowed for rest.

From debussing point A Echl was to near Div see acsd during the 24 hrs in S. Giovanni, he was not doing anything in particular.

Were not too greatly spread out while waiting for darkness. Did not check the slit trenches.

R.P. 23(B) complied with.

3rd Wit Pros.] B42223 C/MS Hall W.J., Perth, sworn, states:
B Coy. QMS.
Know acsd, Pte McDonald (painting)

On 17 Sep I made kit inspection of acsd & asked him what he had done with it & he sd he had left it at front. I made list of kit deficiencies. Acsd was present when inspection made.

Deficiencies were as follows. (Items as shown in charge sheet given by witness). Prices are from current woodulary rates - is a new list & cheaper than before.

XX-m:- QM of B Coy since Mar 44.

Quite a few men came back & told me had lost equip. Charge them unless lost in action. Acsd admitted had left everything at front. If man loses while in action & something could not help he is not charged. Coy area of B Coy would be in action but no reason to lose equip there. When man comes out & has none of his equip that is pure carelessness. Can't say how often have charged a man for rifle. Have told them pay before this.

Never charged a man coming out of action for loss of rifle.

Re-ex-m:- nil

Court:- Compared with his Pt No. Pay book & entries. Said acsd what short & he told me these entries -

had been issued previously. Articles deficient were replaced - Accd did not sign S13 or anything of that nature to pay for replacement.
Pl Sgt tries to look after det in front line - accd Pl Sgt did not have Accd's equip.
Accd rd merely had left at front.
RP 53 (B) complied with
Pros.n closed

Pros in closing: sworn not proven. Knew where going when left A Ech & knew where coy was at front. Got off trucks but not there when ready to move. Could not have been lost when if asleep should have gone to his coy. Rejd to A Ech without equip - no reason to abandon equip & ∴ lost thru negligence & carelessness.
Def offr in closing: Contend equip was at front. it was in reserve coy position
Pros.n have not shown that intended to avoid front line service. Possible for man to get lost. If lost for an hr or so & he took cover possible that could lose coy because of heavy shelling & the attack that night.
J.A. sums up: Functions of court, credibility of witnesses, presumption of innocence, burden of proof, reasonable doubt, intent, desertion & AWL. AA56 + RP44 (B)

1st Wit Character] A113348 Sgt Read, HW, Pld. Sworn, states:
~~B coy~~
Was in B coy - 2 was Pl Sgt 12 Pl & accd was in Pl for about 2 mos. Pl came thru Gothic line to Coriano. Accd came to us after Hellfire line, came thru Gothic line. Considered to be a little nervous but caused no trouble or worry. Never thought he would go AWL. Consider him normal soldier, not outstanding, but always in there.
XX m: 2 went to hospital after battle for Coriano was LOB for 2 days while holding, around 9 or 10 Sep.
Re-exam: nil
Court: nil RP 53 (B) complied with

Def Offr in mitigation:-
Accd clear conduct sheet.
Is new at joined Apr 42 & discharged Dec 42 honorably due to physical incapacity - had been in resp hosp, pneumonia & nervous type
Rejoined 43 Never had cause in Italy soldered thru gothic line. Has never been any trouble. Ask he is lenient as possible

W M W Shaw
Capt.

Substitute for AFB 296

or AFB 336

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No. H.100490 Rank Pte Name McDONALD Gordon Elliott Unit Perth Regt.

Age 21 Married or Single Single No of Dependents Nil

Date of Attestation 28.Feb.41

Number of days in close arrest awaiting trial 6 days Cff.

Civil NIL Military 6 days Hospital Total 6 days

Dates of appointments, promotions, etc, (if any)

NIL

Decorations CVSM & Clasp

In the Field
4 Nov 44
(date)

C. H. Swart Capt
(Officer i/c Regtl Books)

The Perth Regiment C.A.(M.G.)

7

No H100496 Name McDONALD Gordon Elliott | Sqn, Battery, or Company: B | Corps: C.I.C. | Date of enlistment: 30-6-43 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAD/100 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No: One | Signature OC Company, etc: W. Sharp Lieut | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
SHILO CAMP, Man.						MAR 7 1944			

This is a certified true copy of the original document held in my possession as custodian of regimental records.

Capt
(P.J.F. Baker) Perth Regiment.

(PTO)

SUMMARY OF EVIDENCE

The Perth Regiment, C.A.
16 Sep 44
R P 4 F

Summary of Evidence in the case of H.100490 Private Gordon Elliott McDONALD, The Perth Regiment, a soldier of the Canadian Army (CMF), charged with:

1. WHILE ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE. (A.A. Sec 12(1)(a).

2. WHILE ON ACTIVE SERVICE, LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING, AND REGIMENTAL NECESSARIES.

R P 4 F

The Commanding Officer directs that all evidence be taken on oath.

First witness

Capt. P.J.F.Baker, OC of A Ech., the Perth Regt., having been duly sworn states;

"I am Capt. P.J.F.Baker, OC of A Ech., the Perth Regt. On 13 Sept. 1944 at approximately 1600 hrs. Pte.McDonald, whom I recognize as the accused here, walked into the Echlon orderly room and said " We are reporting from being AWL. We are from B Coy. We did not go in last night. After the trucks had dropped us, we went forward a slight distance waiting for it to get dark to proceed. Pte. Taylor and myself stayed there. We did not go forward"" I asked them, that is Pte. McDonald and Pte. Taylor, where their equipment was, to which Pte. McDonald replied ", Oh, we left it by the hole we were in, up there." I had them placed under arrest and warned them they would be on a charge of cowardice in the face of the enemy and on a charge of desertion."

P.J.F. Baker
P.J.F.Baker, Capt.

The accused declines to cross-examine the witness.

Second witness

C 102284, Pte.McDougall B.F., B Coy., the Perth Regt., having been duly sworn states;

"I am C 102284, Pte.McDougall B.F., a member of 12 Pln., B Coy., the Perth Regt., and was such on the 12 Sept. 1944. I recognize Pte. McDonald, the accused here as being also a member of 12 pln. On the night of 11 Sept. 1944 six members of my pln. went out of the line to San Giovanni for a 24 hr. rest. Pte. McDonald and myself were among the six from the pln., to go out. We left the town about 1930 hrs. 12 Sept. 1944 to go back to the front. Pte.McDonald boarded the truck the same time as I did. After we got off the truck and started back to the company, it was not quite dark enough so we decided to stay in some slit trenches for a while until it got darker. When it was ready to move ahead we called four or five times for Pte. McDonald and Pte. Taylor, but there was no answer. C Coy moved off ahead of us and thinking that both Pte.McDonald and Pte.Taylor might be with C Coy we followed on and moved back to our pln. and coy position. When we got to our area we enquired of the other men in the pln. and found these two had not returned. I next saw the two when the battalion was relieved and we came back to San Giovanni.

B. F. McDougall 5
C 102284 Pte.McDougall B.F.

The accused declines to cross-examine the witness.

Third Witness H 70313 Cpl.Davis V.R., B Coy., the Perth Regt., having been duly sworn states;
"I am H 70313 Cpl. Davis V.R., acting pln. sgt. of12 Pl., B Coy., the Perth Regt. and was such on 12 Sept. 1944. I recognize Pte. McDonald, the accused, as being a member of my pln. On the night of 11 Sept. 1944 six of my pln. went out from the front to San Giovanni for a rest of 24 hours. They left about dusk that day and the party returned the following evening. Pte.Saunders R.D., reported to me that Pte. McDonald and Pte. Taylor had not returned with the leave personnel. I checked and found that these two had not returned and I reported it immediately to Mr. Egner, the pln. officer, as they were to go to a forward position that night. I next saw the accused Pte. McDonald and Pte. Taylor on 15 Sept. 1944 at San Giovanni, when the unit went out of the line.

V.R. Davis
H 70313 Cpl. Davis V.R.

The accused declines to cross-examine the witness.

Fourth Witness B 42223 CQMS Hall W.J., B Coy, the Perth Regt., having been duly sworn states;
"I am B 42223 CQMS Hall W.J., company quarter-master of B Coy., the Perth Regt. I recognize the accused here as being Pte. McDonald, a member of B Coy. On 17 Sept. 1944 under instructions, I asked the accused what he was short in equipment. He said he had left his equipment at the front and didn't have it with him. I have prepared a list of what he was short and the value of the same, which I hereby present." (Appx. A)

W.J. Hall
B 42223 CQMS Hall W.J.

The accused declines to cross-examine the witness.

Question by offr taking the summary of evidence.

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

H 100490 Pte. McDonald G.E., states;

"I do not wish to make any statement at this time."

G.E. McDonald

The accused declines to call any witnesses in his behalf.

Rules of Procedure 4 have been complied with.

Taken by me in the presence and hearing of the accused this nineteenth day of September 1944

F.B. Kennedy
Capt. F.B.Kennedy.
(Officer detailed to take the Summary of Evidence .)

4

appx "A"

17 Sep 44

Shortages of Kit of H.100490 Pte McDonald G.E.

Article	Cost of Article	Cost less 25%
1 Brush shaving	.37	.28
1 Holdall	.19	.14
1 Housewife comp	.17	.14
1 Towel hand	.32	.24
1 bottle water	.82	.60
1 carrier w.b.	.37	.28
1 Frog bayonet	.19	.14
1 Haversack	1.79	1.33
1 Helmet steel	1.50	1.06
2 Pouches basic each 1.19	2.38	1.78
2 Straps supp web each .13	.26	.20
1 Bottle oil	.06	.05
1 pullthrough	.10	.08
1 Scabbard Bay.	.61	.45
1 Blanket	3.07	2.30
Total	$12.20	9.19
1 Rifle Mk 4		45.48
1 Bayonet Mk 4		2.46
	Total Value	$57.13

W J Hall

(B.42223 CQMS Hall W.J.)

Summary of Evidence in the case of H.100490 Pte
Gordon Elliott McDONALD, The Perth Regiment C.A.

F G C M

H.100490 Private McDONALD G.E.
The Perth Regiment C.A.

F G C M

LIST OF WITNESSES FOR THE PROSECUTION

Capt P.J.F. Baker	The Perth Regiment C.A. (CMF)
C.102284 Pte McDougall B.F.	The Perth Regiment C.A. (CMF)
B.70313 Cpl Davis V.R.	The Perth Regiment C.A. (CMF)
B.42223 CQMS Hall W.J.	The Perth Regiment C.A. (CMF)

FGCM

H.100490 Private McDONALD G.E.
The Perth Regiment C.A.

LIST OF WITNESSES FOR THE DEFENCE

N I L

F G C M

H.100490 Private McDONALD G.E.
The Perth Regiment C.A.

LIST OF EXHIBITS

Exhibit 'A'	List of Kit deficeiencies in the kit of H.100490 Pte McDonald G.E., dated 19 Sep 44 and signed by CQMS Hall W.J.

H.100490 Private McDONALD G.E.
The Perth Regiment C.A.

F G C M

I do/~~do not~~ desire the Convening Officer to appoint an officer to represent me at my forthcoming Trial by Field General Court-Martial.

I desire the services of

If he is available.

G E McDonald

(H.100490 Pte McDonald G.E.)

7.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No, sir (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... ~~charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Do neither. Do you intend to call witnesses on your behalf? Ans No, sir. ~~Are they witnesses as to character only?~~ Ans .....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 3, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans Yes, sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes, I've done my ..... (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A). KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5). MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1). KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Entered entered as No. 3645 in the Register of Courts-Martial kept in the Office of the Judge-Advocate-General of the Forces this 17 day of May 1948

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H100490 Pte Gordon Elliott McDONALD, Pay R

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	guilty	
2nd	Not guilty	guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned without hard labour for two years

(Sgd) W. M. Shaw Capt — Judge-Advocate, if any.

27 Nov 44 — Date awarded.

(Sgd) [illegible] Maj. — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirm the finding and sentence of the Court.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) (1. AA 57A. Delete if not used.) A.J.

Date 27 Nov 44

(Sgd) Geo. Johnston Brig.

Commanding 11 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H100490 Pte Gordon Elliott McDonald	27 Nov 44	[illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

H.Q.C. 55-M-1676

CONFIDENTIAL

H.F.B. 3078

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MACLAUGHLIN. RONALD MAURICE F.95526 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1676

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				D. Adm.	NEW FILE C.R.		APR 23 1945
MAY 18 1945	4.5.45	PA					9.5.45
JUL 26 1945				I.C.M.	C.R. JUL 18 1945		
1945	3.10.45			Admin	Per Regulation R.C. AUG 1945		
AUG 24 1945	23.8.45	PA		Admin	Per Regulation C.R. AUG 21 1945		
SEP 6 - 1945	5.9.45	PA		J.A.G.	To note.		31/8/45
OCT 2 - 1945	3.10.45	PA		Admin	PER B.F. OCT 3 - 1945		
FEB 2 1946	1/2/46	PA		Reg. Preserve	Per Regulation JAN 2 1946		
MAY 23 1946	23/5/46	PA		DRB	C.R. MAY 7 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : F 95526 Pte Ronald Maurice MacLAUGHLIN WNSR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 12(1)(a)	NOT Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At Field Punishment for~~ ~~beginning on (date)~~ "PFP" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned with hard labour for Eighteen months

(Sgd) ..... 6 Oct 44 (Sgd) "P.F. Potvin" Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Finding and sentence confirmed

~~I direct that the accused be re-committed to prison or detention barracks until further ordered.(1)~~ "PEB"
(1. AA 57A. Delete if not used.)

(Sgd) "P.E. BERNATCHEZ"

Date 11 October 44

Commanding 3 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F95526 Pte Ronald Maurice MacLAUGHLIN WEST NSR	13 Oct 44	"A.J.W. DYER" Capt Adjt. WEST N.S.R.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY (D.M. Owen) Capt. Cdn Sec GHQ 2 Ech - AAI

RECORDED AT CMHQ IN AE 160 4C-104

CPA86 (In lieu of AFA8) 40/P & S/1408 (9864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier P.E. Bernatchez Comd 3 Cdn Inf Bde dated 5 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F95526	Pte		Ronald Maurice	MacLAUGHLIN	WNSR

Proceedings Reviewed
25 Oct 44 "W.P. Taylor" Major
DJA
Cdn Sec GHQ 2 Ech - AAI
"PFP"

PROCEEDINGS OF TRIAL

Held in the Fd in (country) Italy on (date) 6 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JAs (if any), and Offrs under instr, if any~~, assemble, and the Court is closed. "PFP"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnnn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) "PFP"

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1140 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ "PFP"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused~~ : Do you object to ..... as interpreter ? Ans "PFP"

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer ? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc : "PFP"

President	Major	P F POTVIN MC	R 22e R
Member	Capt	C E BENT	WNSR
Member	Lieut	N M LEITCH	CYR
~~Judge-Advocate~~			
Prosecutor	Lieut	G N BUDRESKI	WNSR
Defending Offr	Lieut	H W LONG	WNSR

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused F95526 Pte Ronald Maurice MacLaughlin before arraignment make(s) (no) (or) plea (1) "PFP"

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.) "PFP"

A9. The accused is (are) arraigned (severally) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 at Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.) "PFP"

A10. The Court (adjourned) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....NO.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1) "PFP"
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against ~~the accused on the~~.....charge(s). ~~The Court~~ "PFP" is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the ~~.....~~ "PFP" .....charge(s), and allowed on the ~~.....~~ ~~charge(s) and that~~ accordingly, the trial will proceed on the former, ~~but the accused is (are)~~ found Not Guilty on ~~the latter charge(s)~~.(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. I wish to give evidence. Do you intend to call witnesses on your behalf ? Ans. No. ~~Are any witnesses as to character only ? Ans.....~~ "PFP"
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF #95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*) "PFP"

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s)~~ of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1) "PFP"
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans. NO
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "A" and Ex "B" respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes By my defending Officer.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.(2)~~ "PFP"
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused,
F95526 Pte Ronald Maurice MacLAUGHLIN, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, AAI, on Active Service is charged with,

1st Charge
Sec 12(1)(a)
Army Act

When on Active Service, DESERTING HIS MAJESTY'S SERVICE

in that he,

At approximately 0300 hrs 14 Sep 44, in the Field, when his platoon moved off against the enemy, absented himself without leave from his platoon and remained absent until approximately 1000 hrs 14 Sep 44 with intent thereby to avoid action with the enemy.
(Total time absent 7 hours)

In the Field
27 Sep 44

"A.L. Saunders"
(A.L. Saunders) Lt col
Command, West NSR

"TO BE TRIED BY FIELD GENERAL COURT MARTIAL"

In the Field
5 Oct 44

"P.E. BERNATCHEZ" Brigadier
.....
Command 3 Cdn Inf Bde.

"PFP" Pres.

"LJB"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8) 40/FAS/1697 (2502)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
F 95526	Pte		Ronald Maurice	MacLAUGHLIN	WNSR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~[illegible]~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Oct 44 endorsed by me, (~~[illegible]~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~[illegible]~~) "PEB"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ "PEB"

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ "PEB"

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	P F POTVIN MC	R R R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	C E BENT	WNSR
Lieutenant	N M LEITCH	CYR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	W S McCULLAM	WNSR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

"P.E. BERNATCHEZ" (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 5 Oct 44

Commanding 3 Cdn Inf Bde.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"PFP" Pres.

MEDICAL OFFICERS CERTIFICATE

KR (CAN) PARA 557

I certify that I have this morning examined:

No. F95526 Pte McLAUGHLIN R.M. WEST NOVA SCOTIA REGIMENT

and in my opinion is fit to undergo trial by Court Martial.

Station Field

Date 6 Oct 44

"J.R. N??????" Capt
Medical Officer

"PFP" Pres.

OPENING ADDRESS BY PROSECUTOR

In the case of Pte MacLAUGHLIN R.M. the prosecution will prove that he absented himself at 0300 hrs 14 Sept that he returned at 1000 hrs 14 Sept to his rear Coy HQ - the defence no doubt will point out that he returned back to the Coy or platoon who at the time was engaged at the village of San Lorenzo -, but no doubt will not mention that it was approx 4 days later, proof of which will be brought forward by the Prosecution.

"PPP" Pres.

---

(1)

F 95526 Pte McLAUGHLIN R.M.

FOR PROSECUTION

1st Witness

F4552 Sgt Amberian V C after being duly sworn states.

I am Platoon Sgt No.17 Platoon. At 0300 hrs. 14 Sept 1944, No.17 Platoon was halted on the way to the start lane for battle. I checked No.17 Platoon and Pte McLAUGHLIN could not be found. I reported this to Coy. Headquarters and marked him absent from 0300 hrs 14 Sept 1944.

From the F.U.P. to where we halted the Platoon did not undergo any heavy shelling or machine gun fire, from the enemy. To my knowledge there were no casualties from the F.U.P. to where we halted. To my knowledge Pte McLAUGHLIN was present at F.U.P.

Cross examined by Defence.

I identify Pte McLAUGHLIN as a member of my platoon. It is approximately half a mile from F.U.P. to the place where we halted. There was only intermediate shelling in the area for the previous six to eight hours.

R.P. 83(B) Complied with.

2nd Witness For Prosecution. F 41668 CQMS Leblanc D.J. WNSR, sworn, states.

I am F41668 CQMS Leblanc D.J. of D Coy. WNSR. On the morning of

"PPP" Pres.

2nd Witness For Prosecution

of 14 Sept 1944 at approximately 1000 hrs. Pte McLAUGHLIN reported to me from having been AWL I then sent him down to Main HQ WNSR and reported him to the Adjutant Captaan Dyer, Officer in charge main H.Q.

Pte, McLAUGHLIN reported to me that he couldn't go on and had come back. I explained to him the seriousness of the charge he was letting himself in for. He didn't answer.

CROSS EXAMINED BY DEFENCE

I did not take any steps to put Pte. McLAUGHLIN under arrest when he reported to me because I had only enough men to carry out my duties. When I moved my cook house back I hadn't sufficient room to take Pte McLaughlin on my jeep so ordered some of my men to walk back and take Pte McLaughlin with them. I later saw Pte. McLAUGHLIN at main H.Q.

next page.

Cont'd
QUESTION BY THE COURT
At 1000 hrs when Pte McLAUGHLIN came in No.17 Platoon was more than 700 yards forward.

R.P. 83 B complied with.
"PFP" Pres.

1st Witness
For Defence.
F95526 Pte McLAUGHLIN R.M. WNSB sworn states:
I am F95526 Pte McLAUGHLIN R.M. When we started out on our way about 0300 hrs to the start line my nerves weren't too good so I reported to L/Cpl. Williams my section commander and he told me to report to Sgt. Amberman and I looked for Sgt. Amberman and could not find him. Then Ireported to CQMS Leblanc. The same day CQMS Leblanc sent me to Rear Battalion. We then stayed there that night until morning when CQMS Leblanc was going to wake us to take us back to the line. He did not wake me in the morning. I then stayed there until the afternoon when I started for the R.A.P. When I got there it had moved so I came back to Rear Battalion and stayed until Pte BROWN came along that night. and he took us up in a jeep to where Rear Battalion had moved to. In the afternoon I went from there to Bn HQ and turned myself over to Pte. Churchill.
When I left my post I intended going to the R.A.P.

CROSS EXAMINED BY PROSECUTION.
I think L/Cpl. Williams is in the Hospital. I had no one's permission to leave I admit I took it on my own to go A.W.L. I knew the Coy. was going into attack that night and on the way to attack.

R.P. 83 B complied with.
"PFP" Pres.

---

(12)

SUMMING UP BY THE PRES.
The Pres has shown that the accused left his platoon in action by the statment of Sgt Amber & of his own . The states that of his own free will and without anyones permission he left - therefore I submit to the court that he be found guilty as charged.
"PFP"

(13)

IN SUMMING UP THE CASE FOR THE DEFENCE.

We grant that Pte McLAUGHLIN left his platoon and was AWL for the period stated in the charge. However the prosecution has not proven that the accused intended to dessert. The evidence of Sgt Amberman with reference to the shelling being medium not heavy is a debateable point. In the heat of battle every headquarters is busy and every man has a job to do; they cannot bother with odd stragglers. I contend that Pte McLAUGHLIN was correct in waiting for a lull in the battle to finally report after being unsuccessful originally in giving himself up on that the CQMS hadn't time to pay much attention to him.

"H.W. LONG" Lt.
Defending Officer.

"PPP" Pres.

---

(14)

PLEA IN MITIGATION OF SENTENCE.

For the information of the court the last crime of the accused was early in this year and was a short AWL for which he received a few days CB. He is very young and has been under fire. We all know how trying continued shellfire is and it breaks down men especially young soldiers in their first time in the line. The accused was really fagged out and felt it would be a detriment to his health to continue so took it upon himself to try and get medical aid. I am convinced that he was not aware of the seriousness of the offence he was committing and certainly didn't entend to dessert. I ask the leniency of the court.

"H.W. LONG" Lt
Defending Offrs.

"PPP" Pres.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Ex "A" (P.F.P.)

Number.	Rank.	Name.	Regiment (or as the case may be).
F 95526	Pte	McLAUGHLIN Ronald Maurice.	West NSR

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Supplementary MFM 6 only ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for n/a

beginning on the n/a day of n/a

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 22 days in military custody, *i.e.*, ... days in open arrest, 22 days in close arrest; of which NO days were spent in hospital.

5. The present age of the accused is 21 yrs

6. The date of his attestation / calling up for military service is .....

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of†

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55900/1602 20,000 3/44 51-4751. Forms/B.296(War)/1

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 6th day of October 1944

"A.J.W. DYER" Capt
Officer i/c Records,
WEST NSR

No P95526 Name McLaughlin RM | Sqn. Battery or Company | Corps CIC | Date of enlistment 9-1-42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				No entries previous to FGCM on MFM 4.					
				CERTIFIED TRUE EXTRACT FROM MFM 4					
				[illegible] [illegible]					

(PTO

Supplementary (15)

No. F995526 Name McLAUGHLIN RN | Sqn, Battery, or Company: D | Corps: CIC | Date of enlistment: | GC Badges: | Service or Proficiency Pay: | MFM 6 (AFB 122) 40/P&S/136 (3489)

Date of last entry in Company Conduct Sheet: | No and date of last drunk: | Period not reckoning towards freedom from extra fine: | Sheet No | Signature OC Company, etc: "J.K. RHODES" Character Major.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Certified true copy from the regimental books in my custody. 27 Sep 44 "A.J.W. DYER" Capt. ..... Officer i/c regimental records, West						NSR.	Ex "B"	"PFP"	Pres.

(PTO)

HQC 55-M-1676
(JAG/D)

OTTAWA, 5 September 5

District Officer Commanding
Military District No. 6
HALIFAX, N.S.

Field General Court-Martial
F-95526, Pte MacLAUGHLIN, RM

Receipt is acknowledged of your H. Mac-2889 (JAG) dated 27 Aug 45, under cover of which you forwarded to this Headquarters AF A3104 and Proceedings of the m/n FGCM.

EAM

for (R.J. Orde) Brigadier
Judge Advocate General

/jm

IN REPLY PLEASE QUOTE
No. H. Mac-2889 (JAG)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CANADA

Headquarters, M. D. No. 6,
Halifax, N. S., 27 Aug 45.

CONFIDENTIAL

194

Secretary,
Department of National Defence,
Ottawa, Ontario.

m-1676
C-55-m.1960

F-95526 Pte. MacLAUGHLIN, R.M.
S.U.S. Ex-Italy

Ref HQs 8536-6 Vol.3 Admin 3(b)2 d/23 Aug 45.

2. The m/n soldier will be released 6 Oct 45 and discharged under R.O. 1029(8) if he earns his full remission for good conduct hereafter.

3. A3104 and Proceedings of FGCM are herewith returned.

(D.A. White) Brigadier,
D. O. C., M. D. No. 6.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-191-23

RECORDED AT CMHQ IN AB 160 4C-104

RECEIVED 1944 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA8) 40/P & S/1068 (40701) 4/38B

Convened by Order of Brigadier R.E. Burmatcher Comd 3 Cdn Inf Bde dated 5 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
F45526	Pte		Ronald Maurice	MacLaughlin	

PROCEEDINGS REVIEWED 7 Nov 44
Capt W. C. Drich
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 6 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

2C 87

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1140 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans.....~~
~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans.....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	P F Potvin MC	RCAC
Member	Capt	C E Bent	WNSR
Member	Lieut	N M Leitch	CYR
~~Judge Advocate~~			
Prosecutor	Lieut	G N Budreski	WNSR
Defending Offr	Lieut	H W Long	WNSR

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused F45526 Pte Ronald Maurice MacLaughlin before arraignment make(s) ~~(are)~~ ~~(or)~~ plea(s) NO ~~Not Guilty~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 2. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 37(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(5)

CHARGE SHEET

The Accused,
F95526 Pte Ronald Maurice MacLAUGHLIN, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, AAI, on Active Service is charged with,

1st Charge
Sec 12 (1) (a)
Army Act

When on Active Service, DESERTING HIS MAJESTY'S SERVICE

in that he,

at approximately 0300 hrs 14 Sep 44, in the Field, when his ~~regiment~~ platoon moved off against the enemy, absented himself without leave from his ~~regiment~~ platoon and remained absent until approximately 1000 hrs 14 Sep 44 with intent thereby to avoid action with the enemy.
(Total time absent ~~2 days~~ 7 hours)

In the Field
27 Sep 44

(A L Saunders) Lt col
Command, West NSR

"TO BE TRIED BY FIELD GENERAL COURT MARTIAL"

In the Field 5 Oct 44

Brigadier
Command 3 Can Inf Bde.

(6)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F95526	Pte		Ronald Maurice	MacLAUGHLIN	WNSR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 5 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F F Potvin MC	R22R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	C E Bent	WNSR
Lieutenant	N M Leitch	CYR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	W S McCullam	WNSR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 5 Oct 44

(Signed personally. RP 105 fn 2.) — Brigadier (Rank.)

Commanding 3 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAR5 (In lieu of AFA2) 40/P & S/169T (4651)

(See overleaf for oaths and notes for use on trial.)

(7)

MEDICAL OFFICER'S CERTIFICATE
AD (Gen) R.R. 227

Certify that I have this morning examined:
No. F95526 Pte. McLaughlin R.W. West Nova Scotia Regiment
and in my opinion is fit ~~unfit~~ to undergo trial by court martial
station. Field
Date 6 Oct. 44

J. R. Shriner Capt.
Medical Officer

Opening address by Prosecutor

In the case of Pte. McLaughlin the prosecution will ~~show~~ prove that he absented himself at 1300 hrs 14 Sept that he returned at 1800 hrs 14 Sept by Van Bay by. The defence no doubt will point out that he returned back to the Bay reflection which at the time was engaged at the village of San Lorenzo, but no doubt will not mention that it was approx 3 days later, proof of which will be brought forward by the Prosecution!

AB/Aus.

K. 224 Pte McLaughlin K.M.

(9)

For Prosecution

1st Witness for P

3455 2 Sgt Amlein VC

1 after being duly sworn states

I am Platoon Sgt No. 17 Platoon. At 0300 hrs. 14 Sept 1944 No. 17 Platoon was halted on the way to the start line for battle. I checked No. 17 Platoon and Pte McLaughlin could not be found. I reported this to Coy. Headquarters and marked him absent from 0300 hrs 14 Sept 1944.

From the F.U.P to where we halted the Platoon did not undergo any heavy shelling or machine gun fire from the enemy. To my knowledge there were no casualties from the F.U.P. to where we halted. To my knowledge Pte McLaughlin was present at F.U.P

Cross examined by Defence

I identify Pte McLaughlin as a member of my platoon. It is approximately half a mile from F.U.P to place where we halted. There was only intermittent shelling in the area for the previous six to eight hours.

R.P 83 B complied with

2nd Witness

For Prosecution F 41668 CQMS Leblanc D.J WNSR, sworn, states

I am F 41668 CQMS Leblanc D.J of D Coy. WNSR. On the morning of

2nd Witness
For Prosecution

On 14 Sept 1944 at approximately 1000 hrs. Pte McLaughlin reported to me from having been A.W.L. I then sent him down to Main H.Q. W.N.S.R. and reported him to the Adjutant Captain Dyer, officer in charge Main H.Q.

Pte. McLaughlin reported to me that he couldn't go on and had come back. I explained to him the seriousness of the charge he was letting himself in for. He didn't answer.

Cross examined by Defence

I did not take any steps to put Pte McLaughlin under arrest when he reported to me because I had only enough men to carry out my duties. When I moved my coy home I took I had sufficient room to take Pte McLaughlin in my jeep or ordered some of my men to walk back and take Pte McLaughlin with them. I later saw Pte McLaughlin at Main H.Q.

Question by the Court

At 1000 hrs when Pte McLaughlin came in No. 17 Platoon was more than 700 yards forward.

R.P. 83 B complied with

Pres.

1st Witness
For Defence

F 95626 Pte McLaughlin R.M. WNSR sworn, states:

I am 95526 Pte McLaughlin R.M. When we started out on our way about 03.00 hrs to the start line my nerves were not too good so I reported to L/Cpl. Williams my section commander and he told me to report to Sgt Ambrose and I looked for Sgt Ambrose and could not find him. Then I reported to C.Q.M.S. Leblanc. The same day C.Q.M.S. Leblanc sent me to Rear Battalion. We then stayed there that night until the morning. The C.Q.M.S. Leblanc was going to wake us to take us back to the line. He did not wake me in the morning. I then stayed there until the afternoon when I started for the R.A.P. When I got there it had moved so I came back to Rear Battalion and stayed there until Pte Brown came along that night and he took us up in a jeep to where Rear Battalion had moved to. In the afternoon I went from there to Bde H.Q. and turned myself over to Pte Churchill.

When I left my post I intended going to the R.A.P.

Cross examined by Prosecutor

I think L/Cpl. Williams was in the Hospital. I had no one's permission to leave. I admit I took it on my own to go A.W.L. I knew the Coy was going to attack that night and on the way to attack.

R.P. 83 B complied with

Summing up by the Pros

The Pros. has shown that the accused left his station in action by the statement of the driver & of his own. He states that of his own free will and without anyone's permission he left — therefore I submit to the court that he be found guilty as charged.

2x Summing up the case for the defence.

We grant that Pte McLaughlin left his platoon and was AWL for the period stated in the charge. However the prosecution has not proven that the accused intended to desert. The evidence of Sgt Anderson as to reference to the shelling being medium not heavy is a debatable point. In the heat of battle every headquarters is busy and every man has a job to do; they cannot bother with odd stragglers. I contend that Pte McLaughlin was correct in waiting for a lull in the battle to finally report after being unsuccessful originally in giving himself up or that the CQ had not time to pay much attention to him.

J.H. Long Capt
Defending Officer.

Adv

Plea in mitigation of sentence:

For the information of the Court the last crime of the accused was early in this year and was a short AWL for which he received a few day CB. He is very young and has been under fire we all know how ~~[illegible]~~ trying continued shellfire is and it breaks down men especially young soldiers in their first time in the line. The accused was really fagged out and felt it would be a detriment to his health to continue so took it upon himself to try & get medical aid. I am convinced that he was not aware of the seriousness of the offence he was committing and certainly didn't intend to desert. I ask the leniency of the Court

Lt for Lt
defending offr.

(16)

F95526 Pte Ronald Maurice MacLAUGHLIN

Supplementary MFM6 only

22

26

F95526 Pte MacLaughlin, R M

6th AWB October.

~~September~~ 4

Capt.

Ex: A

No. F. 91552 6 Name McLaughlin R.N. Sqn., Battery, or Company J Corps C.I.C. Date of enlistment Supplementary G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F. B.122) 40/P & /8136 (2965) 15

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. J. K. Rhodes Capt. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified true copy from the regimental books in my custody
27 Sep 44

.....
Officer i/c regimental records, West NSR

Ex. "B"

(P.T.O.)

SUMMARY OF EVIDENCE in the case of F95526 Pte Ronald Maurice MacLAUGHLIN, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, AAI , on Active Service.

By the order of Lt col A L Saunders, Comd, West NSR

Evidence taken on oath.

First Witness for Prosecution — F41552 Sgt Amberman, V C, West Nova Scotia Regiment, having been duly sworn states :-

I am F41552 Sgt Amberman, V C , platoon Sgt of #17 platoon "D" Coy West NSR of which Pte MacLaughlin R M is a member. At approximately 0300 hrs 14 Sep 44, 17 platoon was halted on the way to the start line for an attack. The section commander of #4 section came to me and told me that Pte MacLaughlin said he could not go on. The section commander told him to report to Lt Hollinger, 17 platoon commander. I immediately checked with Lt Hollinger and found that Pte MacLaughlin had not reported to him. I then checked my platoon and found Pte MacLaughlin was not present, at which time I marked him absent from 0300 hrs 14 Sep 44.

Signed V.C. Amberman

The accused declines to cross examine this witness.

Second Witness for Prosecution — F41668 CQMS LeBlanc, D J , West Nova Scotia Regiment, having been duly sworn states :-

I am F41668 CQMS LeBlanc, D J of "D" Coy West NSR. At approximately 1000 hrs 14 Sep 44 Pte MacLaughlin, R M reported to me from having been AWL. I immediately turned him over to Capt A J N Dyer, officer incharge of Main HQ, West NSR.

Signed D J LeBlanc

The accused declines to cross examine this witness.

The accused having been duly cautioned as follows, "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but, whatever you say or any evidence that you give will be taken down in writing and may be given in evidence", declines to make any statement or to give evidence upon oath.

Certified that Rule of Procedure 4 (c) (d) (e) & (f) have been complied with.

Taken down by me, In the Field, in the presence and hearing of the accused this 27th day of September 1944

In the Field
27 Sep 44

T. Lamagee
Officer taking Summary

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) ~~(no)~~ opening address.(1) ~~NIL~~

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. I WISH TO GIVE EVIDENCE. Do you intend to call witnesses on your behalf? Ans. No. ~~Are they witnesses as to character only? Ans.~~

(1. RP 113, 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding~~(s)~~.(1) The finding~~(s)~~ of the Court is ~~(are)~~ recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) (or) The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(i) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. "A" and Ex. "B" respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. YES BY MY DEFENDING OFFICER.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2) 7(V)

(1. When several accused tried separately see RP 71 (C). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extract entered as No. 3541 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 11 day of May 1945

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F95526 PTE RONALD MAURICE MACLAUGHLIN W.A.S.R.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st SEC 12(1)(a)	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22 days, of which NIL DAYS WERE SPENT IN HOSPITAL ~~..... days were spent in hospital~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO BE IMPRISONED WITH HARD LABOUR FOR EIGHTEEN MONTHS

(Sgd) ..... Judge-Advocate, if any. 6 OCT 44 Date awarded. (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 11 October 44 (Sgd) [illegible]

Commanding 3 Corps Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F95526 Pte. Ronald Maurice MacLaughlin W.A.S.R.	18 Oct 44	[illegible] Lieut. W.A.S.R.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Army Form A 3104.

8

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. F95526 Pte MacLaughlin R M Unit West N S R

Sentenced to be imprisoned with hard labor for Eighteen Months on 6 Oct 44

Age on, and date of, enlistment 19 yrs 9 Jan 42 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII.

For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.

For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(*22948) Wt.36636/311 60,000 11/42 A.& E.W.Ltd. Gp.698 Forms/A.3104/11.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the direction	If sentence suspended, actual date of release and stocks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	No remission. B/F 21 Mar 45.	Officer i/c Cdn Sec GHQ 1 Ech AAI 30 DEC 1944	
	No remission. Return to Canada in custody under sentence.	(Beverley Matthews) Brig. A/DAG Canadian Military Headquarters 9 Apr 45	
	~~[illegible]~~		

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. Sec 12 (1) (a) Army Act - Desertion (absent 7 hours) Signature of Officer making entry.	14 Sep 44	6 Oct 44
VIII.—Second Trial. Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
15 Oct 44	I recommend that sentence be served in full	[illegible] Lt Col

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
15 OCT 44	I recommend that the sentence be served in full	[illegible] Brig

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

Air Mail

FILE NOS: E.D. 674 (A)
E.D.-[illegible]
E.D.-[illegible]
E.D.-[illegible]
E.D.-[illegible]
E.D.-[illegible]
E.D.-[illegible]
E.D.-[illegible]
E.D.-[illegible]

KINGSTON, Ontario, 25 August 46.

District Officer Commanding,
Military District No. 6,
HALIFAX, N.S.

Capt. Parlee,
Administration Branch,
National Defence Headquarters,
OTTAWA, Ontario.

[illegible]
No. 1[illegible] Military Detention Barracks.

Reference E.D.674(A) dated 27th July 46.

1. A perusal of this Headquarters' file in the case of the u/M soldiers, shows that they were to be granted remission of sentence and were despatched to District Depot # 6 for discharge and that Army Form A2104 was not enclosed.

P.[illegible] - Pte Boutilier, J.A.
P.41641 - Pte Burke H.A.
P.67610 - Pte Francis L.M.
P.15783 - Pte Hunt [illegible].
P.[illegible] - Pte Langlaughlin [illegible].
P.76836 - Pte McNeil [illegible].
P.[illegible] - Pte Watson [illegible].

2. By long distance telephone, Capt. Parlee, Admin. Branch, NDH, stated that the District Officer Commanding, M.D.6, requests these forms and by arrangements with him, Army Form A 2104 are now forwarded by air mail with the exception of Army Form A2104 for Pte BOUTILIER, J.A. This form was not received at this Headquarters but is being despatched direct by Capt. Parlee to M.D.6.

3. For the information of the District Officer Commanding, M.D.6, it is advised that only personnel whose conduct has been good while undergoing sentence at No. 1[illegible] Military Detention Barracks are recommended for remission of sentence and despatch for discharge. It is therefore considered unnecessary to forward request for information regarding conduct of the above mentioned soldiers in Military Detention Barracks.

original on 55506-6 file
noted
gas

Major
for (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No. 6.

Entry
CR(C) PA on file
CSS - M 1676
wd

Admin 3(a)

HQS 8536-6 Vol 3
Adm 3(b)2

CONFIDENTIAL
AIRMAIL
SPECIAL DELIVERY

OTTAWA, 23 Aug 45

District Officer Commanding,
Military District No 6,
HALIFAX, N.S.

District Officer Commanding,
Military District No 3,
KINGSTON, Ont.

F-88221	Pte BOUTILIER, J R	(Ref HQC 55-B-1701)
F-41651	Pte BURKE, R S	(Ref HQC 55-B-1702)
F-87610	Pte FRANCIS, L M	(Ref HQC 55-F-490)
F-16763	Pte HUNT, S W	(Ref HQC 55-H-815)
F-95526	Pte MacLAUGHLIN, R M	(Ref HQC 55-M-1676)
F-44817	Pte MacNAUGHTON, V	(Ref HQC 55-M-1654)
F-75840	Pte McNEIL, J A	(Ref HQC 55-M-1682)
F-45816	Pte NICKERSON, J N	(Ref HQC 55-N-204)
F-52677	Pte WATSON, A J	(Ref HQC 55-W-685)
F-51132	Pte ZWICKER, E W	(Ref HQC 55-Z-67)

Ref JAG 9963 d/21 Aug 45 and tel conversation your Capt Dwyer and Capt Parlee of this HQ:-

2. Enclosed herewith copy of CMHQ letter for each of the above SUS. It will be noted that this letter indicates in para 1 in each instance the conduct of the SUS while undergoing sentence up to the date of despatch to Canada.

3. DOC, MD 3, has been requested to forward AFA 3104 and all other pertinent documents.

4. DOC, MD 3, will inform DOC, MD 6, by telegram if in any individual case conduct while at No 89 MDB has been unsatisfactory. If such information is not received, it may be assumed that conduct has been good.

(A E Walford),
Major-General,
Adjutant-General.

WOP:OAJ
Encl.

COPY

VER V.AC NR 122

FROM COMMANDING SIX HALIFAX NS 161515P

TO DEFENSOR OTTAWA ONT

OR 108 BT

A.9628 UNCLASSIFIED MAY PROCEEDINGS OF COURTS MARTIAL OF THE FOLLOWING BE FORWARDED PLS IN ORDER THAT THEY MAY BE REVIEWED WITH A VIEW TO REMISSION OF SENTENCE

F.88221 Pte Boutilier J.F.

F.41651 Pte Burke R.S.

F.67610 Pte Francis L.M.

F.16763 Pte Hunt W.S.

F.95526 Pte McLaughlin R.M.

F.75830 Pte McNeil J.A.

F.52677 Pte Watson A.J.

STOP ALL SUB EX ITALY

BT 18 1746P MH B.

(C 55-B-1701)
(C 55-B-1702)
(C 55-F-490)
(C 55-H-815)
(C 55-M-1676)
(C 55-M-1682)
(C 55-W-688)

HQS 8536-6 Vol.3 Adm 3(b)2

CONFIDENTIAL

16 Aug 45

District Officer Commanding,
Military District No 6,
HALIFAX, N.S.

F-88321	Pte MATTILIEN, J R	(Ref HQS 55-B-1701)
F-41651	Pte BURKE, R S	(Ref HQS 55-B-1702)
F-87610	Pte FRANSIE, L M	(Ref HQS 55-F-490)
F-26763	Pte HUNT, S W	(Ref HQS 55-H-615)
F-95586	Pte MacLAUGHLIN, H M	(Ref HQS 55-M-1676)
F-75230	Pte McNEIL, J A	(Ref HQS 55-M-1682)
F-52677	Pte WATSON, A J	(Ref HQS 55-W-605)

Ref H3/262-3-1 FD 94 (JAG) 3/4 Aug 45.

2. As requested, enclosed herewith proceedings of FGCM for each of the above SOS.

3. Original AFMA 3104 and Review Sheets, together with copy of Letter from CMHQ, were forwarded to DOC, MD 3, and it is assumed, accompanying the documents of each of the SOS. We advise this HQ if these documents are not received with those SOS, in which case immediate arrangements will be made for their despatch to you.

(A E Walford),
Major-General,
Adjutant-General.

WEPtoAJ

COPY

HQ/8668-5-1 FD 94 (JAG)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, M.D. No. 6,
Halifax, N.S. 4th Aug 45.

SECRET

Secretary,
Department of National Defence,
Ottawa, Ontario.

CMS NW-ITALY GS 131/44
89 Military Detention Barracks.

Ref HQC 9039-1 Vol.2 Adm 3(b) dated 25 Jul 45.

2. D.O.C., M.D. No. 3, has written to this Headquarters, in part, as follows:

3. " Under HQS 8536-6 Vol 2 Adm 3(b)2 dated 27 Apr 45 and HQS 8536-6 Vol 2 Adm 3(b)3C(A) dated 1 June 45, National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy to No. 89 Military Detention Barracks, Fort Henry, Kerrisfield, Ontario.

Under HQC 9039-1-1 Adm 3 dated 15 June 45, National Defence Headquarters lays down the policy to be followed in the remissions and suspension of sentences of soldiers under sentence in order that the situation in regard to accomodation at No. 89 Military Detention Barracks, at Fort Henry may be alleviated.

Consequently, it is considered that the undermentioned soldiers under sentence who have served half of their sentence should be sent to their home District Depots for discharge and granted a remission of the unexpired portion of their sentence.

MILITARY DISTRICT NO. 6

F.55281 - Pte Houtilier J.R.	- 1 year imprisonment
F.41681 - Pte Burke R.S.	- 1 year imprisonment
F.67610 - Pte Francis L.M.	- 1 year imprisonment
F.16743 - Pte Hunt R.E.	- 1 year imprisonment
F.98886 - Pte MacLaughlin H.W.	-18 mns imprisonment
F.75830 - Pte McNeil J.A.	- 2 yrs imprisonment
F.82677 - Pte Watson A.J.	- 1 year imprisonment

3. It is suggested by the D.O.C. M.D. No. 3, that these soldiers be discharged according to the provisions of C.A.R.O. 1029(8).

4. In order to decide if these sentences should be remitted it is necessary to have full particulars of the offences and if possible copy of the FGCM proceedings

5. This information is required not only for the purpose of deciding on remission but in order to have full particulars in order to complete the Form of Remission required in each case.

6. According to the instructions set out in R.O. 5913 each case must be considered on its merits and it is, therefore, understood that remission after 50% of the sentence has been served is not automatic.

(D.A. White) Brigadier,
D.O.C., M.D. No. 6.

COPY

C35-m-1676

DEPARTMENT OF NATIONAL DEFENCE
ARMY

FILE NOS: K.S. 674(A)
and Personal Files

Kingston, Ontario. 27 JULY 45

Commandant, 69 Military Detention Barracks, BARRIEFIELD
A.J.A.G., MD 3, KINGSTON.
Officer Commanding, 3 District Depot, KINGSTON
District Paymaster, MD 3, KINGSTON.
District Medical Officer, MD 3, KINGSTON.
D.A.P.M., MD 3, KINGSTON.
District Records Officer, MD 3, Cdn 2nd Echelon (Central)
BROCVILLE Ont.

D.S.S.T.O., Md 3, KINGSTON.
D.A.Q.M.G., MD 3, KINGSTON.
District Records Officer, 3 Ordnance Depot Coy, RCOC, KINGSTON
O I/C 2nd Echelon (Central) BROCKVILLE.
Commandant, Ottawa Area Command, OTTAWA.
Officer Commanding, 3d Coy C. Pro.C. OTTAWA

SUB RE-ITALY CO 151/44
69 Military Detention Barracks.

Under HQS 8536-6 Vol 2 Adm 3(b)2 dated 27 Apr 45 and HQS 8536-6 Vol 2 Adm 3(b)99(A) dated 1 June 45, National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy to No. 69 Military Detention Barracks, Fort Henry, Barriefield, Ontario.

2. Under HQC 9039-1-1 Adm 3 dated 15 June 45, National Defence Headquarters lays down the policy to be followed in the remission and suspension of sentences of soldiers under sentence in order that the situation in regard to accommodation at No. 69 Military Detention Barracks at Fort Henry may be alleviated.

3. Consequently, it is considered that the undermentioned soldiers under sentence who have served half of their sentence should be sent to their home District Depots for discharge and granted a remission of the unexpired portion of their sentence.

				HOW TO BE DISCHARGED
MILITARY DISTRICT NO.1.				
A.4231	Pte Murray R.J.F.	- 2 yrs	imprisonment	CARO 1029(8)
MILITARY DISTRICT NO.2.				
B.133439	Pte Dolan F.H.	- 1 yr	imprisonment	CARO 1029(8)
B.39536	Pte Mandero N.J.	- 1 yr	imprisonment	CARO 1029(8)
B.134371	Pte Redding G.D.	-18 mos	imprisonment	CARO 1029(8)
B.235	Pte Walker F.H.	-18 mos	imprisonment	CARO 1029(8)
MILITARY DISTRICT NO.5.				
M.5104	Pte Demers C.	-18 mos	imprisonment	CARO 1029(8)
M.5876	Pte St. Pierre G.	- 1 yr	imprisonment	CARO 1029(8)
MILITARY DISTRICT NO.6.				
F.88281	Pte Boutilier J.R.	- 1 yr	imprisonment	CARO 1029(8)
F.41651	Pte Burke R.S.	- 1 yr	imprisonment	CARO 1029(8)
F.87610	Pte Francis L.N.	- 1 yr	imprisonment	CARO 1029(8)
F.16763	Pte Hunt S.W.	- 1 yr	imprisonment	CARO 1029(8)
F.95526	Pte MacLaughlin R.W.	-18 mos	imprisonment	CARO 1029(8)
F.75830	Pte McNeil J.A.	- 2 yrs	imprisonment	CARO 1029(8)
F.52677	Pte Watson A.Z.	- 1 yr	imprisonment	CARO 1029(8)

...../2

MILITARY DISTRICT NO.7

G.49560	Pte Cripps J.A.	- 1 yr	imprisonment	CARO 1029(8)
G.23463	Pte Lanteigne L.	-18 mos	imprisonment	CARO 1029(8)
G.4840	Pte LeBlanc M.J.	- 1 yr	imprisonment	CARO 1029(8)
G.27471	Pte Chestnut C.R.	-18 mos	imprisonment	CARO 1029(8)
G.56796	Pte Boudreau G.	- 1 yr	imprisonment	CARO 1029(8)

MILITARY DISTRICT NO.12

L.18053	Pte Mutch W.H.	- 6 mos	imprisonment	CARO 1029(8)

4. These soldiers will be despatched from 89 Military Detention Barracks to their various home District Depots under suitable escort arranged by the D.A.P.M., MD 3 for the purpose of carrying out their discharge, such escort being supplied from 89 Military Detention Barracks or 33 Coy., C. Pro C.

5. It is requested that after arrival at the various home District Depots for discharge the District Officer Commanding concerned arrange for the remission of sentence for these soldiers as set out under H&C 9039-1-1 Adm 3 dated 15 June 45, which allows remission of one-half the sentence, and that such remission be made effective the date of discharge.

6. The A.J.A.G., MD 3, will prepare the necessary Order of Release and forward it to the Commandant, 89 Military Detention Barracks.

7. The D.S.& T.O. MD 3, will issue the necessary transportation.

8. The above mentioned soldiers under sentence will cease attachment to 89 Military Detention Barracks and be struck off strength 3 District Depot to the various home District Depots for discharge effective the date they are despatched from 89 Military Detention Barracks. It is requested that these soldiers be discharged in accordance with instructions received from NDHQ as set out in opposite their names.

9. The Commandant, 89 Military Detention Barracks, will advise this Headquarters when the above personnel are ready for despatch in order that the various District Officers Commanding concerned may be advised before the arrival of these personnel at their home District Depots.

10. In this connection it is anticipated that these soldiers will be despatched on or about 31 July 45.

11. The Officer i/c 2nd Echelon (Central) Brockville, will be requested by wire to forward the documents of the above mentioned soldiers immediatley to the various home District Depots.

(W.K. MacGregor) Major
D.A.A.G. MD 3

COPIES TO:

Secretary, Department of National Defence, OTTAWA
(Attention Capt. Parlee, Administration Branch)

District Officer Commanding, MD 1 LONDON Ont.
Officer Commanding, 1 District Depot, LONDON, Ont

District Officer Commanding, MD 2, TORONTO, Ont.
Officer Commanding, 2 District Depot, TORONTO, Ont.

...../3

COPY

District Officer Commanding, MD 5, QUEBEC, P.Q.
Officer Commanding, 5 District Depot, QUEBEC, P.Q.

District Officer Commanding, MD 6, HALIFAX, N.S.
Officer Commanding, 6 District Depot, HALIFAX, N.S.

District Officer Commanding, MD 7, SAINT JOHN, N.B.
Officer Commanding, 7 District Depot, FREDERICTON, N.B.

District Officer Commanding, MD 12, REGINA, Sask
Officer Commanding, 12 District Depot, REGINA, Sask.

Major
for (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

WEM/EV

original on 58236-6 Vol 3
noted jos on card

CR(C) PA on file
CSS-M-1676
WOT

(Admin(b))

COPY

CSS, M-1676
cable 19 on file
W.A. Bowden
Adm 3(c)

VIR V GIA NR 52

FROM CMHQ 5 KINGSTON ONTARIO 281820Q

TO DOC MD NO 6 HALIFAX

TO SECTY NSD OTTAWA

GRS 801 BT

9336 RESTRICTED WELET KS 674 (A) DATED 27 JUL 1945 STOP THE FOLLOWING SUB PRESENTLY HELD AT SERIAL 8089 WILL BE DESPATCHED UNDER ESCORT AND WILL ARRIVE AT HALIFAX DS AT 2230 HOURS ON 1 AUG 1945 FOR DISCHARGE UNDER RO 1020-8 REPEAT RIGHT AND GRANTED A REMISSION OF THE UNEXPIRED PORTION OF THEIR SENTENCE STOP F EIGHT EIGHT TWO TWO ONE BOUTILIER J R STOP F FOUR ONE SIX FIVE ONE BURKE D S STOP F EIGHT SEVEN SIX ONE BOUCHT FRANCIS L E STOP F ONE SIX SEVEN SIX THREE HUNT S A STOP F NINE FIVE FIVE TWO SIX MACLUCLIN S E STOP F SEVEN FIVE EIGHT THREE MOUCHT MONNIL J A AND F FIVE TWO SIX SEVEN SEVEN WATSON A J STOP OFFICER IN CHARGE 2ND ECHELON CENTRAL HAS BEEN ADVISED TO FORWARD ALL DOCUMENTS OF THESE SOLDIERS DIRECT TO O C NO 6 D D STOP REQUEST TRAIN BE MET ON ITS ARRIVAL HALIFAX BY ESCORTS AND THIS PERSONNEL ESCORTED TO NO 6 DD STOP ADDED CMHQ SIX RPTD DEFENCE

BT 282038Q

GY B

original on 53331-6 Vol 3
noted on cards
gcs

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55-M-1676 (ICM)

NDHQ Ottawa, Ont

26 Jul 1945

District Officer Commanding

Military District No 3

Kingston, Ont.

CONFIDENTIAL
F.G.C.M.

F.95526 Pte MACLAUGHLIN Roland Maurice

69 MDB

Ref

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford),
Major-General,
Adjutant-General.

31

Quote No. HQC.55-M-1676

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada

15 May 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

F.95526, Pte. MacLaughlin, R.M.

1. Receipt is acknowledged of your **10/McLaughlin RM/1** dated **9th April,** 194 5, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

Receipt is also acknowledged of A.F.A.3104 in respect of the m/n F.G.C.M.

E. L. M.
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

/AB

THIS COPY FOR: H.Q. C.55-M-1676
M.D. 10/McLaughlin RM/1

GS

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. F.95526 Name MacLAUGHLIN, Maurice Ronald

Rank Pte Unit West Nova Scotai Regt CAO AAI

Charge A.A. 12(1)(a) Desertion

Date of Crime 14-9-44

Date of Arrest 14-9-44 Charge Signed 27-9-44

Orders for ~~D.~~ FG C.M. Brig Comd 3 Can Inf Bn

Place and Date of Trial In the field ; 6-10-44

Sentence Imprisonment W.H.L 18 Mos

Date of Confirmation 11-10-44

Date of Promulgation 13-10-44

Entered in Records of J.A.G. as No. 3541

Date 3-6-45

MEMO

for Judge Advocate-General

10M-1-45 (M-4629)

Renewed 11 May 45

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

1 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

F.95526 Pte MACLAUGHLIN, R M
SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CLIHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of imprisonment with hard labour.

3. CLIHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

W A Stilwell Major
for (A E Walford)
Major-General
Adjutant-General

Encl. 3

3541

BOMFER

AIR MAIL

CONFIDENTIAL

Quote No. 10/McLaughlin RM /1

CANADIAN MILITARY HEADQUARTERS

LONDON 9 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

855-M-1676

F.95526 PteMacLaughlin,R.M.

1. The m/n soldier is now serving a sentence of 18 months imprisonment with hard labour awarded by FGCM 6 Oct 44 for an offence under AA Sec 12(1)(a). He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released if he continues so to do is 6 Oct 45.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the serious nature of the offence of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 6 Oct 44, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

ENC.4

(E.G.Weeks)Major-General
In Charge of Administration
Canadian Military Headquarters

1/39a CMHQ 1000-76
40/P & S/803 (6789)

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS **F-95526 Pte MacLaughlin, R.M.** of **West Nova Scotia Regt** was by Field General Court-Martial held in the field convicted of the offence(x) of **Desertion**

and by a sentence signed on the **6th** day of **October,** 194 **4** sentenced to undergo **imprisonment with hard labour** for **18 months**

said sentence of **imprisonment** commencing on the aforesaid day, and such sentence has been confirmed by **Comd 3 Cdn Inf Bde** as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this **9th** day of **April,** 1945.

(Beverley Matthews) Brigadier
Deputy Adjutant General
Canadian Military Headquarters.

H.Q.C. 55-M-1677

CONFIDENTIAL

M.F.R. 1978
15M—4-43 (9636)
H.Q. 99-1-46

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MARCIL. ROSARIO D.142877 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1677

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				D. Adm.	NEW FILE C.R.		APR 20 1945
MAY 18 1945	14/5/45						2-5-45
JUL 27 1945	JUL 26 1945			L.C.M.	L.R. JUL 1 1945		
SEP 13 1945					Request	C.R.	11-9-45
SEP 15 1945	15/9/45						13-9-45
SEP 24 1945	23/9/45			CMBR.	C.R. AUG 23 1948		14-9-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

7a 23-8-45

IN REPLY PLEASE QUOTE No. M.1-M-13546 A/DIS

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

MONTREAL, P.Q., 30th August 1945.

Director of Records
R.C. Branch
AUG 31 1945
Nat. Defence Headquarters
Ottawa, Canada

Secretary,
Department of National Defence,
OTTAWA, Ontario.

D-142877 Pte. MARCIL, R.

Attached hereto Form for Remission in respect to the marginally named soldier.

(E.J. RENAUD) Major General,
D.O.C., M.D. No. 4.

405-M-44935

Encl.

M-1677

Mines 5 9 45 LT.

21

NAT. DEF. B. 440
(500-M-4-44 (A&E))
H.Q. 1772-29-767

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No.....
District File No. 1-M-13846

PART I

No. D-142877 Rank Pte. Name MARCIL, R.
Unit No. 4 District Depot

PART II

Date of Trial.....
Charge(s).....
Sentence.....
Date of Sentence.....
Confirmation -- (a) Authority: .....
(b) Date : .....

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit ~~(commute)(mitigate)~~ the balance of the term of detention. CARO 5913 & HQC 9039-1-1 Adm 3 d/15/6/4

Signed at MONTREAL this 7th day of August 1945

(Appointment) (E.J. ARNAUD) MAJOR GENERAL

To be signed by the Remitting Authority personally. DOC MD 4.

PART IV

PROMULGATION

Remission ~~(commutation)(mitigation)~~ promulgated and extracts taken at Montreal South, Quebec, this 21 day of August 1945.

(1)

P. Paradis Lieut.

Ass- Officer i/c Documents. (P. Paradis) Lieut., Le Regt. de Mais., C.A., att'd to No. 4 DD CA.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-142877 Rank Private Name MARCIL, R.

The sentence of ..... awarded by District Court Martial on the ..... on the 3 August 1945 has been REMITTED by D.O.C. UNIT Military District No. 4

Certified true Extract of Daily Orders Part II of No. 4 District Depot, C.A. No. 202 Place Jacques Cartier Barracks, Montreal South, Quebec. Date 21 Aug 45

Adjutant

(J. H. Charlebois) Capt.-Adjt. Gen. Inst, C.A., attached to No. 4 District Depot, C.A.

~~Strike out and initial words not applicable.

20

COPY

DEPARTMENT OF NATIONAL DEFENCE
ARMY

FILE NOS K.S. 674(A)
K.55-L-6269-C
K.55-M-5595
K.55-P-4486

KINGSTON Ontario 27th July 45.

Commandant, 89 Military Detention Barracks, BARRIEFIELD, Ont.
A.J.A.G., M.D. No. 3 KINGSTON, Ont.
Officer Commanding, 3 District Depot, KINGSTON, Ont
District Paymaster, M.D. No.3, KINGSTON, Ont.
District Medical Officer, M.D. No. 3 KINGSTON Ont.
D.A.P.M., M.D. No.3. KINGSTON Ont.
District Records Officer, M.D. No. 3, Cdn. 2nd Echelon (Central) BROCKVILLE, Ontario.
D.S.&.T.O., MD No. 3, KINGSTON, Ont.
D.A.Q.M.G. M.D. No.3 KINGSTON, Ont.
Officer Commanding, 3 Ordnance Depot Coy, RCOC, KINGSTON, Ont.
Officer i/c, 2nd Echelon (Central) BROCKVILLE, Ont.

SUS Ex-ITALY GO 131/44
89 Military Detention Barracks.

Under HQS 8536-6 Vol2 Adm 3(b)2 dated 27th April 45 and HQS 8536-6 Vol 2 Adm 3(b)SC(A) dated 1 June 45 National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy to No. 89 Military Detention Barracks, Fort Henry, BARRIEFIELD, Ont.

2. Under HQC 9039-1-1 Adm 3 dated 15 June 45, National Defence Headquarters lays down the policy to be followed in the remission and suspension of sentences of soldiers under sentence in order that the situation in regard to accommodation at No. 89 Military Detention Barracks at Fort Henry may be alleviated.

3. Consequently, it is considered that the undermentioned soldiers under sentence who have served half of their sentence should be sent to their home District Depot for discharge and granted a remission of the unexpired portion of their sentence.

MILITARY DISTRICT NO 4.					HOW TO BE DISCHARGED
D.137314	Gnr Lapenas A.J.	--	1 yr	imprisonment	CARO 1029(8)
D.142677	Pte Marcil R.	--	18 mos	imprisonment	CARO 1029(8)
D.9225	Gnr Penfold R.A.E.	--	1 yr	imprisonment	CARO 1029(8)

4. These soldiers will be despatched from 89 Military Detention Barracks to No. 4 District Depot under suitable escort arranged by the D.A.P.M., MD 3, for the purpose of carrying out their discharge. In this connection, according to arrangements made between Major Fairweather, DAAG, MD 4, and the DAAG, MD 3, the escort from Montreal presently bringing 24 soldiers under sentence to Fort Henry will be used for this duty.

5. It is requested that after arrival at No. 4 District Depot for discharge, the District Officer Commanding, MD 4 arrange for the remission of sentence for these soldiers as set out under JQC 9039-1-1 Adm 3 dated 15th June, which allows a remission of one-half the sentence, and that such remission be made effective the date of discharge.

6. The A.J.A.G., M.D.3, will prepare the necessary Order of Release and forward it to the Commandant, 89 Military Detention Barracks,

7. The D.S.&.T.O., MD 3, will issue the necessary transportation.

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...../2

8. The above mentioned soldiers will cease attachment to No. 89 Military Detention Barracks and be struck off strength No. 3 District Depot to No. 4 District Depot for discharge effective 27th July 45. It is requested that these soldiers be discharged in accordance with instructions received from N.D.H.Q. as set out opposite their names.

9. The Commandant, 89 Military Detention Barracks will advise this Headquarters when the above personnel are ready for despatch in order that the District Officer Commanding M.D.4, may be advised before the arrival of this personnel at No. 4 District Depot.

10. In this connection, according to arrangements made between Major Fairweather and Major MacGregor, it is expected that this personnel will arrive in Montreal at 2245 hrs 27th July 45.

11. The Officer i/c, 2nd Echelon (Central) Brockville, will be requested by wire to forward the documents of the above mentioned soldiers immediately to No. 4 District Depot.

(W.K. MacGregor) Major
D.A.A.G., M.D. No. 3,

Copies to:

Secretary,
National Defence Headquarters,
OTTAW, Ontario

Attention: Capt Parlee,
Admin. Branch

District Officer Commanding,
Military District No.4,
MONTREAL, Que.

Officer Commanding,
No. 4 District Depot,
MONTREAL, Que.

Major,
for (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

WKM;vb

original on 58324-4 file
treated on cards
JGS

CR(C) PA on file
C 22 M-1473
Adm 3(b)2

Wo Adm Clerk

M-1677

26 Jul

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55- (ICM)

NDHQ Ottawa, Ont

_____ 1945

D.142877 - Pte MARCIL, Rosario
District Officer Commanding
No 89 MDB
Military District No 3

Kingston, Ont.

CONFIDENTIAL
F.G.C.M.

Ref

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford),
Major-General,
Adjutant-General.

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3

Quote No. HQC.55-M-1677 (JAG/D-9)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada

16 May 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial
D.142877, Pte. MARCIL R.

1. Receipt is acknowledged of your 10/Marcil R/Z (DIS) dated 6th April, 194 5, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted. Receipt is also acknowledged of A.F. A3104 in respect of the m/n F.G.C.M.

E.L.M.
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

/AB

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THIS COPY FOR: H.Q. C.55-M-1677
M.D. 10/Marcil, R/2

GS

MEMORANDUM - ~~DISTRICT~~ FIELD GENERAL COURT-MARTIAL

No. D.142877 Name MARCIL, Rosario

Rank Pte Unit Royal 22e Regt CMF

Charge (1) A.A. 12(1)(a) Desertion

Date of Crime 19-9-44

Date of Arrest 23-9-44 Charge Signed 15-10-44

Orders for ~~D~~FG.C.M. Brig Comd 3 Cdn Inf Bde

Place and Date of Trial In the field; 21-10-44

Sentence Imprisonment W.H.L 18 mos

Date of Confirmation 24-10-44

Date of Promulgation 30-10-44

Entered in Records of J.A.G. as No. 3545

Date 3-5-45

MEMO Balance of sentence remitted by Conf. Auth. 22/45

for Judge Advocate-General

10M-1-45 (M-4629)

Reviewed 11 May 45
Rauer

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

1 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

D.142877 Pte MARCIL, R
SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of **imprisonment with hard labour.**

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

for (A E Walford) Major-General
Adjutant-General

Encl. 3

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BOMBER MAIL
CONFIDENTIAL

AIR MAIL

Quote No.10/Marcil R/2
(Dis)

CANADIAN MILITARY HEADQUARTERS

LONDON 6 Apr 45

The Secretary,
Department of National Defence,
OTTAWA, Canada.

6-55-A-1677

D-142877 Pte MARCIL R.

The m/n soldier is now serving a sentence of 18 months imprisonment with hard labour awarded by FGCM 21 Oct 44, for an offence under AA Sec 12(1)(a). He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released, if he continues so to do, is 20 Oct 45.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the serious nature of the offence of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 21 Oct 44, original AF A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E.G. Weeks) Major-General,
In Charge of Administration,
Canadian Military Headquarters.

Enc (4)

14

1/39a CMHQ 1000/76
40 P & S/803 (6739)

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS D-142877 Pte MARCIL R. of R 22e R was by Field General Court-Martial held in the field convicted of the offence(xx) of Desertion

and by a sentence signed on the 21st day of October 194 sentenced to undergo imprisonment with hard labour for 18 months

said sentence of imprisonment commencing on the aforesaid day, and such sentence has been confirmed by Comd 3 Cdn Inf Bde as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 6th day of April 1945.

(Beverley Matthews) Brigadier
A/ Deputy Adjutant General
Canadian Military Headquarters.

Extracts entered as No. 3545 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 11 day of May 1943

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D142877 Pte. ROSARIO MARCIL R22R

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 12(1)a	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labor for eighteen months (18)

(Sgd) ~~Judge Advocate, if any~~ 21 Oct 44 Date awarded. (Sgd) F.E. Hilts Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 31 October 44 (Sgd) E. Bernatchez Brig Commanding 3rd Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D.142877 Pte R. Marcil R22R	30 Oct 44	J.B. Gremblay Lt Adt R22R

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4F-13

RECEIVED 28 NOV 1944 JAG BRANCH

FIELD GENERAL COURT-MARTIAL

CFASC (To Reg of AFA2) 40/P & R/1608 (4910) 4/38B

Convened by Order of Brig E.E. Bernatchez Comd 3rd Cdn Inf Bde dated 19 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) uppmt. A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 142877	Pte	MARCIL ~~ROSARIO~~	~~ROSARIO~~ MARCIL	~~R22R~~

PROCEEDINGS REVIEWED 29 Nov 44 W.C. Bench Capt

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 21 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2D 45

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to E 4201 Pte Mainguy R as interpreter? Ans No.

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans ..... ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F.E. Hilts	West NSR
Member	Capt	V.P. Albert	R22R
Member	Capt	D.I. Rice	West NSR
~~Judge Advocate~~			
Prosecutor	Lt	P.A. Tremblay	R22R
Defending Offr	Lt	L. Turcotte	R22R

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D142877 Pte. ROSARIO MARCIL ——— before arraignment make(s) (no) ~~(a)~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. 12

RH/SH

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....No.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement of evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 558. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) ~~The Court is re-opened, and the President announces that the submission~~ is disallowed on the.....charge(s), and allowed on the.....charge(s), and ~~that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....Do neither..... Do you intend to call witnesses on your behalf ?
Ans.....No..... Are they witnesses as to character only ? Ans.....N/A.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes: addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is ~~(are)~~ recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces ~~the finding(s), if any, of Not Guilty, and states to the accused that the finding(s)~~ of the Court on the.....charge(s), ~~being subject to~~ confirmation, will be promulgated later.(1)
Or, The President announces ~~that the~~ accused is found Not Guilty on all charges and is to be released forthwith, ~~and that the proceedings are accordingly~~ terminated. ~~Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....No.....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex.....A..... and Ex.....B..... respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....Yes.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.(2)~~
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

in the case of

B142877 Private Rosario, MARCHIL a soldier of the Royal 22e Regiment, C.M.F., Canadian Army Overseas, on active service, is charged. with:-

First CHARGE
A.A. Sec. 12(1)a

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE,

in that he

In the field, in Italy, after having been duly warned by his platoon commander that his platoon, was about to attack, with intent to avoid so attacking, absented himself without leave from his platoon at approximately 0800 hrs 19 Sep 44 until he returned to his platoon at approximately 0800 hrs 23 Sep 44.

TOTAL OF ABSENCE: 4 days.

In the field
19 Oct 44.

(J. V. ALLARD) Lt.-Col.
Commanding Royal 22e Regiment.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL.

(J. F. E. [illegible]) Brig.

In the Field
19 Oct 44.

198

799

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/F&R/1097 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MM, Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D142877	Pte		Rosario	MARCIL	R22R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 19 Oct 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~ 105

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Bd Offr as President, for the reason(s) stated herein.~~ 106

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate the person the Offr mentioned hereunder.~~ 106

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F E Hiltz	WNSR

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	V P Aubut	R22R
Capt	D I Rice	WNSR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	A B Edgar	HQ 3 Cdn Inf Bde

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.) — (Signed personally. RP 105 fn 2) — Brigadier (Rank.)

Date 19 Oct 44 — Commanding 3 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

JCA 0

Medical Officer's Certificate

I certify that I saw this morning examined 60 B 14222 ....
Pte ... Name. Marcel R. ..... of. R. 22 R. .....
and in my opinion he is fit/unfit to undergo trial by Court Martial.
Station for the field ...

Date 21-10-44 .....

A. Nordemann Capt
(Medical Officer)

70

Witnesses In the case of

814 2877 Pte Rosario Marcil R 22 R.

1st witness for Prosecution

D 140564 Cpl J.R. Roy having been duly sworn states:

Judicial Prosecutor Do you recognize the accused?

Answer Yes sir

A Ans D 140564 Cpl Roy J.R. of 114 pl. Bcoy R 22 Regt.

At about 0800 hrs on 19 sept. 44 after having been warned that we were going to attack, a short while after we were moving for the attack. As my section was leading section, following Lt. Comeault who was pl. Commander, Lt Comeault sent me to look for Pte Marcil. I search around the pl. and log area and did not find him and did not see him until his returned on the 23 sept. 44.

Quest- when he returned where was the platoon

Answ. the platoon was in rest area

Quest. Pte Marcil, can you say if Pte Marcil was present at the morning parade for det.

that you saw him there

Yes sir

No cross exam.

Court. Had Lt. Comeault any reason to send you looking for Pte Marcil

ans The reason was Lt. Comeault knew Pte Marcil was nervous and on previous occasion had left for a short time and returned right away.

R.P. 93 (b) complied with.

9

II

2 witness
FOR PROS.

Lt Comeault J.A. having been duly sworn
Judge. answer the for recognize the accused.
I am Lt J.A. Comeault commanding 11th
Lt. Bn my R 20 P.
On the 19 of Sept 44. at 0800 hrs
we received the order that we were going to
the attack I went around the pl area.
warning every body. I saw PC Marcil
~~and I went to him to tell him that~~
~~the pl was moving because I knew what~~
~~kind of a man he was.)~~
and PC Marcil was there on the road,
I checked on my pl. and PC Marcil was
not there. I send cpl Roy to look for
him he came back and told me he was
not in the pl. I saw PC Marcil
at 0800 hrs on the 23 Sept 44.

Court. At what time did you send
cpl Roy to look for the accused
answer he must have been at
about three of five minutes passed
0800 hrs on the 19.

Court. Had you any definite reason for checking
on the accused.
yes sir I had

Court. What.
Because I had had trouble with him in
the previous attack.

Defence ~~Can you identify that Cpl.~~ FCH.

FCH. cross Exam.

When you left for the attack that some morning, are you sure that Cpl Roy went back to Pte Marcil's slit trench or even to the fd. latrines to make sure that he wasn't between the fd. area and the fd. itself?

Ans no, I am not sure

FCH. R.P. 93 (B) complied with.

FCH.

1st Witness Recalled (Cpl. Roy J.R.)

Question by the defence.

When Lt. Comeault sent you to checked where Pte Marcil was, had you left your original fd. area.

FCH. Answ. No ~~they~~ we had not left our original fd. area

was Pte Marcil in his slit trench

Answ. No he wasn't there.

Did you go to the fd. latrines

Ans I went. He wasn't there

FCH. R.P. 93(B) complied with.

Both the prosecuting and def offs decline to make a closing address.

FCH.

FCH. 8

21-10-44.

PLEA IN MITIGATION

Appeal from Pte D14[illegible]7 Pte Marcil, R.

He enlisted on 28 sept. 1943

He is 20 years of age

His mother is dead

Of a family of seven children he did not hesitate to come to England, Italy and finally for the field.

~~He is an [illegible] #1 soldier~~

Sir before I leave Pte Marcil R. to the justice may I ask that his age and his past military conduct be taken into consideration.

Phiem Turcotte Capt

Exhibit A.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D142877	PTE	ROSARIO MARCIL	ROYAL 22nd REGIMENT

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. SEC. 15(1)	1 times	times.
For A.A. SEC. 24(2)	1 times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~, Nil.

or

~~There are no entries in the conduct sheets of the accused~~. Nil.

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ _____ ~~beginning on the~~ _____ ~~day of~~ Nil.

4. The accused has been in confinement, awaiting trial on the present charges, for _____ ~~days in civil custody~~ and 23 days in military custody, making a total of 23 days, of which 7 ~~days~~ days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / ~~attestation paper~~ is 20 years 2 months.

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 27-9-43

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve~~ is Nil

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~ Nil ~~service~~

9. ~~The accused is entitled to reckon~~ Nil ~~service for the purpose of determining his pension, etc.~~

10. ~~The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or reward)~~). Nil

11. (~~If the accused is a warrant officer~~.) ~~The accused before he was made a warrant officer last held the regimental rank of~~ Nil

12. (~~In the case of an officer~~.) ~~The accused holds in the army the rank of~~ _____ ~~dated~~ _____ ~~and in his regiment (or corps or department) the rank of~~ Nil ~~dated~~ _____

(*)8250 Wt.15602/144 125,000 6/41 A.&E.W.Ltd. Gp.698

6

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date, ● Date of Promotion.

In the rank of years.

In the rank of years

In the rank of years.

In the rank of years.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned completed accordingly.*)

N.A.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

N.A.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 day of October 1944.

P.E. Ellenbley Capt
Officer i/c Records

MFM 6
(AFB 122)
40/F&S/156 (3429)

No. D142877 Name Marcil R ~~Regt No.~~ ~~Company~~ "B" Corps CIC Date of enlistment 27-9-43 GC Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature OC Company, etc H. Trudeau Lt.

Place	Date 1944	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	Aug 24	Pte		AA. Se. 15 (1) WOAS. AWL from 2330 hrs 24 Aug 44, until 1000 hrs 25 Aug 44. Total Abs: 10 hrs, 30 mins.	Capt. Payette Sgt. Ste-Marie	1 day pay FRAI 149(1)(a)	25-8-44	Lt.Col. J.V. Allard.	
Field	Aug 28	Pte		AA Sec.24(2) WOAS Losing by neglect his equipment and regimental necessaries, in that he In the field, on 28 Aug 44, at 1130 hrs, when inspection was made the above mentioned was found dificient of his identity disas.	CQMS Michaud	7 days pay.	28-8-44	Lt.Col. J.V. Allard.	

Certify true copy of the original in my possession

16 Oct 44

(F10)

SUMMARY OF EVIDENCE
In the case of

D-142877 Pte Marcil [illegible]/Rosario, Royal 22e Regiment; Canadian Army Overseas, C.M.F. On Active Service.

The Commanding Officer directs that the evidence be taken under oath.

First WITNESS for the Prosecution

D-140564 Cpl Roy J.R. having been duly sworn states.
D-140564 Cpl Roy J.R. a section commander in the 11th platoon of B Coy Royal 22e Regiment, On Active Service. C.M.F.
At about 0800 hrs on the 19th sept 44, the Platoon Commander warned the whole platoon that we were going to attack. Pte Marcil R. was there at the time, a short while after, before going to the attack, Lt Comeault J.A. sent me to see & look for Marcil. I could not find him anywhere, I went in Platoon & Coy area and he was definitely not there, and I did not see him until his return at 0800 hrs on the 23rd sept 1944, when all the attack was finished and the Coy had been relieved from the front line.

Signed: Cpl Roy J.R.

The accused declines to cross-examine the witness.

SECOND WITNESS for the Prosecution

Lt Comeault J.A. having been duly sworn states.
I am & I was the Commander of the 11th Platoon of B Coy Royal 22e Regiment, C.M.F.
At about 0800 hrs on the 19th sept 1944; we received the order to attack. I warned the whole platoon and Pte Marcil was there. Going around the platoon area I saw Pte Marcil and I told him to get ready that we were going to attack and to follow the platoon. A few minutes later my platoon left for the attack and I personnally noticed that Pte Marcil had not followed. I told Cpl Roy to look around for him. He came answering that he was not there. I saw Pte Marcil at 0800 hrs on the 23rd sept 1944; when the Coy had been relieved from the front line.

Signed: [illegible]

The accused declines to cross-examine the witness.

Ex 4

The accused was warned by me as follows:-

Do you wish to make any statement or to give evidence upon oath? You are not obliged to do so, but any statements you make or any evidence you give will be taken dow n in writing and may be given in evidence.

Answer by the accused,-
I have nothing to say, I reserve my defence.

R R Royal D 142877

I certify that the foregoing Summary of Evidence was taken down by me, in the presence of the accused and that Rules of Procedure 4 c) d) e) f) and g) have been complied with.

G. Violette Lieut

List Of EXHIBITS
IN the case of

D-142877 Pte Marcil R. ROYAL 22e Regiment? Can ARMY Overseas C.M.F.

NIL

3

LIST OF WITNESSES FOR PROSECUTION

In the ~~case~~ of
D-142877 Pte Marcil R. a soldier of the Royal 22e Regiment
C.M.F. Canadian Army Overseas, On Active Service.

FOR THE PROSECUTION

Lieut. J.A. Comeault	R. 22e R.	
D-140564 Cpl ROy J.R.	R. 22e R.	

FOR THE DEFENCE NIL

I hereby acknowledge receipt of a true copy of a Summary of Evidence taken prior to my trial by F.G.C.M. I further more acknowledge receipt of a true copy of a charge sheet upon which I am being brought into Court-Martial.

I desire the services of an Officer to represent me at my trial.

I desire the services of .....any officer.....

If he is available.

In the field
14 sept 44.

R Marcil D-142877

Ex A

H.Q.C. 55-M-1678 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MURRAY. ROBERT JOHN FREDERICK A.4231 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1678

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				D. Adm.			APR 23 1945
MAY 22 1945	21.5.45	PA			passed		
JUN 5 1945	21.6.45	PA		Admin			
JUL 26 1945 JUL 25 1945		P.A					
				I.C.M.	Per Registration C.R. AUG 29 1945		
SEP 6 1945	7.9.45	PA		ADMIN.	TO NOTE & P. A.		SEP 5 1945
SEP 8 1945					Per Registration C.R. SEP 14 1945		
SEP 18 1945							
SEP 20 1945	19/9/45	PA		CMBR			18.9.45
NOV 28 1945	25/11/45	PA		WGR	Per Registration C.R. NOV 28 1945		19 9.
JUN 11 1946				VPB	Per Registration C.R. MAY 6 1946		
SEP 21 1946	21/9/46			WKR	Per Registration C.R. SEP 19 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

INCLUDE ORIGINATOR'S NO. AS INTRODUCTION IN TEXT OF MESSAGE.

CLEAR

ARMY MESSAGE

(OUTGOING)

FILE HQ 55-1-49, FD 2, Adm 3(b).

PLACE: OTTAWA, Ont

DATE: 3 Sep 45.

TO:

District Officer Commanding,
Military District No 1,
LONDON, Ontario.

BANES: 6082 (UNCLASSIFIED) URGENT ACTION (.) SUPERIOR MILITARY AUTHORITY AT NDHQ WILL SPECIALLY REVIEW CASES OF UNDERMENTIONED SUB (.) SEND IMMEDIATELY CONFIDENTIAL AIRMAIL SPECIAL DELIVERY MARKED quote IMMEDIATE ATTENTION CMBR unquote NFM 288 or ARMY FORM A3104 AND LATEST REPORT ON CONDUCT AND REPORT ANY ACTION TAKEN BY YOU UNDER RO 5913 FOR:

D-38262	MEPSTEAD	J E
A-82201	SCHACHT	F
A-4231	MURRAY	R K F
H-23553	BRODA	S
A-117526	BOURDEAU	H J
A-88232	MOORE	S W
A-61765	ROTH	J T
B-25286	CAIN	T H

Adjutant-General.

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT, INCLUDING WIRELESS	DEGREE OF PRIORITY	TIME OF ORIGIN
Major-General, Adjutant-General. (A E Walford)	IMPORTANT	

SIGNED

SINGLE FORM FOR CLEAR MESSAGE

USE FOR ADDITIONAL DISTRIBUTION

L.26-D-686 (DAPM)
L.28-H-937
L.28-W-992
L.26-M-2003

339684

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CENTRAL REGISTRY ARMY
SEP 4 1945

HQ MD 1 London, Ontario, 30 August, 1945.

C.55-M-16 78
Referred to 29-8-45

Secretary,
N.D.H.Q.,
OTTAWA, Canada.

A.603223 Pte. Desjardins, E.A.
A.600204 Pte. Humenny, G.J.
K.65477 Tpr. White, A.
A.4231 Pte. Murray, J.R.F.
Forms of remission of sentence.

Herewith forms ofremission of sentence by court Martial concerning the m/n soldiers, for record purposes and placing on soldier's NDHQ file.

Encl.--4.

(P. Earnshaw) Brigadier
D.O.C., M.D. No. 1.

COPY/AB

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No.....
District File No. 1.28-M-2003 (DAPM)

PART I

No. A.4231 Rank Pte. Name MURRAY, K.J.F.
Unit No. 1 District Depot, London, Ontario.

PART II

Date of Trial 23 July, 44.
Charge(s) Absent without leave (Sect. 15(1) of the A.A.)
Sentence to undergo two yrs imprisonment with hd labour
Date of Sentence 23 July, 44.
Confirmation (a) Authority: Commander, No. 1 Con. Inf. Bde.
(b) Date 31 July, 44.

PART III
REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit (commute)(mitigate) the unexpired portion of the sentence of detention 23 July, 44. effective 1400 hrs., 10 Aug. 45

A.4231-Pte. Murray, K.J.F.

Signed at London, Ont. this 8th day of Aug.

(R.B. Crouch) (Colonel) (J.J. MacDonald) Brigadier
D.O.C., MD. No. 1.

PART IV
PROMULGATION

Remission (commutation)(mitigation) promulgated and extracts taken at #1 DD., CA. 20th day of Aug. 19 45 (I)

(F.P. Reeve) Lieut. (Rank)
Officer i/c documents
Unit or Attachment Legal Sect. #1 DD., CA

(I) Unit, attachment and appointment to be stated.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. A.4231 Rank Pte. Name MURRAY, K.J.F.
The sentence of 2 years imprisonment with hard labour.
awarded by District Court-Martial on the 23 July, 44
has been remitted effective 1400 hrs., 10 Aug., 45
on the 8th Aug., 45.

R.B. Crouch Colonel
DOC.MD.1
Unit No. 1 DD. London, Ont.

Certified true Extract of Daily Orders Part II by London, Ontario
No. 230 place #1 DD., CA date 18 Aug 45.

(W. Pollard) Lieut. (Rank)
Adjutant
#1 DD., CA
London, Ontario

VER V CIL NR 26

FROM COMDG ONE LONDON 041500Q

TO SECTY NDHQ OTTAWA

GR 160 BT

A 866 UNCLASSIFIED RETDL RANKS 6082 DATED 3 SEP REFERS SUB STOP DISPOS/
ITION AS FOLLOWS B 38262 MEPSTEAD J E DISCHARGED FROM ARMY AND FROM
GUELPH A 82201 SCHACHT G REMITTED 16 JULY 45 A 4231 MURRAY
RJF REMITTED 10 AUG 45 H 23553 BRODA S CONDUCT GOOD
DISCHARGED CANADIAN ARMY 16 AUG 45 UE FOR RELEASE 10 DEC 45
WFM 288 BEING FORWARDED A 117526 BOURDEAU H J REMITTED 16 JUL 45
A 68232 KOOBS S W CONDUCT GOOD A 3104 BEING FORWARDED A 61763
ROTH J T REMITTED 16 JULY 45 B 25286 CAIN T H REMITTED 29 AUG 45

BT 05// 041620Q VJ AR (K)

COPY

ADMIN. TO NOTE & P.A.

noted

COPY

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

FILE NOS: K.S. 674(A)
and Personal Files.

Kingston, Ontario 27 July 45.

Commandant, 89 Military Detention Barracks, BARRIEFIELD.
A.J.A.G., MD 3 KINGSTON.
Officer Commanding, 3 District Depot, KINGSTON.
District Paymaster, MD 3, KINGSTON.
District Medical Officer, MD 3, KINGSTON.
D.A.P.M., MD 3, KINGSTON.
District Records Officer, MD 3, Cdn 2nd Echelon (Central) BROCKVILLE, Ont.
D.S.&.T.O., MD 3 KINGSTON
D.A.Q.M.G., MD 3 KINGSTON
Officer Commanding, 3 Ordnance Depot Coy., RCOC, KINGSTON.
O.I/C 2nd Echelon (Central) BROCKVILLE
Commandant, Ottawa Area Command, OTTAWA
Officer Commanding, 33 Coy., C. Pro.C., OTTAWA

SUS EX-ITALY GO 131/44
89 Military Detention Barracks.

Under HQS 8536-6 Vol 2 Adm 3(b)2 dated 27 Apr 45 and HQS 8536-6 Vol 2 Adm 3(b)SC(A) dated 1 June 45, National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy to No. 89 Military Detention Barracks, Fort Henry, Barriefield, Ontario.

2. Under HQC 9039-1-1 Adm 3 dated 15 June 45, National Defence Headquarters lays down the policy to be followed in the remission and suspension of sentences of soldiers under sentence in order that the situation in regard to accommodation at No. 89 Military Detention Barracks, at Fort Henry may be alleviated.

3. Consequently, it is considered that the undermentioned soldiers under sentence who have served half of their sentence should be sent to their home District Depots for discharge and granted a remission of the unexpired portion of their sentence.

			HOW TO BE DISCHARGED
MILITARY DISTRICT NO. 1			
A.4231	Pte Murray R.J.F.	- 2 yrs imprisonment	CARO 1029(8)
MILITARY DISTRICT NO. 2			
B.133439	Pte Dolan F.R.	- 1 yr imprisonment	CARO 1029(8)
B.39536	Pte Mandaro N.J.	- 1 yr imprisonment	CARO 1029(8)
B.134371	Pte Redding G.D.	-18 mos imprisonment	CARO 1029(8)
B.335	Pte Walker P.B.	-18 mos imprisonment	CARO 1029(8)
MILITARY DISTRICT NO. 5			
E.5104	Pte Demers O.	-18 mos imprisonment	CARO 1029(8)
E.5876	Pte St. Pierre G.	- 1 yr imprisonment	CARO 1029(8)
MILITARY DISTRICT NO. 6			
F.88221	Pte Boutilier J R	- 1 yr imprisonment	CARO 1029(8)
B.41651	Pte Burke R.S.	- 1 yr imprisonment	CARO 1029(8)
F.87610	Pte Francis L.M.	- 1 yr imprisonment	CARO 1029(8)
F.16763	Pte Hunt S.W.	- 1 yr imprisonment	CARO 1029(8)
F.95526	PPte MacLaughlin RM	-18 mos imprisonment	CARO 1029(8)
F.75830	Pte McNeil J.A.	- 2 yrs imprisonment	CARO 1029(8)
F.52677	Pte Watson A.J.	- 1 yr imprisonment	CARO 1029(8)

...../2

MILITARY DISTRICT NO.7

G.49369	Pte Cripps J.A.	- 1 yr	imprisonment	CARO 1029(8)
G.23463	Pte Lanteigne L.	-18 mos	imprisonment	CARO 1029(8)
G.4840	Pte LeBalnc M.J.	- 1 yr	imprisonment	CARO 1029(8)
G.27481	Pte Chestnut, C.R.	-18 mos	imprisonment	CARO 1029(8)
G.56796	Pte Boudreau G.	- 1 yr	imprisonment	CARO 1029(8)

MILITARY DISTRICT NO. 12

L.18053	Pte Mutch W.H.	- 6 mos	imprisonment	CARO 1029(8).

4. These soldiers will be despatched from No. 89 Military Detention Barracks to their various home District Depots under suitable escort arranged by the C.A.P.M. MD 3, for the purpose of carrying out their discharge, such escort being supplied from 89 Military Detention Barracks or 33 Coy., C Pro. C.

5. It is requested that after arrival at the various home District Depots for discharge the District Officer Commanding concerned arrange for the remission of sentence for these soldiers as set out under HQC 9039-1-1 Adm 3 dated 15 June 45, which allows remission of one-half the sentence, and that such remission be made effective the date of discharge.

6. The A.J.A.G., MD 3, will prepare the necessary Order of release and forward it to the Commandant, 89 Military Detention Barracks.

7. The D.S. & T.O. will issue the necessary transportation.

8. The above mentioned soldiers under sentence will cease attachment to 89 Military Detention Barracks and be struck off strength 3 District Depot to the various home District Depots for discharge effective the date they are despatched from 89 Military Detention Barracks. It is requested that these soldiers be discharged in accordance with instructions recieved from NDHQ as set out opposite their names.

9. The Commandant, 89 Military Detention Barracks, will advise this Headquarters when the above personnel are ready for despatch in order that the various District Officers Commanding concerned may be advised before the arrival of these personnel at their home District Depots.

10. In this connection it is anticipated that these soldiers will be despatched on or about 31 JULY 45.

11. The Officer i/c 2nd Echelon (Central) Brockville, will be requested by wire to forward the documents of the above mentioned soldiers immediatley to the various home District Depots.

(W.K. MacGregor) Major
D.A.A.G. MD 3.

COPIES TO

Secretary, Department of National Defence, Ottawa.
(Attention Capt. Parlee, Administration Branch)

District Officer Commanding, MD 1, LONDON, Ont.
Officer Commanding, 1 District Depot, LONDON, Ont.

District Officer Commanding, MD 2, TORONTO, Ont.
Officer Commanding, 2 District Depot, TORONTO, Ont.

...../3

COUNTER NUMBER 14727

HOUR 11.25

OPERATOR'S INITIALS LG

RELIEVING OPERATOR JR

District Officer Commanding MD 5, QUEBEC, P.Q.
Officer Commanding, 5 District Depot, QUEBEC P.Q.

District Officer Commanding, MD 6, HALIFAX, N.S.
Officer Commanding, 6 District Depot, HALIFAX, N.S.

District Officer Commanding, MD 7, SAINT JOHN N.B.
Officer Commanding, 7 District Depot, FREDERICTON, N.B.

District Officer Commanding, MD 12, REGINA, Sask.
Officer Commanding, 12 District Depot, REGINA, Sask.

Major
for (F.L. Armstrong) Brigadier,
District Officer Commanding.
Military District No.3,

WKM/EV

original on 3053-6 Vol 3
noted on cards
GOb

CR O PA on file
CSS M 1678
Adm 3(d)

C55 M-1678

CR(C) PA on file
WO Bmber
Adm 3(D)4

COPY

VER V CIA NR 55

GILV CIA NR 2

FROM CMDG 3 KINGSTON ONTARIO 281740Q

TO SECTY DND OTTAWA

TO DOC MD NO ONE LONDON ONTARIO

GRS 130 BT

9342 RESTRICTED RELET KS 674(A) DATED X 27 JULY 1945 STOP
THE FOLLOWING SUS PRESENTLY HELD AT SERIAL 2089 WILL BE
DESPATCHED UNDER ESCORT AND WILL ARRIVE LONDON AT 2114 HOURS
ON 31 JULY 45 STOP A FOUR TWO THREE ONE MURRAY J R F STOP
THIS SOLDIER IS TO BE DISCHARGED UNDER RO 1029(8) AND
GRANTED A REMISSION OF THE UNEXPIRED PORTION OF HIS SENTENCE
STOP OFFICER IN CHARGE 2ND ECHELON CENTAL HAS BEEN ADVISED
TO FORWARD ALL DOCUMENTS OF THIS SOLDIER DIRECT TO THE
OF NO 1 DD STOP REQUEST THAT THIS TRAIN BE MET ON ITS
ARRIVAL AND THIS SUS ESCORTED TO NO 1 DD STOP ADDSD CMDG L RTPD
DEFENSOR

BT 28206Q

GY b

original on 55336-6 file
noted on cards 9a

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55- (ICM)

NDHQ Ottawa, Ont

M-1678 1945

District Officer Commanding

Military District No 3

Kingston, Ont.

CONFIDENTIAL
F.G.C.M.
25 Jul

Ref

A.4231 Pte MURRAY, Robert John Frederick
MDB 89

Enclosed herewith

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford),
Major-General,
Adjutant-General.

3

C O P Y

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

FILE NO: K.S. 674

K.55-B-8479-C; K.55-B-8549-C; K.55-M-5608-C; K.55-P-4364-C; K.55-R-3844-C; K.55-C-4652-C; K.55-N-1204-C; K.55-V-910-C; K.55-W-4257-C (A)

Kingston, Ontario 14 June 45

Commandant, 89 Military Detention Barracks, BARRIEFIELD, Ont.
A.J.A.G. Military District No 3, KINGSTON, Ont.
Officer Commanding, 3 District Depot, KINGSTON, Ont.
District Paymaster, Military District No 3 KINGSTON, Ont.
District Medical Officer, Military District No3, KINGSTON, Ont.
D.A.P.M. Military District No 3, KINGSTON, Ont.
District Records Officer, Military District No 3, KINGSTON, Ont.
Officer Commanding, 3 Ordnance Depot, RCOC, KINGSTON, Ont.
Governor of the County Jail, County of Middlesex, LONDON, Ont
Commandant, Ottawa Area Command, OTTAWA, Canada.
Officer Commanding, 33 Coy, C.Pro.C. OTTAWA, Canada
D.S. & T.C., Military District No 3, KINGSTON, Ont.
D.A.Q.M.G., Military District No.3, KINGSTON, Ont

SUS EX ITALY GO 131/44
MDB 89, Fort Henry

Under HQS 8536-6 Vol2 Adm 3(b)2 dated 27 Apr 45 and HQS 8536-6 Vol2 Adm 3(b)8C(A) dated 1 June 45 National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy to No. 89 Military Detention Barracks, Fort Henry, Kingston.

2. The undermentioned personnel have been sentenced to imprisonment with Hard Labour and are to serve the remained of their sentence in a Provincial Institution in Ontario:

MILITARY DISTRICT NO 1

A.117526	- Pte BOURDEAU, H.J.	- 2 yrs imprisonment Hard Labour
A.56955	- Pte BUTLER, M.F.	- 2 yrs imprisonment hard labour
A.4231	- Pte MURRAY, R.F.J.	- 2 yrs imprisonment Hard Labour.
A.42301	- Pte PATTERSON, D.H.	- 2 yrs imprisonment Hard Labour
A.61765	- Pte ROTH, J.T.	- 2 yrs imprisonment Hard Labour
A.4495	- Pte CAIDY, H.	- 18 mos imprisonment Hard Labour.
A.55863	- Pte NOLAN, J.E.	- 1 yr imprisonment Hard Labour.
A.28303	- Pte VENTRY, W.J.	- 2 yrs imprisonment with Hard Labour and discharged with ignominy.
A.11665	- Pte WATSON, F.M.	- 1 yr imprisonment Hard Labour.

3. It is understood that National Defence Headquarters has made arrangement with the Provincial authorities of Ontario whereby the above mentioned soldiers under sentence will be admitted to a Provincial Institution to serve the remainder of their sentence. Consequently the Commandant, 89 Military Detention Barracks will arrange as soon as the documents of the above mentioned personnel are available to have the above personnel made ready for despatch to No 1 District Depot, and will advise this Headquarters when the p rsonnel are ready for despatch.

4. The A.J.A.G. will prepare the necessary Order of Release and forward it to the Commandant, 89 Military Detention Barracks. In this connection it will be necessary to grant one day's remission in the case of all soldiers sentenced to two years with Hard Labour.

AR

Incl refers

5. The D.S. & T.C. MD 3, will issue the necessary transportation on demand.

6. The D.A.P.M., MD 3, will arrange for sufficient escort to guard movement of this personnel from No. 89 Military Detention Barracks to district depot No1, such escort being supplied from No. 33 Coy, C.Pro.C., Ottawa, and No 89 Military Detention Barracks, ~~KINGSTON~~ Kingston.

7. The above mentioned personnel will move in a single group and the D.A.P.M., MD 3, will advise the District Officer Commanding, Military District No.1, at least forty-eight hours before the despatch of this personnel. This arrangement was made today by the D.A.A.G., MD 3 and Major Sheldrick, D.A.A.G. Headquarters, Military District No.1.

8. All the above personnel will cease attachment to No. 89 Military Detention Barracks and be struck off strength No 3 District Depot to No. 1 District Depot effective the date they are despatched. Such prisoners will then be discharged from the Canadian Army and handed over to the Governor of the County Jail, County of Middlesex, after a Warrant of Commitment has been signed by the District Officer Commanding, Military District No 1 for the use of the Governor of the County Jail, County of Middlesex, London.

9. In this connection the attention of the District Officer commanding, Military District No 1, is drawn to National Defence Headquarters' letter HQS 8536-6 Vol 2 Adm 3 dated 28 May 45 (A922(b)).

SGD: ??????????
(W.K. MacGregor) Major
D.A.A.G. MD 3

COPY TO

District Officer Commanding, Military District No1, LONDON, Ontario
Officer Commanding, 1 District Depot, LONDON, Ontario

Provincial Secretary, Parliament Building, TORONTO, Ontario
Attention Superintendent of Reformatories.

Secretary, Department of National Defence, OTTAWA, Ont.
Attention Cap. Parlee, Administration Branch.

SGD: R.M. Merritt Major
for (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No 3

WKM/EV

THIS COPY FOR H.Q. C.55-M-1678
M.D. 10/Murray, REX/1

GB

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL.

No. A.4231 Name MURRAY, Robert John Frederick

Rank Pte Unit The Royal Cdn Regt CAO CMF

Charge A.A. 15(1) WOAS, A.W.L.

Date of Crime 30-10-43

Date of Arrest 26-6-44 Charge Signed 5-7-44

Orders for ~~D~~FG.C.M. Lt Col Comd 1 Cdn Inf Bde

Place and Date of Trial In the field; 23-7-44

Sentence Imprisonment W.H.L. 2 yrs.

Date of Confirmation 31-7-44

Date of Promulgation 7-8-44

Entered in Records of J.A.G. as No. 3641

Date 14-5-45

MEMO Balance of sentence remitted by Conf. Auth. 10-7-45

Reviewed at C.M.H.Q.

Capt
for Judge Advocate-General

10M-1-45(M-4629)

11 May 45

Paraca — no irregularities noted.

HD

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario
7 May 45.

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

A-4231 - Pte MURRARY R J F
SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TCS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 26 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of imprisonment with hard labour.

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

for (A E Walford)
Major-General
Adjutant-General

Encl. 3

3641

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Murray RJE/1

CANADIAN MILITARY HEADQUARTERS

LONDON 9 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

6-55-M-1678

A.4231 Pte Murray, R.J.F.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 23 Jul 44 for an absence without leave of 239 days duration. He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released if he continues so to do, is 21 Nov 45.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence.

5. In view of this soldier's conduct since he has reached a theatre of operations, which has included one offence under AA Sec 9(1) and which has kept him from combat duty since Oct 43, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para.8 of Appx to C.A.R.O. 1029, and it is so recommended. It is considered that this soldier has not misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 23 Jul 44, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E.G. WEEKS) Major-General
In charge of Administration
CANADIAN MILITARY HEADQUARTERS.

.4.

1000:76
S/803 (8739)

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS A.4231 Pte Murray, R.J.F. of RCR was by Field General Court-Martial held in the field convicted of the offence(s) of absence without leave

and by a sentence signed on the 23rd day of July 1944 sentenced to undergo imprisonment with hard labour for 2 years

said sentence of imprisonment commencing on the aforesaid day, and such sentence has been confirmed by Comd., 1 Cdn Inf Bde as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 9th day of April 1945

(Beverley Matthews) Brigadier
A/ Deputy Adjutant General
Canadian Military Headquarters.

RECORDED AT CMHQ BN. AB 160. WWW-119

Edward Rawlings Maj

(K.72)

Correspondence to be PINNED here

RECEIVED 25 SEP 1944 JAG BRANCH C.M.H.Q.

Army Form A.3

Form for Assembly and Proceedings of Field General Court Martial on Active Service

PROCEEDINGS

On Active Service, this Nineteenth day of July, 19 . 44

A Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Inf Bde on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial ; ~~[illegible]~~

* Omit where Convening Officer is a Commanding Officer or in of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~[illegible]~~

PROCEEDINGS REVIEWED

E C Rawlings Capt 26 Sept 44.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

President

Rank	Name	Regiment
Major	E C Rawlings	48 Highrs

Members

Rank	Name	Regiment
Captain	L J Courtin	R C R
Lt.	W W White	Hast & PER
Lt.	J C Currelly	48 Highrs

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (J A Calder) Lt-Col

Commanding 1 Cdn Inf Bde

Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A 4231 PRIVATE Robert John MURRAY (R C R)	FIRST CHARGE A.A. Sec 15 (1)	GUILTY	GUILTY To be imprisoned with hard labour for a period of two years Edward Rawlings 23 July 1944 Maj	Confirmed

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"

Answer (to be recorded on separate sheet if necessary) :—

(Signed) (J A Calder) Lt-Col
Commanding 1 Cdn Inf Bde
Convening Officer (e)

(Signed) Edward Rawlings
(E C Rawlings) ~~Lt-Col~~ MAJ.
48 Highrs
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here

B Certificate of President as to proceedings.

I certify that the above Court assembled on the 23rd day of July 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~

were duly sworn.

* Omit if not applicable

Signed this 23rd day of July 1944

Edward Rawlings
President of the Court Martial.
(E C Rawlings) Major
48 Highrs

C Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1939.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

Signed this 31 day of July 1944

(J A Calder) Lt-Col
Comd 1 Cdn Inf Bde
Confirming Officer.

Promulgated and extracts taken in the case of A4231 Pte MURRAY, R.J.F.

(a) (Dated) 7 Aug 44 (Signed) J.W. Ritchie Lt.-Colonel, Comd., The Royal Canadian Regiment.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B-2
Edward Bowling May

CHARGE SHEET.

The accused, No. A4231 Pte Robert John Frederick MURRAY, The Royal Canadian Regiment, a soldier of the Canadian Army Overseas, Central Mediterranean Forces, When On Active Service, is charged with:-

First Charge.
A.A. Sec 15 (1)

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field, on 30 Oct 43, absented himself without leave from 2030 hrs 30 Oct 43 until surrendering himself to Sgt Webb at 2005 hrs 26 Jun 44. (absent 239 days 23 hrs 35 mins)

Dated, in the Field
this 6 day of July 1944

J.W. Ritchie
(J.W. Ritchie) Lt.-Colonel
Comd., The Royal Canadian Regt.

To be tried by Field General Court Martial.

J A Calder
(J A Calder) Lt-Col
Comd 1 Cdn Inf Bde

In the field
19 Jul 44.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field

on the 23rd day of July 19 44 by order of

Lieut. Col. J. D. Calder

Commanding 1st Canadian Infantry Brigade

dated the 19th day of July 19 44

President.

Major E. C. Rawlings 48th Highrs.

Members.

Captain L. J. Courtin R.C.R.

Lieut. H. H. White Hast + P.E.R.

~~Judge Advocate.~~

Trial of* A 4231 Pte. Murray, Robert John R.C.R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~ ~~to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. E. E. Denyman R.C.R.

Counsel‡ or defending officer† Lt. J.T.B. Quayle R.C.R.

At 9.00 o'clock the Trial commences.

The order convening the Court is read, and is marked B1, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* no

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

30057 WL.9418(2)(2) 10,000 sets 12/41 K. & H., Ltd. 5467-11 Forms A9-20

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

B. 7
Canora Spalding May

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 577)

I certify that I have this morning examined No. K 4231

Rank Pte. Name Henry B. J. F. of the Royal Can. Reg.

and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station Sheffield
Date 12. 7. 44

(Medical Officer)

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[~~The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.~~]

The accused A 4231 Private Murray, Robert John is found guilty of absence without leave.

†The summary (or abstract) of evidence is read, marked B3 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

Answer. yes ~~The accused in mitigation of punishment says~~ :—

[*or* hands in a written statement, which is read, marked B6 , signed by the President, and attached to the proceedings.]

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No

Answer.

Evidence as to character.

Plea for Mitigation on Behalf of A4231 Pte Murray, Robert John, Frederick.

B-b

Pte. Murray was in the a/t pl. before the landing in Sicily. It has always been his line and he has had several transport and 2 & 6 pdr. courses. He was an a/t d.r. from the landing in Sicily right through until before Campo basso, when his bike had to be condemned & he was transferred to a rifle coy. He had done no rifle coy. work for 3½ years and was pretty unfamiliar with it. He made every effort to get back to the a/t work in which he had been trained & paraded up for interview on several occasions but without success. A man's mental istate in such circumstances could hardly be very good. Pte. Murray has a wife and two children in Canada and any financial punishment would impose hardships on them rather than himself. In view of these circumstances I would ask for all possible leniency.

~~Canada Reading~~ May

Signed
J. Cuayle, Lt.
Defending Officer.

B-3 Court Book No

Summary of Evidence in the case of A4231 Pte Murray Robert John Frederick, a soldier of the Canadian Army Overseas, placed on Active Service.

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

1st Witness for the prosecution. B88177 Sgt. Webb W.A. RCR.

A4231 Pte Murray R.J.F. surrendered himself to me at 2005 hrs. 26th June 44 he was dressed in Army clothes.

William A. Webb

The accused declines to cross examine the witness

2nd Witness for the prosecution B41922 Pte Cox R. RCR.

on the evening of the 30th Oct 1943 at 2030 hrs Pte Murray was absent when the roll was called. I was acting as Pte. Murray's Section leader at the time and it was my duty to call the roll every evening. To the best of my knowledge he did not return till 26th June 1944.

The accused declines to cross examine the witness

The accused having been cautioned as follows.

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but anything you say or any evidence you give will be taken down in writing and may be given in evidence"

In accordance with R.P.(2) declines to make any statement or to give evidence on oath.

Certified that R.P. 4 (a)(b)(c)(f) & (g) have been complied with.

Taken down by me in the presence of the accused this 3rd day of July 1944 in the field.

A. Cooper Lt.
Officer taking the summary

E

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~Finding.*~~

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

~~*The Court being re-opened, the accused~~ again ~~brought before it.~~

~~is duly sworn.~~

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked B4, B5 signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes

Cross-examined by the accused.

[Instructions.—If by reason of the nature of the service of the accused in a disciplinary corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused A4231 Private Murray, Robert John, R.C.R. to be imprisoned with hard labour for a period of two years.

Sentence.

Extracts entered as No. 3641 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 14 day of May 19 46

Army Form B 116.

COPY

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at in the field on the 26 day of November 19 43, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.A4237 Pte R.J.F. MURRAY, "A" Coy The Royal Canadian Regiment,

DECLARATION.

The Court declare, A4237 Pte R.J.F. MURRAY, The Royal Canadian Regiment, has been illegally absent from 2030 hrs 30 Oct 43., and that at 2030 hrs 2 Nov 43 he was still absent and is still so absent, and that on 30 Oct 43 he was deficient and is still deficient equipment, clothing and Regimental necessaries to the value of £5/5/2, (Five pounds, five shillings and two pence.)

Edward Rowling Maj

Names of President and Members

President - Major E.C. Nelson, RCR

Member - Capt J. Praysner, RCR
Member - Lieut Jap Bryan, RCR

Signature of Commanding Officer D.C. Spry, Lt.-Col.
Cond., RCR

CERTIFIED TRUE COPY (D.C. Spry.)

R.S. Richards, Capt.
Signature of Officer having custody of the Original Record.

Adjt., The Royal Cdn Regt.

(17888) Wt.30001/1845 125,000 1/41 A.A.E.W.Ltd. Gp.698
(17888) Wt.11021/1176 250,000 5/41 " " " Forms/D115/56

B-5 Canard Rawlings May

No A4237 Name Murray, R?J.F. | Sqn, Battery, or Company Sp | Corps CIC. | Date of enlistment 27/6/40 | Trade or Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P48/130 (2438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc T.M. Powers, Maj. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous Sheet destroyed 15/10/42 DHB.					
Transferred to #1 CI (R) TC AF from RCR Depot London, Ont., DO Pt 1 #173 d/12/7/40									
Camp Bordon	4 Jul 41	Pte		AWL 4 days AA Sec 15 (1)	Sgt H Schorby Sgt G Shepherd ~~L/Sgt Service~~	Admonished	14 Jul 41	Capt Botting	Forf 4 days pay FRI 149 (1)(a)
In the field	29 Oct 43	Pte		WOAS ~~AWL~~ 30 mins AA Sec 15 (1)	L/Sgt Service	3 days CB	30 Oct 43	Maj T.M. Powers	TMP
Field	10 Jul 43	Pte		A.A. Sec 9 (1) Disobeying in such a manner as to show wilful Defisnce of Authority a Lawful Command given personally by his superior officer.	L/Sgt Service L/Cpl Sinclair Sgt MacDonald Cpl Coughlan	28 days FP forf 28 days pay under FRI 149 (1)(b)	15 Jan 43	TE Snow Lt.-Col	Forf 4 days pay under FRI 149 (1)(c)(ii)

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED THAT THIS IS A TRUE COPY OF THE ORIGINAL DOCUMENT HELD UNDER MY CARE.

(J.B. Smith) Captain,
Adjt., The Royal Canadian Regiment.

B-4 Edward Rawlings May

(A.F.B. 355)
22M—5-41 (572-3)
H.Q. 1772-39-520
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A42311	Private	Robert John Frederick MURRAY	RCR

1. The following is a fair and true summary of the entries in the ~~Regimental Conduct Sheet~~ ~~Regimental or Squadron or Battery~~ Field Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~or Forfeiture~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	~~NO RECORD~~	times	~~NO RECORD.~~	times
For	~~AWAITING ORIGINAL~~ MFM 6 FROM 2nd ECH arrived 4 Jul 44	times	AASec 15 (1)	two times
For	N/L	times	AASec 9 (1)	once times
For		times		times

Number of instances of gallantry or distinguished conduct

~~xx~~

~~There are no entries in the conduct sheets of the accused.~~ ~~No Record~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately. ~~No Record~~ NIL.

2. The accused has not been previously convicted ~~No Record~~

~~xxx~~

~~Previous convictions of the accused~~ by a court-martial or a civil court, of summary awards under ~~or Forfeiture~~ Section 47 of the Army Act and dispensations with trial under ~~and A.A. 70~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~xx~~

~~The accused at the present time is under sentence for xxxxxxxxxx beginning on the xxxxxxxxxx day of xxxxxxxxxxxx~~

4. The accused has been in confinement awaiting trial on the present charges, for ~~NIL~~ days in civil custody, and ~~27~~ days in ~~or Forfeiture~~ military custody, making a total of 27 days in custody, of which ~~NIL~~ days were spent in hospital. Post 4 Jul 44.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 30 years 2 months days.

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 27 June 40

7. The service which the accused is allowed to reckon towards discharge is 4 years 27 days.

8. The accused is entitled to reckon 4 years 27 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to ~~military~~ decoration, or ~~military~~ reward (or is in possession of or entitled to). State any ~~military~~ decoration or reward.

Entitled to CVSM.

~~10. If the accused is a warrant officer, the accused before he was made a warrant officer held the regimental rank of xxxxxxxxxx~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number A4231 Rank Pte Name MURRAY, R.J.F. of The Royal Canadian Regiment Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	~~NO RECORD / AWAITING ORIGINAL MFM 6 FROM 2nd BCH.~~ MF46 (ORIG) ARRIVED 4 Jul 44.			
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of Jul 44.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

(J.E. Smith)
Capt., Adjt.,
The Royal Canadian Regiment.

RECORDED AT CMHQ IN AB 160 WWW-117

Certified true copy
(D.M. Owen) Capt.

B-1
"Edward Rawlings Maj"

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Nineteenth day of July, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Inf Bde., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~.] "JAC"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [~~I am unable to appoint—~~
~~*(1. Three Officers to form the Court.)~~
~~*(2. A Field Officer as President.)~~ "JAC"
~~for the following reasons, namely:—~~]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	E.C. Rawlings	48 Highrs.

Members.

Rank.	Name.	Regiment.
Captain	L.J. Courtin	R C R
Lieut	M.W. White	Hast & PEI
Lieut	J.C. Currelly	48 Highrs.

Waiting Members.

Signed " J.A. Calder"
(J.A. Calder) Lt-Col.
Commanding 1 Cdn Inf Bde.
Convening Officer.

*To be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A.4231PRIVATE Robert John MURRAY (R C R)	FIRST CHARGE A.A. Sec 15(1)	Guilty	Guilty To be imprisoned with hard labour for a period of two years "Edward Rawlings" Maj. 23 Jul 44.	Confirmed "J.A.C."

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) "J.A. Calder" (J.A. Calder) Lt-Col. *Commanding* 1 Cdn Inf Bde. — *Convening Officer* (*e*)

(*Signed*) "Edward Rawlings" (E.C. Rawlings) Maj 48 Highrs. — *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 23 rd day of July 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) "ER"
*(4. ~~The officers under instruction~~) "ER"

*Omit if not applicable.

were duly sworn.

Signed this 23rd day of July 19 44.

"Edward Rawlings"
President of the Court Martial.
(E.C. Rawlings) Major
48 Highrs.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

*See footnote (*b*) on page 762 M.M.L. 1929.

Signed this day of 19 ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I ~~direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~) "JAC"

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 31 day of Jul 19 44

"J.A. Calder"
Confirming Officer.
(J.A. Calder) Lt-Col.
Comd 1 Cdn Inf Bde.

Promulgated and extracts taken in the case of A.4231 Pte MURRAY R.J.F.

(*a*) (Dated) 7 Aug 44 (Signed) "J.M. Ritchie" Lt-Colonel
Comd. The Royal Canadian Regiment.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[22262] W.8800:412 60,000 12/42 S.& E.W.Ltd. Gp.698

Army Form A 9.

A

**Form of Proceedings for General and District Courts-Martial.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

Proceedings of a Field General Court-Martial held at Field on the 23rd day of July 19 44 by order of Lieut-Col. J.A. Calder Commanding 1 Canadian Infantry Brigade dated the 19th day of July 19 44

President.

Major E.C. Rawlings 48 Highrs

Members.

Captain L.J. Courtin R.C.R.

Lieut W.W. White Hast & P.E.R.

"ER"
~~Judge Advocate~~

Trial of* A.4231 Pte Murray, Robert John R.C.R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ "ER" ~~is not available to serve owing to~~ "ER" ~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt E E Denmen R.C.R.

Counsel‡ or defending officer† Lt J.T.B. Swale R.C.R.

At 0930 o'clock the Trial commences.

The order convening the Court is read, and is marked B1 signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

2000 (W.W.H.&S.) 12,000 pads. 12/43 K. A. H., Ltd. G.S.(?)1) Form 1938

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

B-2

"Edward Rawlings Maj"

CHARGE SHEET

The accused, No A.4231 Pte Robert John Frederick MURRAY, The Royal Canadian Regiment, a soldier of the Canadian Army Overseas, Central Mediterranean Forces, when on Active Service, is charged with:-

First Charge
A.A. Sec 15(1)

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field, on 30 Oct 43, absented himself without leave from 2030 hrs 30 Oct 43 until surrendering himself to Sgt Webb at 2005 hrs 26 Jun 44. (absent 239 days 23 hrs 35 min)

Dated, in the Field

this 5 day of July 1944

"J.W. Ritchie"
(J.W. Ritchie) Lt-Col.
Comd., The Royal Canadian Regt.

To be tried by Field General Court Martial.

In the Field
19 Jul 44.

"J.A. Calder"
(J.A. Calder) Lt-Col.
Comd 1 Cdn Inf Bde.

B-7
"Edward Rawlings Maj"

MEDICAL OFFICER'S CERTIFICATE
(K.R. (Can) para 577)

I certify that I have this morning examined No A.4231
Rank Pte Name MURRAY R.J.F. of The Royal Canadian
Regt and in my opinion he is fit to undergo trial
by Court Martial.

Station In the Field
Date 23 - 7 - 44

"W.E. Ortved Capt"
(Medical Officer)

CC

Proceedings on Plea of Guilty.

"ER"

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[~~The Court having been reopened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.~~]

The accused A.4231 Private Murray, Robert John is found guilty of absence without leave.

†The summary (or abstract) of evidence is read, marked B3 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

Yes

Answer. ~~The accused in mitigation of punishment says~~ :—

"ER"

[*or* hands in a written statement, which is read, marked B6 , signed by the President, and attached to the proceedings.]

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No.

Answer.

Evidence as to character.

By "Edward Rawlings" Major

ARMY FORM B.236.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
A.4231	Private	Robert John Frederick MURRAY	RCR

1. The following is a fair and true summary of the entries in the ~~regimental or statutory accompanying~~ Field conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

†See para. 677, S.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special item of gallantry, or distinguished conduct.

INSTRUCTION.—If the charge is for disciplinary, new the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For ~~No Record. Awaiting original~~	times	~~No Record.~~ AA Sec 15(1)-2 times.
For MFML from 2nd Ech. 4 Jul 44.	times	AA Sec 9(1)-1 times.
For N.L.	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

~~Entries are not expressed in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or*

~~Details of convictions by the accused~~ by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused was under sentence of the present date, or the sentence at the present time is under sentence, or~~ ~~Against the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 27 days in military custody, making a total of 27 days, of which, Nil. days were spent in hospital. as at 4 Jul 44

5. The present age of the accused according to his ~~Record of Service~~ attestation paper is 30 years 213 days

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 27 Jun 40

7. The service which the accused is allowed to reckon towards discharge ~~or transfer to the reserve~~ is 4 yrs 26 days.

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon 4 yrs, 26 days. service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). Entitled to CVSM

11. (*If* ~~the accused has served in the Canadian Army (Overseas) Reinforcement Unit he is entitled to supplemental~~ ~~service~~

12. (*In the case of an officer.*) The accused holds in the army the rank of dated , and in his regiment (*or* corps *or* department) the rank of dated

(*18230) W1.13832/144 125,000 6/41 A.A.E.W.Ltd. Gp.498

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A.4232 Rank Pte Name MURRAY R.J.F. of R.C.R. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		MFML arrived (Orig) 4 Jul 44		
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of July 44

"J.B. Smith"
(J.B. Smith)
Capt & Adjt,
The Royal Canadian Regiment

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

No A.4231 Name MURRAY RJF | Sqn, Battery or Company | Corps CIC | B5 "Edward Rawlings Maj" | Date of enlistment 27/6/40 | CO | Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc T.M. Powers Maj | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
				Previous Sheet destroyed 15/10/42 EHB					
Transferred to Camp Borden 4 Jul 41		Pte		I CI (R) TC from RCR Depot London, Ont., DO Pt II 173 d/12/7/40 AWL 4 days AA Sec 15(1)	Sgt H Schorby Sgt G Shepherd	Admonished	14 Jul 41	Capt Botting	Forf 4 days pay FR&I 149(1)(a)
In the Field	29Oct43	Pte		WOAS AWL 30 mins AA Sec 15(1)	L/Sgt Service	3 days C.B.	30 Oct 43	Major T.M. Powers	TMP
Field	10 Jul 43	Pte		A.A. Sec 9(1) Disobeying in such a manner as to show wilful Defiance of authority a lawful command given personally by his superior officer.	L/Sgt Service L/Cpl Sinclair Sgt MacDonald Cpl. Coughlan	28 days F.P. for 18 days pay under FR&I 149 (1)(b)	15 Jan 43	TE Snow Lt-Col.	Forf 4 days pay under FR&I 149(1) (c?ii)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified That this is a true copy of the original document held under my care.

"J.B. Smith"
(J.B. Smith) Capt.
Adjt., The Royal Canadian Regiment.

Plea for Mitigation on Behalf of A. 4231 Pte Murray, Robert John, Frederick.

B-6

Pte Murray was in the a/t pl. before the landing in Sicily. It has always been his line and he has had several transport, 2 & 6 pdr courses. He was an a/t D.R. from the landing in Sicily right through until before Campobasso, when his bike had to be condemned and he was transferred to a rifle coy. He had done no rifle coy work for 3½ years and was pretty unfamiliar with it. He made every effort to get back to the a/t work in which he had been trained and paraded up for interview on several occasions but without success. A man's mental state in such circumstances could harly be very good. Pte Murray has a wife and two children in Canada and any financial punishment would impose hardships on them rather than himself. In view of these circumstances I would ask fro all possible leniency.

Signed.
"J. Quayle" Lt.
Defending Officer

"Edward Rawlings Maj"

Summary of Evidence in the case of A.4231 Pte MURRAY Robert John Frederick, a soldier of the Canadian Army Overseas, placed on Active Service.

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

1st Witness for the prosecution — B.88177 Sgt Webb W.A. RCR

A.4231 Pte Murray R.J.F. surrendered himself to me at 2005 hrs 26th June 44. He was dressed in Army clothes.

"William A Webb"

The accused declines to cross-examine the witness.

2nd Witness for the Prosecution — B.41922 Pte Cox B RCR

On the evening of the 30th Oct 1943 at 2030 hrs Pte Murrey was absent when the roll was called. I was acting as Pte Murray's section leader at the time andit was my duty to call the roll, every evening. To the best of my knowledge he did not return till 26th June 1944.

The accused declines to cross-examine the witness.

The accused having been cautioned as follows.

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but anything you say or any evidence you give will be taken down in writing and may be given in evidence.

In accordance with R.P. (e) declines to make any statement or to give evidence on oath.

Certified that R.P. 4(c)(d)(e)(f) &(g) have been complied with.

Taken down by me in the presence of the accused this 3rd day of July 1944.

In the Field

"A.G. Cooper Lt"
Officer taking the Summary

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

The Court find that the accused "E" ~~[illegible]~~

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

*~~The Court being re-opened, the accused is again brought before it.~~

"E" ~~is duly sworn.~~

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked B4, B5, signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes

Cross-examined by the accused.

[Instructions.—If in respect of the matters of the offence of the indicted in a hypothetical form, of character, the finding of the Court leaves, pursuant to, and subject to, the provisions of the Act, the attention of the Court to the fact, and the Court shall inquire into the nature and character of the additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused A.4231 Private Murray Robert John, R.C.R. to be imprisonned with hard labour for a period of two years.

Sentence

Army Form B.115

RECORD OF THE DECLARATION OF A COURT OF INQUIRY ON THE ILLEGAL ABSENCE OF A SOLDIER.

RECORD of the Declaration of a Court of Inquiry assembled at in the field on the 28 day of November 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammuniton, Equipments, Instruments, Regimental Necessaries, or clothing of

No A.4231 Pte R.J.F. MURRAY, "A" Coy The Royal Canadian Regt.

DECLARATION

The Court declare, A.4231 Pte R.J.F. MURRAY, The Royal Canadian Regiment, has been illegally absent from 2030 hrs 30 Oct 43, and that 2030 hrs 21 Nov 43 he was still absent and is still so absent, and that on 30 Oct 43 he was deficient and is still deficient equipment, clothing and Regimental necessaries to the value of £5/5/2 (Five pounds, five shillings and two pence.)

"Edward Rawlings Hall"

Names of President and Members.

President - Major R.C. Nelson RCR

Member - Capt J. Praysner RCR

Member - Lieut JWP Bryan RCR

Signature of Commanding Officer
(D.C. Spry Lt-Col
Comd RCR)

Certified true copy

R.S. Richards, Capt.
Signature of officer having custody of the original records.

Adjt., The Royal Cdn Regt.

CERTIFIED TRUE COPY

(D.M. Owen) CAPT

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. A.4231 Pte MURRAY R.J.F. Unit The Royal Cdn Regt

Sentenced to 2 years with hard labour on 23 July 44

Age on, and date of enlistment 27 yrs 86 days 27 June 40. Term of service 4 years 10 days

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(15712) Wt.24508/175 7,000 8/40 A.& E.W.Ltd. Gp.498
(16811) Wt.33643/1217 55,000 12/40 " " Forms/A.3104/11

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. WOAB, AWL from 2030 hrs 30 Oct 43 until 2005 hrs 26 June 44. (Time absent 239 days 23 hrs 35 mins) A.A. Sec 15(1) "J.B. Smith" (J.B. Smith) Capt, Adjutant The Royal Canadian Regiment.	30 Oct 43	23 Jul 44.
VIII.—Second Trial. Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
7 Aug 44	I recommend that this sentence should NOT be considered for remission until the end of 1 yrs imprisonment and depending on his behaviour during this time.	"J.W. Ritchie" (J.W. Ritchie) Lt-Col. Comd. The Royal Cdn Regt.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
12 Aug 44	In view of the circumstances of the offence AWL for 8 mos in an active theatre of operations during most of which time his unit was in actual contact with the enemy - I recommend sentence be served as promulgated. "JAC"	"J.A. Calder" (J.A. Calder) Lt-Col. Comd. 1 Cdn Infn Bde.

H.Q.C. 55-M-1679 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MURPHY. THOMAS ALBERT G.22930 PTE.

988-65A

CONFIDENTIAL H.Q.C. 55-M-1679

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				D. Adm.	NEW FILE C.R.		APR 20 1945
MAY 18 1945	5.5.45	PA		JAG			2.5.45
				Admin	Per Requisition R.C. JUN 30 1945		
				SE(AG)	SG		3.7.45
							4.7.45
				SE(AG)			22.7.45
JUL 10 1945	9.7.45	PA		Admin			1.7.45
JUL 26 1945	JUL 25 1945	PA		ICM			
				CMBR	Per Requisition C.R. OCT 2 1945		
				AC			OCT 22 1945
OCT 27 1945	17.11.45			Adm	Passed pls.		23.10.45
NOV 8 1945	7.11.45	PA		Admin	Per Requisition R.C. NOV 6 1945		
				JAG	With Papers C.R. NOV 12 1945		
NOV 13 1945							13.11.45
NOV 16 1945	17.11.45			Admin	To note pls.		16.11.45
NOV 17 1945							
JUN 1 1946				KORB	Per Requisition C.R. MAY 6 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. J/38-M-1796 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Saint John, N. B., November 10, 1945.

8718

NOV 12 1945

Chgd. to
Referred to

Secretary,
Dept. of National Defence,
Ottawa, Ont.

REMISSION OF SENTENCE
622930 Pte. Murphy, T. A.

Enclosed please find A.F. A3104 and original copy of Remission Form.

2. Please note that balance of sentence awarded this soldier has been remitted, effective 8 Nov 45.

(D. R. AGNEW), Brigadier,
District Officer Commanding,
Military District No. 7.

Encl.

NAT. DEF. R. 440
250084-4-44 (4521)
H.Q. 1771-39-767

38 [illegible]PME [illegible] 50,000 - 8/42

ARMY FORM A3104

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL

I.—Case of No. G.22930, Pte Murphy, T.A. Unit 4 Bn 1 CBRGp

Sentenced to two years imprisonment with hard labour on 17 Nov 44

Age on, and date of enlistment 19 years - 16 Jun 40 Term of service Duration

FIRST TRIAL

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4)

(For action on review, see paragraph VI.)

SECOND TRIAL

For details of offences, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... (Superior Military Authority (4)

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

18

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature O.C. Prison or Detention Barracks
	No remission. B.F. 3 May 45.	W.H. Roaf (W.G.H. Roaf) Brigadier Officer i/c Cdn Sec 1 Ech AFHQ 12 FEB 1945	
	NO REMISSION RETURN TO CANADA IN CUSTODY UNDER SENTENCE	Beverley Matthews (Beverley Matthews) Brigadier A/D.A.G. C. M. H. Q. 9 APR 45.	
3 Nov 45.	Balance of sentence remitted effective 8 Nov 45.	D R Agnew (D.R. Agnew) Brigadier, D.O.C., M.D. No. 7.	

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.		
1st Charge - AA 12(1)(a) WOAS, Deserting His Majesty's Service in the Fd in Italy, after having been duly warned that he would be proceeding to his unit in the Fd on draft, absented himself without leave from 0900 hrs, 3 Oct 44, until apprehended at 1930 hrs, 12 Oct 44, with intent to avoid so proceeding.(absent 9 days, 10 hrs and 30 mins)	3 Oct 44	17 Nov 44
2nd Charge - AA 15(1) WOAS, absenting himself without leave in the Fd in Italy from 0745 hrs, 15 Oct 44, while under close arrest, until surrendering himself to MP at about 2015 hrs, 6 Nov 44.(absent 22 days, 12 hrs & 30 Mins)	15 Oct 44	17 Nov 44
J E Dwary Capt Signature of Officer making entry		
VIII.—Second Trial.		
Signature of Officer making entry		

If further space required, an additional slip should be pasted here

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
11 Dec 44	I have no personal knowledge of this soldier. However my impression is that he is incorrigible and I do not believe that he is capable of serving as an efficient soldier. I recommend that he serve his sentence in full	J J Fly Lt Col

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
16 Dec 44	I recommend Sentence to be served in full	P Kitchen Brig. COMMANDER 1 CDN BASE RFT GROUP

FORM OF REMISSION, COMMUTATION OR MITIGATION
OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-M-1679 (ICM)
DISTRICT FILE No. J/38-M-1796 (JAG)

PART I

No. G-22930 Rank Private Name MURPHY, T.A.
Unit No. 7 District Depot, C.A.

PART II

Date of Trial 17 Nov 44.
Charge (s) A.A. Sec. 12(1) (a) WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

A.A. Sec. 15 (1) ABSENTING HIMSELF WITHOUT LEAVE

Sentence: 2 years imprisonment with hard labour.
Date of Sentence: 17 Nov 44.
Confirmation: (a) Authority:- Comdr. 1 Cdn. Base Rft. Coup.
(b) Date :- 16 Dec 44.

PART III - REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~xxxxxxxxxxxxxxxxxxxx~~ the balance of the period of imprisonment awarded G-22930 Pte. MURPHY, T.A., effective 8 Nov 45.

Signed at SAINT JOHN, N.B., this 3rd day of November 1945

D.R. Agnew
(D.R. Agnew) Brigadier,
(Appointment) District Officer Commanding, M.D. No. 7.
To be signed by the remitting authority personally.

PART IV - PROMULGATION

Remission ~~xxxxxxxxxxxxxxxxxxxx~~ promulgation and extracts taken at Fredericton, N.B. this 8th day of November 1945

E.A. Skene
(1) Captain
(Officer i/c Documents)(E.A. Skene)
No. 7 D.D.C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. G 22930 Rank Private Name MURPHY, T.A.
The sentence of 2 years imprisonment with hard labor.
awarded by ~~xxxxxxxxxxxxxxxx~~ (Field-General)* Court-Martial on the 17 Nov 44 has been remitted effective 8 Nov 45.

UNIT No. 7 District Depot, C.A.

Certified true extract of Daily Order Part II of No. 7 District Depot, C.A.
No. 266 Place Fredericton, N.B. Date 8 Nov 45

E.A. Skene
Captain
Adjutant (E.A. Skene) No. 7 D.D.C.A.

* Strike out and initial words not applicable.

IN REPLY PLEASE QUOTE

No. K.55-M-5592-C (DAPM)

EW/EB

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Cny. file per GDB

KINGSTON, Ontario, 1st November, 1945.

CONFIDENTIAL
6742
NOV 2 1945
File C55-M. 1679
Chgd. to
Referred to. admin

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

G.22930 Pte. MURPHY, T.A.
SUS - No.89 M.D.B.

Reference HQC 55-M-1679 Adm 3(a) CONFIDENTIAL dated 25 Oct 45.

2. Please be advised that the marginally named soldier was despatched, under escort, to No.7 District Depot, Fredricton, N.B. by Provost Personnel of No.33 Coy., C.Pro.C. on the 31st October, 1945 for a Remission of Sentence and his ultimate discharge from the Canadian Army.

C H Watts
Major,
for (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

noted
PCS

N.D.Q.
2000M—10-44 (5769)
H.Q. 1772-101-23

AF

File: K.55-M-5592-C(DAFM)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

KINGSTON, Ontario. 26 October, 1945.

S P E C I A L D E L I V E R Y

CONFIDENTIAL.

District Officer Commanding,
Military District No. 7
ST.JOHN, N.B.

CENTRAL REGISTRY Army
CONF. SEC.
5445
OCT 27 1945
File
Chgd. to
Referred to

C.22930 Pte. MURPHY, T.A.

Ref HQC 55-M-1679, (ICM), dated 25 Jul 45.

2. Enclosed herewith:-

(a) AFA 3104

(b) Review Sheet

3. Pursuant to AA 57A, GO 245/45 and the provisions of CARO 5913, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

4. May a receipt for these documents be forwarded to this Headquarters, please.

Copy to: Secretary,
Dept.of National Defence,
OTTAWA, Ontario.
(for information)

Major,
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

RECEIVED
OCT 27 194[illegible]
A.D.M.I.M.

R C SIGS
OCT 28 1945
ARMY SIGNAL OFFICE

VER V CIA NR 26

FROM COMMANDING 3 KINGSTON ONT 261600R

TO SECTY DND OTTAWA

GR 38 BT

KD 362 RESTRICTED

RETEL HQC 55-M-1679 ADM 3(A) DATED 25 OCT 45 REFERS G 22930 PTE MURPHY T A ACKNOWLEDGED

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED COMPLETE AND RETURN TO A.S.O.
DATE SIGN

84075

BT 261600R KM B

AR 267035

HQC
Adm 55-M-1679

DEPARTMENT OF NATIONAL DEFENCE

ARMY CONFIDENTIAL

AIR MAIL OTTAWA, Ontario,

25 Oct 45

District Officer Commanding
Military District No 3
KINGSTON Ont

G.22930 Pte.MURPHY T A
CM Board of Review
No 89 MDB

Ref telegram AG 0267 dated 18 Oct 45 review.

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation: -

"Release on 17 Nov 1945"

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be informed of action taken.

6. **Ack by telegram requested.**

(W. E. Walford)
Major-General
Adjutant-General

RDW/jh

HQC 55-M - 1679 (CMBR-1)/evj
4 Oct 45
Case No 0210

PAGE 1.

REVIEW OF SENTENCE

1. No, Rank and Name: G.22930 Pte MURPHY, T.A.

2. Unit at date of offence: 4 CBRB, 1 CBRG, CAO, CMF

3. Charge: AA Sec 12(1)(a) WOAS, was AWL for 9 days 10 hrs after having been warned of proceeding to his Unit in the Field, (apprehended).

AA Sec 15(1) WOAS, while under close arrest was AWL for 12½ days until apprehended.

4. Place and Date of Trial: In the Field - Italy - 17 Nov 44

5. Finding: Guilty of both charges

6. (a) Sentence: Two years imprisonment with H.L.

(b) Date of Sentence: 17 Nov 44

7. Date of Confirmation: 27 Nov 44

8. Date of Promulgation: 5 Dec 44

9. Being served at 89 M.D.B. in MD 13

(N.B. - Discharged under RO 1029 ( ) for war).

~~Case No~~----------

CONDUCT

11. (a) Prior to conviction: Poor

Date of enlistment: 16 Jun 40

Date of enrolment: Age: 24

(b) After conviction: Good. Has earned full remissions to date. Earliest date of release 18 Mar 46.

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

Accused did not want to return to his unit (W. Nova Scotia Regt) because of his M.F.M.6. Never intended to desert, but merely went AWL in the hope of being posted to another unit. See Folio 21 for compassionate grounds.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC Reviewing Offr, etc).

CMHQ: To serve full sentence and be dismissed for misconduct.

R.O.: To be released before Xmas. (Strictly a military crime.)

Reviewed by A.B. O'KEEFE, Capt.

A.B. O'KEEFE, Capt.

---

14. ~~Decision~~ Recommendation of the Board:

Release on 17 Nov 45

Date: OCT 16 1945 194---.

W a Stevenson Maj

Chairman/Member/Secretary.

Court Martial Board of Review

Request for MFM 288 or AFA 3104 sent out OCT 5 1945

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55- M-1679 (ICM)

NDHQ Ottawa, Ont

~~25 July~~ 1945

District Officer Commanding
Military District No 3
Kingston, Ont.

CONFIDENTIAL
F.G.C.M.

~~G-22930 MURPHY Thomas Albert~~

Ref

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford),
Major-General,
Adjutant-General.

28

3

July 7, 1945.

RECEIVED
JUL 1945 AM
ADJUTANT-GENERAL

Mrs. J. Murphy,
Princess Street,
Chatham, N.B.

Dear Mrs. Murphy,

Re: G-22930, Pte. T. A. Murphy

With further reference to your letter of 18 June, I have now received a report in connection with the disciplinary action taken against your son.

The sentence was reviewed by the responsible officers overseas, but in view of the serious nature of his offences and of his record, it was considered that no remission could be granted, apart from any remission which he might earn by good conduct while in detention.

Yours very truly,

(H.L. Cameron) Colonel,
Military Secretary.

BC
lml

MEMORANDUM

Department of National Defence,
Army

HQC 55-M-1579 Adm 3(b)2

M.S. OTTAWA, Ontario 3 Jul 45

MINISTERS OFFICE JUL 4 DEPT. N.D. OTTAWA.

MILITARY SECRETARY JUL 4 RECEIVED

S.E. 1895B 4/28 Jun 45
Min File: 988-55A

G.22950 Pte MURPHY, T A

This SUS was tried by FGCM in Italy 17 Nov 44 on:

(1) a charge of desertion having absented himself without leave from 3 Oct 44 until apprehended 12 Oct 44 after having been warned that he would be proceeding to his unit in the field on draft,

(2) a charge of absenting himself without leave from 15 Oct 44, while under close arrest, until he surrendered 6 Nov 44.

2. He was found guilty on both charges and was sentenced to be imprisoned with hard labour for 2 years.

3. Since his enlistment 16 Jun 40, in addition to the offence mentioned above, this soldier has been convicted summarily as under:

12 offences AA Sec 15 - AWL

4 offences AA Sec 40 -Conduct to the prejudice

1 offence AA Sec 11 - Neglect to obey orders.

He was previously tried by FGCM 8 Mar 44 and was sentenced to 6 months detention.

4. This soldier has been examined by a Neuro-psychiatrist and SPO and their recommendations with reference to his disposal were considered in the review mentioned hereunder:

5. On review of sentence it was recommended by MGA, CMHQ that in view of the serious nature of the offence upon which this soldier had been convicted and his previous record, that there should be no remission and that he should be returned to Canada in custody under GO 131/44 to serve the balance of his sentence in full and thereafter be discharged for misconduct. It was expressed as probable that this soldier had misconducted himself for the purpose of obtaining his discharge.

6. This soldier was recently returned from O/S in custody and committed to No 89 MDB.

RECEIVED 4 JUL 1945 ADJUTANT-GENERAL

MJS

for (A E Walford)
Major-General
Adjutant-General

FINAL

NOF/ab

26

SPECIAL ENQUIRY

JUN 28 1945

Date _____

To Admin

No 1895 B.

Reply addressed to M.S. will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned, for the A.G.

A.G.Control & Co-ordination
(S.E. SECTION)

12

RECEIVED
JUN 27 1945
ADJUTANT-GENERAL

June 27th, 1945.

Mrs. J. Murphy,
Princess Street,
CHATHAM, N.B.

Dear Mrs. Murphy,

Re: G-22930, Pte.T.A. Murphy

General McNaughton has asked me to acknowledge receipt of your letter of June 18th addressed to the Prime Minister which has been referred to this office for attention.

The Minister does not feel that he would be justified in ordering the release of a soldier from detention except on the advice of the officers having jurisdiction over such matters.

He has, however, directed that your letter be brought to the attention of the appropriate officers of the Department for their consideration, and as soon as I have the results of any review that may have taken place, I shall write to you again.

Yours very truly,

(H.L. Cameron) Colonel,
Military Secretary.

RECEIVED
JUN 28 1945
ADMIN.

MM/EW
A.G.

Min.File 988-55A

May the Minister be informed of the offence, sentence, and any review which may have taken place. May correspondence be returned, please.

Colonel, M.S.

405-M-32943

24

MEMORANDUM

Office of the Prime Minister

Ottawa, 23rd June, 1945.

Referred from the Office of the Prime Minister to the Minister of National Defence.

P. Acland

for
Private Secretary.

23

MINISTERS OFFICE
JUN 25 1945
DEPT. N. D. OTTAWA.

Ottawa, 22nd June, 1945.

MILITARY SECRETARY
JUN 25 1945
RECEIVED

Mrs. John Murphy,
Princess Street,
Chatham, N.B.

Dear Madam

The Prime Minister has asked me to acknowledge your letter of the 18th of June, regarding one of your sons who has been serving with the Canadian army, and who has been sentenced to nine months' detention.

Mr. King wishes me to explain that ever since the beginning of the war, he has carefully adhered to a rule which prevents him from intervening personally in matters relating to the personnel of the armed forces, but he will be very glad to bring to the attention of the Minister of National Defence, for consideration, your request that your son be released or that the period of his detention be reduced.

Mr. King wishes me to thank you, on his behalf, for your generous words of congratulation on the outcome of the recent general election, and the good wishes which your letter conveys.

Yours faithfully,

for
Private Secretary.

ARH/JMC

22

COPY

Chatham, N.B.
June 18,

Rt. Hon W.F. Mackenzie King,

Dear Sir:

May I at the outset, congratulate you on your victory in the recent election. Mr King I have had five boys in this war, and one had recently returned to Canada and he informs that he has nine months detention to do before can get home. I do not know the nature of his crime as he does tell me. But the other boys have all good records. He went into the army when he was only 16 yrs and it is likely that he was lead away by older ones. My husband was in the last war. So I think I have done my duty to my country. I appealed to you Sir some years ago for a favor and you readily did so for me. Would it be possible for you to get my boy out or his time reduced. Please Sir think this over and use your sincerest judgement. Hoping you every success in years to come, Hoping to hear from you at your earliest convenience,

I remain

Yours sincerely

"Mrs. John Murphy"

Princess St.,
Chatham, New Brunswick

His name is

Pte T.A. Murphy C 22930
P.O. Box 206,
Kingston, Ont

21

Quote No.
HQC.55-M-1679 (JAG/D-9)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada

16 May 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

G.22930, Pte. Murphy, T.A.

1. Receipt is acknowledged of your 10/Murphy, T.A./3 dated 9th April, 1945, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

Receipt is also acknowledged of A.F. A3104 in respect of the m/n F.G.C.M.

E & M
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

/AB

29

THIS COPY FOR: H.Q. C.55-M-1679
M.D. 10/Murphy TA/3

FIELD GENERAL

GS MEMORANDUM ~~DISTRICT~~ COURT-MARTIAL

No. G.22930 Name MURPHY, Thomas Albert

Rank Pte Unit 4 Btn, 1 Cdn Base Rft Gp CAO

Charge (1) A.A. 12(1)(a) Desertion

(2) A.A. 15(1) A.W.L.

Date of Crime (1) 3-10-44; (2) 15-10-44

Date of Arrest (1) 12-10-44; (2) 6-11-44 Charge Signed 12-11-44

Orders for ~~D~~ FG C.M. Lt-Col Comd HQ RCEME 1 Cdn Corps

Place and Date of Trial In the field 17-11-44

Sentence Imprisonment W.H.L. 2 yrs

Date of Confirmation 27-11-44

Date of Promulgation 5-12-44

Entered in Records of J.A.G. as No. 3544

Date 3-5-45

MEMO Balance of sentence remitted by Conf. Auth. 8-11-45

for for Judge Advocate-General

10M-1-45 (M-4629)

Received 11 May 45
[illegible]

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

1 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

G.22930 Pte MURPHY, T A

SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of **imprisonment with hard labour.**

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

W a Stirling Major
for (A E Walford)
Major-General
Adjutant-General

Encl. 3

3544

18

MEMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Murphy, T.A./3

CANADIAN MILITARY HEADQUARTERS

LONDON 9 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

6-55-M-1679

G-22930 Pte Murphy, T.A.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 17 Nov 44 for an offence under AA Sec 12(1)(a) and an offence under AA Sec 15(1) committed when he was under close arrest. He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released if he continues so to do is 18 Mar 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the serious nature of the offences of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, as well as his previous record, which includes an earlier conviction by FGCM for an absence without leave of 18 days, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to C.A.R.O. 1029, and it is so recommended. It is evident from the nature of the offences committed by this soldier that his intention was to avoid serving with his unit in the field and it is probable that he misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 17 Nov 44, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

Enc. 4.

(E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters.

1/39a CMHQ 1000:76
40/P & S/803 (6739)

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS C-22930 Pte Murphy, T.A. of 4 Bn, I.C.B.R. Gp was by Field General Court-Martial held in the field convicted of the offence(s) of **Desertion and Absence without leave**

and by a sentence signed on the **17th** day of **November,** 1944 sentenced to undergo **imprisonment with hard labour** for **2 years**

said sentence of **imprisonment** commencing on the aforesaid day, and such sentence was then confirmed by **Cond 1 Cdn Base Rft Gp** as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this **9th** day of **April,** 1945

(Beverley Matthews) Brigadier
A/Deputy Adjutant General
Canadian Military Headquarters

16

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G22930 Private Thomas Albert Murphy

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 12(1)(a)	Not Guilty	Guilty	
2nd AA 15(1)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ "H T" ~~Beginning on (date)~~ "HT" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two (2) years.

(Sgd) ..... Judge-Advocate, if any. 17 Nov 44 Date awarded. (Sgd) "H. Tellier Maj" President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ "TGG"

(1. AA 57A. Delete if not used.)

Date 27 Nov 44. (Sgd) "T.G. Gibson" Brig. COMMANDER Commanding 1 Cdn Base Rft Group Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G22930 Pte Murphy T.A. RNSR 4 Bn 1 CBRGp	5 Dec 44	"J.A. Baloom Lieut" Adjutant 2 Cdn Reallocation Centre.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Certified true copy (D.M. [illegible]) Capt Cdn Sec GHQ 2 Echl ARI 27 Dec 44

RECORDED AT CMHQ IN AB '60 449

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA91) 40/P 46 (E) 1008 (40-01) 4/38B

Convened by Order of Lt-Col H.S. Conn HQ RCEME Comd 1 Cdn Corps dated 15 Nov 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G22930	Private		Thomas Albert	MURPHY	4 Cdn Rft Bn 1 CBRGp

Proceeding Reviewed. W.P. Taylor Major. 18 Dec 44 DJA. 2 Cdn Sec GHQ 2 Echl ARI.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 17 Nov 44 "HT"

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed. "HT"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) "HT" attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3) "HT"

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 0915 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) "HT"
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ "HT"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~as interpreter?~~ Ans ..... "HT"
~~The Interpreter is sworn.(1) Do you object to~~ ~~as shorthand writer?~~ Ans ..... "HT"
~~The shorthand writer is sworn.(1)~~ "HT"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the "HT" ranks, names and units of the offrs comprising the Court, etc:

President	Major	H. Tellier	4 Cdn Rft Bn
Member	Capt	D.A. Gratton	4 Cdn Rft Bn
Member	Lieut	R.E. Mannering	4 Cdn Rft Bn
Judge-Advocate			
Prosecutor	Capt	R.R. Brown	4 Cdn Rft Bn
Defending Offr	Lieut	F.T. Egener	4 Cdn Rft Bn

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G22930 Pte Murphy T.A. before arraignment make(s) (no) ~~(a)~~ plea "HT" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ "HT" not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C "HT"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(~~s~~)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(~~s~~), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(~~s~~).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Nosir (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes (~~s~~) his (their) plea(s) to ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is (~~are~~) not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. D, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No sir (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~his~~) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. Do neither Do you intend to call witnesses on your behalf ?
Ans. No sir Are they witnesses as to character only ? Ans. N/A
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 102(e).*)

D7. The Court is closed to consider the finding(~~s~~).(1) The finding(~~s~~) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(~~s~~) of the Court on the 1st Charge charge(~~s~~), being subject to confirmation, will be promulgated later.(1)
~~*Or,* The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No sir.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. E and Ex. F respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes sir (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"HT"

CHARGE SHEET

The accused, number 322930 Private Thomas Albert Murphy, 4 bn, 1 Cdn Base Rft Group, a soldier of the Cdn Army Overseas, Allied Armies in Italy, is charged with:

1st Charge
AA Sec 12
(1)(a)

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

in the field in Italy, after having been duly warned that he would be proceeding to his unit in the Field on draft, absented himself without leave from 0900 hrs 3 Oct 44, until apprehended at 1930 hrs 12 Oct 44 with intent to avoid so proceeding (absent: 9 days, 10 hrs 30 mins)

2nd Charge
AA Sec 19
(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field in Italy, absented himself without leave from 0745 hrs 15 Oct 44 while under close arrest, until surrendering himself to Military police at about 2015 hrs 6 Nov 44 (Total time absent 22 days 12 hrs 30 mins)

In the field
12 Nov 44.

"J.H. Morgan"
(J.H.H. Morgan) Major
A/Commander
4 Cdn Rft Bn - 1 Cdn Base Rft Group - C.M.F.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
15 Nov 44

"H.E. Conn Lt-Col"
Comd HQ [illegible] 1 Cdn Corps Tps

"HT"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G.22930	Private		Thomas Albert	MURPHY	4 Cdn Rft Bn 1 CBRGp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 15 NOV 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ". "HT"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ "HT"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~) and to consist of the Offrs appointed or detailed hereunder. "HT"

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ "HT"

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ "HT"

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	H Tellier	4 Cdn Rft Bn.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	D.A. Gratton	4 Cdn Rft Bn.
Lieut	R.E. Mannering	4 Cdn Rft Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	R. Lachance	4 Cdn Rft Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	nil	

On Active Service in the Fd

in ITALY (Country.) "H.S. Conn" (Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

Date 15 Nov 44 Commanding HQ RCEME 1 Cdn Corps Tps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAS5 (In lieu of AFAS) 40/P & S/180T (4001) *(See overleaf for oaths and notes for use on trial.)*

MEDICAL OFFICER'S CERTIFICATE "HT"

K.R. (Can) Para 557 17-11-44

I hereby certify that I have this morning examined No G22930 Pte Murphy T.A. W.N.S.R. on strength 4 Cdn Rft Bn, 1 CBRG-, and in my opinion he is FIT to undergo trial by Court Martial.

"Unknown" Capt
Medical Officer 4 Cdn Rft Bn

D.3.

1st Witness (sworn)

I am S.82027 Cpl Munro C.C. Coy Clerk "A" Coy 4 Bn I recognize the accused as Pte Murphy T.A. At approx 1130 hrs on 2 Oct 44 the accused whom I recognize to be Pte Murphy T.A. was handed over to the Sgt Major of "A" Coy by the Regtl Police. Pte Murphy was asked by CSM Porter to sign a statement to the effect that he was warned for draft which was scheduled to proceed to the West Nova Scotia field unit at 0900 hrs the following morning. 3 Oct 44. I submit Exhibit "A" attached.

Cross Examination

Q. When was the document signed.
A. At approx 1130 hrs 2 Oct
I was present when Pte Murphy was asked to sign the document and when he signed it.

Q. How long have you known Pte Murphy.
A. The first time I saw Pte Murphy to know him was on the 2 Oct 44 when he signed the document.

Q. Did you know that Pte Murphy had applied for a transfer.
A. He applied at that time to the CSM who referred his case to the Coy Comds

Q. Were you present at the Coy Comds interview
A. Yes. Capt O'Neil took Pte Murphy to the Adjt and on return Pte Murphy signed the statement.

Q. Did you hear any more of the application
A. No sir.

R.P. 83(B) complied with.

2nd Witness for Prosecution (sworn) "HT" Page 2

I am M.16222 Sgt Tamblyn J.N. of "A" Coy 4 Bn 1 CHRD. I recognize the accused to be Pte Murphy T.A. At approx 0900 hrs 3 Oct 44 I called the WNS Draft roll Pte Murphy did not answer his name nor was he present on parade. I searched the coy area calling his name but could not find him. I reported him AWL as of 0900 hrs 3 Oct 44 and the WNS Draft left without Pte Murphy at approx 0915 hrs 3 Oct 44.

No Cross examination by Defence.
R.P. 83(B) complied with.

3rd Witness - Prosecution (sworn)

I am A22296 Sgt White J.P. Orderly Room Sgt 4 Bn. I produce a certificate under AA 163(1)(jj) purporting to relate to the accused and showing that Pte Murphy was arrested at 1930 hrs 12 Oct 44(Exhibit "B")

Cross Exam.
Q. How do you know this relates to the accused.
A. Produced from Regtl books.

Q. Do you recognize the signature on this document.
A. Yes sir Capt Davidson's Adjt of 4 Bn.

(R.P. 83(B) complied with.

SUMMING UP BY PROSECUTION "HT" Page 3.

Mr President and members of the Court. I should like to call the attention of the Court to Reg. 17 and 20 Ch III MML On that is based the case of the Prosecution. The Prosecution has established the warning for draft. It has proven that the accused absented himself as alleged in the charge sheet. I tmust now establish intention on the part of the accused.

The intention of the accused is so peculiarly within the knowledge of the accused that is is incapable of proof on the part of the Prosecution. I t must be assumed from the actions of the accused. A man intends the natural consequences of his acts. The natural consequences of the absence without leave of the accused under these circumstances are that he face and be found guilty of a charge of desertion.

Defence.

In regard to intention the Prosecution has brought in no evidence of intention of the accused.

PLEA OF MITIGATION "HT" Page 4.

The court is referred to MFM 6. The accused did not want to go back to his unit. He wanted to transfer. He evaded the draft to avoid returning to his unit where he felt he would not be well received. He wanted to transfer to another and to get a fresh start. The court is asked to take the accuseds feelings into consideration. He did not realize his absence would result in a charge of desertion. It is pointed out that past record is a series of small entries - no previous court martial charge. Accused is apprehensive of his record as shown by his MFM 6 and felt his reception in his unit would be ~~tainted~~ biased by it.

"HT"

2 Oct 44.

I, G.22930 Pte Murphy T.A. hereby acknowledge being warned for draft proceeding to WNSB (FU) at approx 0900 hrs 3 Oct 44.

Ex "A" "T.A. Murphy"

Exhibit "A"

"R.B. Brown Capt."

Ex B "HT" Exhibit B.
"R.B. Brown Capt"

CERTIFICATE UNDER ARMY ACT, SECTION 163 (1)(ii)

I Capt A.E. Davidson certify that G.22930 Pte Murphy T.A. of the 4 Bn 1 CBRGp Regiment was arrested by Sgt Barry at 1930 hrs on the 12th day of October 1944 as a absentee without leave.

Date 1 2 Nov 44 Signature "A.E. Davidson Capt"

Ex "D" "E"

SUMMARY OF EVIDENCE IN THE CASE OF G 22930 PRIVATE THOMAS ALBERT MURPHY OF 4 BN 1 CBRGp WHO IS CHARGED WITH WOAS (1) DESERTING HIS MAJESTY'S SERVICE, AA SEC 12(1)(a) - (2) ABSENTING HIMSELF WITHOUT LEAVE AA Sec 15(1).

By direction of the Commanding Officer, the evidence is taken upon oath.

1st Witness

A.82027 Cpl Munro C.G. of 4 Bn 1 CBRGp, having been duly sworn states:

I am A 82027 Cpl Munro C.G., Orderly Room clerk, "A" Coy 4 Bn 1 CBRGp.

At approximately 1130 hrs 2 Oct 44 the accused whom I recognize to be Pte Murphy was released from the field punishment camp and handed over to "A" Coy Sgt-Major. Pte Murphy was asked by CSM Porter to sign a statement to the effect that he was warned for a draft which was proceeding to the WNS Regt the following morning i.e. the morning of 3 Oct 44 at 0900 hrs. Pte Murphy signed this statement in my presence. I produce this statement as Exhibit "A".

(Produced, shown to accused, marked exhibit "A" and attabhed hereto).

"C.G. Munro"
(C.G. Munro) Cpl

The accused declines to cross-examine this witness.

2nd Witness

M.16222 Sgt Tamblyn J.W. of 4 Bn 1 CBRGp, having been duly sworn, states:

I am M.16222 Sgt Tamblyn J.W. PE Sgt with "A" Coy 4 Bn 1 CBRGp.

At approx 0900 hrs on 30ct 44 I called the draft roll of the WNS Regt. The accused, whom I now recognize as Pte Murphy did not answer his name nor was he present on parade. I searched the coy lines calling his name but could not find him. I reported him absent without leave from the WNS Regt draft. This draft left at approx 0915 hrs 3 Oct 44. the accused was not on it.

"J.W. Tamblyn Sgt"
(J.W. Tamblyn)

The accused declines to cross-examine this witness.

3rd Witness.

B.25841 L/Cpl Hamilton K of 4 Bn 1 CBRGp having been duly sworn states:

I am B 25841 L/Cpl Hamilton K of the Regt'l Police 4 Bn 1 CBRGp.

At approx 0745 hrs on 15 Oct 44, I called the roll of the personnel in the detention barracks. Thename of the accused was on this nominal roll. The accused, whom I recognize to be Pte Murphy did not answer his name nor was he present on this parade. I searched the compound buut Pte Murphy was not to be found. I reported that Pte Murphy was absent without leave, while under close arrest from 0745 hrs 15 Oct 44.

"K. Hamilton"
(K. Hamilton) L/Cpl.

The accused declines to cross-examine this witness.

Ex "D"
"HT"

4th Witness A.22296 Sgt White J.P. of 4 Bn 1 CBRGp having been duly sworn states:

I am A 22296 Sgt White J.P. Orderly Room Sgt, 4 Bn 1 CBRGp.

I produce a certificate under AA Sec 163(1)(ii) purporting to relate to the accused, which states that Pte Murphy was arrested at 1930 hrs on 12 Oct 44.
(Produced shown to accused marked exhibit "B" and attached hereto).

I further produce a certificate under AA Sec 163(1)(ii) purporting to relate to the accused which states that Pte Murphy surrendered himself at 2015 hrs on 6 Nov 44.
(Produced, shown to accused, marked Exhibit "C" and attached hereto).

"J.P. White"
(J.P. White) Sgt.

The accused declines to cross-examine this witness.

Question to the accused:

Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by accused.

I have nothing to say.

I certify that R.P. (C) (D)(E) & (F) have beencomplied with.

I certify that this summary of evidence was taken down by me in the presence and hearing of the accused.

In the Field
12 Nov 44.

"R.B. Brown"
(R.B. Brown) Capt,
Officer taking Summary.

CERTIFICATE OF SURRENDER UNDER AA SEC 163(1)(11) "HT"

I Lieut G.F. CUTTALL Certify that No G.22930 Rank Pte
Name Murphy T.A. Unit WEST NOVA SCOTIA REGT RC.A "HT"
SURRENDERED HIMSELF TO NO 7691456 Rank L/Cpl Sykes A.
at Jesi on the 6th Nov 1944 at about 2015 hrs as a absentee without leave.

"Cuttall" Lieut
~~"UNKNOWN" Capt~~

Commanding 509 & 200 Provost Companies Det. CM.Police.

Commanding Officer of the person or portion of his Majestys Forces to whom surrender was made.

"Exh C" "E.B. Brown Capt"

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE.

I hereby certify that I have this date 15 Nov 1944. received from 4 Cdn Rft Bn, 1 C B R Gp, 1 copy of charge sheet and Summary of Evidence referring to charge(s) of Desertion. A.A. 12(1)(a) & AWL AA 15(1) for which I was remanded for Court Martial.

"T.A. Murphy"
Sig of accused.

REQUEST FOR DEFENDING OFFICER.

I hereby requests that Lieut F Egener if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, 1 C B R G p appoint an officer to act in my behalf.

" T.A. Murphy"
Sig of accused.

Pursuant to Chap V Sec V Sub Sec 25 of MML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

"T.A. Murphy"
Sig of Accused.

EX "Y" "TT"

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
G22930	Pte	MURPHY T.A.	4 Bn 1 CEMCp

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, jus nuisance being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 15(1)	two times	ten times
For AA Sec 40	nil times	one times
For AA Sec 11	one times	one times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct, N/A

or

~~THEY ARE TO BE ENTERED IN CHRONOLOGICAL ORDER OF THE ACCUSED~~

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ beginning on the day of from 1930 hrs 12 Oct 44 to

4. The accused has been in confinement, awaiting trial on the present charges, for 0745 hrs 15 Oct 44 days from 2015 hrs 6 Nov 44 to in civil custody, and 14 days in military custody, making a total of 14 days, of which Nil ~~days accounted for in sentence~~

5. The present age of the accused according to his record of service ~~attestation paper~~ is 23 yrs - 4 mos

6. The date of his ~~enlistment~~ attestation specified in his record of service ~~attestation paper~~ is 16 Jun 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). N/A

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A, dated and in his regiment (*or* corps *or* department) the rank of N/A dated

(*22647) WL.21708/1877 10,000 10/42 A.& E.W.Ltd. Gp.698
(*21451) W.L.18227/481 20,000 5/42

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G22930 Rank Pte Name MURPHY T.A. of 4 Cdn Rft Bn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		n/a	n/a	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th day of November 1944

"A.E. Davidson"
(A.E. Davidson) Capt, Adjt
4 Cdn Rft Bn, 1 Cdn Base Rft Group CMF.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Exh "E" "H"

No. 22930 Name Pte MURPHY TA | Sqn, Battery, or Company | Corps CIC | Date of enlistment 6-6-40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAR/130 (2138)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sussex NB	2-2-41	Pte		AA 15(1) AWL from 0830 hrs 2-2-41 until 1300 hrs 2-2-41 absent 4 hrs 30 mins)	Cpl Poley	7 days C.B.	3-2-41	Maj J.A. MacNaughton	
Sussex NB	28-2-41	Pte		AA 15(1) WOAS AWL from 2359 hrs 28-2-41 until 0900 hrs 4-3-41 absent 3 days 9 hrs.	Cpl Daley Sgt Wood RMP.	10 days C.B. Pay & Appre hension charges.	8-3-41	Lt-Col J.A. Leger	Forf 4 days pay FR&I 149(1)(a)
Sussex NB	10-3-41	Pte		AA 40 WOAS Conduct etc in that he used language not in keeping with good order and military discipline to his superior offr.	Sgt Doucett Sgt O'Neil Sgt Wood.	Admonished.	12-3-41	Major McCalkin.	
Sussex NB	14-4-41	Pte		AA 15(1) WOAS AWL from 0700 hrs to 1250 hrs 14-4-41 5 hrs 50 min	L/Cpl Cameron.	4 days C.B.	14-4-41	Capt Anderson	
Sussex NB	12-6-41	Pte		Conduct etc on parade with a dirty rifle.	L/S McLoughlin	7 days CB	13-6-41	Major MacNaughton	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27-8-41	Pte		AWL from cookhouse 1230 hrs to 1645 hrs 27-8-41	Sgt Murray	7 days CB	28-8-41	Major MacNaughton	
Field	29-10-41	Pte	X	AWL Louisburg Bks 2200 hrs 29-10-41	Sgt Murray	5 days CB	1-11-41	Lieut Gough	
Field	31-10-41	Pte		Conduct etc Improper language	L/Cpl Bertin	14 days Detn	1-11-41	Maj Hayhurst.	
Field	1-2-42	Pte		AWL 2359 hrs 1-2-42 till 0130 hrs 2-2-42 AA 15(1)	L/Cpl Splude	7 days CB	2-2-42	Lt-Col Lough	
Field	13-6-42	Pte		AWL from 2230 hrs 13-6-42 to 0930 hrs 14-6-42 AA Sec 15(1)	L/Cpl Barry	6 days CB	16-6-42	Major MacNaughton	
Field	14-9-42	Pte		Neglect etc neglected his duty	Pte McLeyre	7 days CB	22-9-42	Capt Adnerson	
Field	24-12-42	Pte		WOS found beyond limits fixed by Regt'l orders without pass	L/Cpl Beudreau	7 days CB	28-12-42	Capt Pell	
Field	2-1-43	Pte		AWL from 1700 hrs to 1725 hrs	CSM Lynch	3 days CB			
Field	26 Jul 44	Pte		AA Sec 11 WOAS Neglected to obey camp orders broke curfew	CSM Lynch Doc.	7 days CB	29 Jul 44	Lt-Col McKenna.	

MFM 6
(AFB 122)
40/P&R/130 (3428)

No G22930 Name Pte MURPHY TA | Sqn, Battery, or Company | Corps CIC | Date of enlistment 16-6-40 | GC Badges | Service or Proficiency Pay "HT" | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5-9-44	Pte		AA Sec 15(1) WOAS AWL 24 hrs	Sgt Tamblyn	7 days CB 1days pay	6 Sep 44	Capt O'Neil.	
Field	12-9-44	Pte	X	AA Sec 15(1) WOAS AWL 7 days 23 hrs 15 mins.	Doc.	7 days pay 7 days F.P. 28 days forf.	28-9-44	Major Morgan.	

CERTIFIED TRUE COPY FROM REGT'L BOOKS IN MY CUSTODY.

"A.E. Davidson"
(A.E. Davidson) Captain
Adjutant

4 Cdn Rft Bn 1 Cdn Base Rft Group CMF.

12 Nov 44.

(PTO)

RECORDED AT CMHQ IN AB 160 44-9

RECEIVED 2 JAN 1945 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of APA31) 40/P & G/1098 (4616) 4/38B

Convened by order of Lt Col H S Conn Comd HQ R.C.M.P. 1 Can Corps dated 15 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 22930	Private	capt	Thomas Albert	Murphy	4 Can Rif Bn

PROCEEDINGS REVIEWED

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER JAG BRANCH C.M.H.Q.

(Place and date of trial in following) Zwolle on (date(s)) 17 Nov 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0915 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... ~~as interpreter? Ans~~ .....

~~The Interpreter is sworn.(1) Do you object to~~ ..... ~~as shorthand writer? Ans~~ .....
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H. Tellier	4 Can Rif Bn
Member	Capt.	D. A. Gratton	4 Can Rif Bn
Member	Lieut.	R. L. Mannering	4 Can Rif Bn
Judge-Advocate			
Prosecutor	Capt	R. R. Brown	4 Can Rif Bn
Defending Offr	Lieut	J. T. Eyemer	4 Can Rif Bn

Questions by President: Is the Prosecutor a lawyer? Ans Yes. Is the Defending Offr a lawyer? Ans Yes.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G 22930 Pte Murphy T A before arraignment make(s) (no) (~~a~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

M25

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning K.T. of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the K.T. sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), K.T. call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not under- K.T. stand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.~~(1) ~~The Court decides (not) to advise accused to change his~~ K.T. ~~(their) plea(s) of Guilty to Not Guilty on~~ ..... ~~charge(s). The accused is (are) so informed, and he (they)~~ K.T. ~~change(s) his (their) plea(s) on~~ ..... ~~charge(s). Part I of the Schedule is amended accordingly.~~ K.T.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) K.T. to which the plea(s) K.T. of Guilty is (~~are~~) K.T. not changed the President records finding(s) of K.T. Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ ..... ~~charge(s)~~(2) ~~The Court is closed, and considers the submission.~~(3) ~~The Court is re-opened, and the President announces that the submission is disallowed on the~~ ..... ~~charge(s), and allowed on the~~ ..... ~~charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)

(1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Do neither. Do you intend to call witnesses on your behalf? Ans. No Sir. Are they witnesses as to character only? Ans. n/a.

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(~~s~~).(1) The finding(~~s~~) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(~~s~~) of the Court on the 1st Charge charge(~~s~~), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Sir.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. E and Ex. F respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes Sir.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A). KR Can 308, 330, 563-566. Overseas RO 309, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1). KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 3544 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 11 day of May 1945

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 22930 Private Thomas Albert Murphy

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 12(a)(A)	Not Guilty	Guilty	
2nd AA 15(c)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ N.T. ~~beginning on (date)~~ N.T. (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned, with hard labour, for two (2) years.

(Sgd) ..... Judge-Advocate, if any. 17 Nov 44 Date awarded. (Sgd) K. Tellier Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further order.(1)

(1. AA 57A. Delete if not used.)

(Sgd) N. Nutrow Brig.

Date 27 Nov 44

Commanding COMMANDER 1 CDN BASE RFT GROUP Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G22930 Pte MURPHY, T.A. W.N.S.R. 4 Bn - 1 C.B.R. Gp	5 Dec 44	J. Deleorn Lieut Adjutant 2 Can Reflection Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

16.T.

CHARGE-SHEET

THE ACCUSED, NUMBER G 82930 PRIVATE THOMAS ALBERT MUTGRY OF 4 BN, 1 CDN BASE RFT GROUP, A SOLDIER OF THE CDN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

1st Charge

AA Sec 12

(1) (a)

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he,

In the Field in Italy, after having been duly warned that he would be proceeding to his unit in the Field on draft, absented himself without leave from 0900 hrs 3 Oct 44, until apprehended at 1930 hrs 12 Oct 44, with intent to avoid so proceeding. (Absent: 9 days - 10 hrs - 30 mins).

2nd Charge

AA Sec 15

(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field in Italy, absented himself without leave from 0745 hrs 13 Oct 44 while under close arrest, until surrendering himself to Military Police at about 2015 hrs 6 Nov 44. (Total time absent: 22 days - 12 hrs - 30 mins).

J R M Morgan

(J R M Morgan) Major,
A/Commander,
4 Cdn Rft Bn - 1 Cdn Base Rft Group - C M F

In the Field
12 Nov 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

N F Slemon Lt Col
Cond Hq R C O M S 1 Cdn Corps

In the Field
15 Nov 44

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FIELD GENERAL COURT-MARTIAL

H.T.

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 22930	PRIVATE		THOMAS ALBERT	MURPHY	4 Cdn Rft Bn 1 CBRGp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 15 Nov 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ". n/a

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~) n/a
(Delete part in brackets when not required for compliance with RF 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. n

4. ~~Being unable to appoint any three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ n
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate the Offr mentioned hereunder.~~ n/a
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	H Tellier	4 Cdn Rft Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	D A Gratton	4 Cdn Rft Bn
Lieut	R E Mannering	4 Cdn Rft Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	R Lachance	4 Cdn Rft Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	nil	

On Active Service in the Fd

in Italy (Country.) — (Signed personally. RP 105 fn 2.) — H Q (Rank.)

Date 15 Nov 44 — Commanding HQ RCEME 1 Can Corp Tr.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA86 (In lieu of AFA3) 40/P & S/1897 (4931) — *(See overleaf for oaths and notes for use on trial.)*

13

H.T.

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) Para 557 17-11-44 194

I hereby certify that I have this morning examined No G22930 Pte Murphy T.A. W.N.S.R. on strength 4 Cdn Rft Bn, 1 C B R Gp, and in my opinion he is FIT/~~UNFIT~~ to undergo trial by Court Martial

[illegible] Capt
Medical Officer 4 Cdn Rft Bn.

1st Witness. Prosecution (sworn) I am
A. 8[redacted]027. Cpl. Munroe, C.S. Coy Clerk. A Coy 4 Bn.
~~a Re you~~ I recognize the accused as Pte. Murphy, T.A. At approx 1130 hrs on 2 Oct 44 the accused whom I recognize to be Pte Murphy, T.A. was handed over to the Sgt Major of A Coy by the Regt. Police. Pte Murphy was asked by CSM Porter to sign a statement to the effect that he was warned for draft which was scheduled to proceed to the West Nova Scotia Fusiliers at 0900 hrs the following morning. 2 Oct. 44. I submit Exhibit 'A' attached.

Cross examination

Q. When was this document signed
A. At approx 1130 hrs. 2 Oct
I was present when Pte Murphy was asked to sign the document and when he signed it. I
Q How long have you known Pte. Murphy
A ~~I have seen him since~~. My first time I saw Pte Murphy to know him was on the 2 Oct 44 when he signed the document
~~Q. Who did he sign~~ Did you know that Pte Murphy had applied for a transfer?
A. He applied at that time to the CSM. who referred his case to the Coy Comd.
Q. Were you present at the Coy Comds interview
A Yes. Sgt Reid took Pte Murphy to the Adjt and on return Pte Murphy signed the statement
Q. Did you hear any more of the group
A No Sir

RP 83 B. complied with.

2nd Witness for Prosecution (sworn) H.T.

I am M. 16[illegible] Sgt. Jones Wm, J.W., of A Coy. 4 Bn. 16 BRA. I recognize the accused to be Pte. Murphy, T.A. At approx 0900 hrs 3 Oct 44 I called the WNS draft roll. Pte Murphy did not answer his name nor was he present on parade. I searched the area hunting calling his name but could not find him. I reported him AWL as of 0900 hrs 3 Oct 44. Send the WNS draft left without Pte. Murphy at approx 0915 hrs 3 Oct 44.

No cross examination by Defence.

R.P. 83 B. complied with.

3rd Witness - Prosecution (sworn)

I am A. 22296 Sgt. White J.P. Orderly Room Sgt. 4 Bn. I produce a certificate under AA. 163. (1) (d) purporting to relate to the accused and showing that Pte Murphy was arrested at 1930 hrs 12 Oct 44. (Exhibit "B")

Cross Examn.

Q. How do you know this relates to the accused?

A. Produced from Regtl Basis

Q. Do you recognize the signature on this document?

A. Yes. Sir. Capt Davidson, adjt 4 Bn.

R.P. 83 B. complied with.

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Summing up by Prosecution 16.T. Page 3

D.6 Mr President & members of the Court. I should like to call the attention of the Court to Rs. 17 and 20 of A. III. MML.

On that is based the case of the Prosecution. The Prosecution has established the warning for drift. It has also proven that the accused absented himself, as alleged in the charge sheet. It must now establish intention on the part of the accused.

The intention of the accused is so peculiarly within the knowledge of the accused that it is no part of proof on the part of the Prosecution. It must be assumed from the actions of the accused. A man intends the natural consequences of his acts. The natural consequences of the absence without leave of the accused under these circumstances are that he does not be found guilty of desertion.

Defence

In regard to intention, the Prosecution admitted that the evidence of intention of ~~desertion~~ the accused.

1D

E3 Plea of Mitigation H.T. Page 4

~~As you see the accused has quite a bad MTM6~~
The Court is referred to MTM 6. The accused did not want to go back to his unit. He wanted to transfer. He evaded the draft to avoid returning to his unit where he felt he would not be well received. He wanted to transfer to another unit to get a fresh start. The Court is asked to take the reason for his conduct into consideration. He did not realize his absence would result in a charge of desertion. It is pointed out that past record is a series of small entries — no previous Court Martial charge. Accused is apprehensive of his record as shown by his MTM 6 and felt his reception in his unit would be biased by it.

9

K.T.

2 Oct 44

I, G22930 Pte MURPHY, T.A. hereby acknowledge being warned for draft proceeding to WNSR (FU) at approx 0900 hrs 3 Oct 44.

Ex "A"

T A Murphy

Witnessed H
[illegible] Capt

9

Ex 'B'

A.1

Exhibit 'B'
[illegible] Capt.

CERTIFICATE UNDER ARMY ACT, SECTION 163 (1) (b)

I Capt. A.E. Davidson certify that 622330 Pte Murphy T A of the 4 Bn. 15 BRC Regiment ~~surrendered himself~~ was arrested by to Sgt. Barry ..... at 1930 hrs. on the 17th ...day of October ...1944 as a ~~deserter~~ (or absentee without leave).

Date 12 Nov 44 ..... 194 Signature. [illegible] Capt.

Ex "D" 16.7.

SUMMARY OF EVIDENCE IN THE CASE OF G 88980 PRIVATE THOMAS ALBERT MURPHY OF 4 BN 1 CBRGP, WHO IS CHARGED WITH N.C.A.S. (1) DESERTING HIS MAJESTY'S SERVICE, AA SEC 12 (1)(a) - (2) ABSENTING HIMSELF WITHOUT LEAVE AA SEC 15 (1).

By direction of the Commanding Officer, the evidence is taken upon oath.

1st WITNESS: A 88027 Cpl Munro C.G. of 4 Bn 1 CBRGP, having been duly sworn, states:

I am A 88027 Cpl Munro C.G., Orderly Room clerk, "A" Coy 4 Bn 1 CBRGP.

At approximately 1130 hrs, 2 Oct 44, the accused whom I recognize to be Pte Murphy was released from the field punishment camp and handed over to "A" Coy Sgt-Major. Pte Murphy was asked by CSM Porter to sign a statement to the effect that he was warned for a draft which was proceeding to the NNE Regt the following morning, i.e., the morning of 3 Oct 44 at 0900hrs. Pte Murphy signed this statement in my presence. I produce this statement as exhibit "A".
(Produced, shown to accused, marked exhibit "A" and attached hereto).

C.G. Munro
(C.G. Munro) Cpl

The accused declines to cross-examine this witness.

2nd WITNESS: M 16222 Sgt Tamblyn J.W. of 4 Bn 1 CBRGP, having been duly sworn, states:

I am M 16222 Sgt Tamblyn J.W., P.L. Sgt with "A" Coy, 4 Bn, 1 CBRGP.

At approximately 0900 hrs on 3 Oct 44, I called the draft roll of the N.N.S. Regt. The accused, whom I now recognize as Pte Murphy did not answer his name nor was he present on parade. I searched the Coy lines calling his name but could not find him. I reported him absent without leave from the N.N.S. Regt draft. This draft left at approximately 0915 hrs 3 Oct 44, the accused was not on it.

J.W. Tamblyn Sgt.
(J.W. Tamblyn) Sgt.

The accused declines to cross-examine this witness.

3rd WITNESS: B 25841 L/Cpl Hamilton K. of 4 Bn, 1 CBRGP, having been duly sworn states:

I am B 25841 L/Cpl Hamilton K. of the Regt'l Police, 4 Bn 1 CBRGP.

At approximately 0745 hrs on 15 Oct 44, I called the roll of the personnel in the detention barracks. The name of the accused was on this nominal roll. The accused, whom I recognize to be Pte Murphy did not answer his name nor was he present on this parade. I searched the compound but Pte Murphy was not to be found. I reported that Pte Murphy was absent without leave, while under close arrest from 0745 hrs 15 Oct 44.

K Hamilton
(K. Hamilton) L/Cpl.

The accused declines to cross-examine this witness.

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Ex "D"

16.5.

4th WITNESS: A 22296 Sgt White J.P. of 4 Bn, 1 CBRGp, having been duly sworn, states:

I am A 22296 Sgt White J.P., Orderly Room Sgt, 4 Bn., 1 CBRGp.

I produce a certificate under AA Sec 163 (1)(jj) purporting to relate to the accused, which states that Pte Murphy was arrested at 1930 hrs on 12 Oct 44.
(Produced, shown to accused, marked exhibit "B" and attached hereto).

I further produce a certificate under AA Sec 163 (1)(j) purporting to relate to the accused which states that Pte Murphy surrendered himself at 2015 hrs on 6 Nov 44.
(Produced, shown to accused, marked exhibit "C" and attached hereto).

(J.P. White) Sgt.

The accused declines to cross-examine this witness.

Question to the accused:

Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by accused:

I have nothing to say.

I certify that R.P. 4 (C)(D)(E) & (F) have been complied with.

I certify that this summary of evidence was taken down by me in the presence and hearing of the accused.

In the Field
12 Nov 44.

(R.R. Brown) Captain,
Officer taking Summary.

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CERTIFICATE OF SURRENDER UNDER A.A. REG 163 (1) (J)

LIEUT. A.N. CUTTELL certify that No. G. 22930 Rank PTE.

Name MURPHY, T.A. Unit WEST NOVA SCOTIA REGT. R.C.A.

surrendered himself to No. 769456 Rank CPL. Name SYKES, A.

at TESI on the 6th Nov. 1944 at about 2015 hrs as a

~~deserter~~/absentee without leave.

Commanding 509 & 800 PROVOST COMPANIES PTE. C.M.POLICE.

Commanding Officer of the person or portion of His Majesty's Forces to whom surrender was made.

Cx" E1 67

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
G 22930	LTE	MURRAY T.A.	4 Bn 1 CDRGr

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a time by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers here stated should correspond with the number of entries in the conduct sheets, preferably by the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the number of drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 15 (1)	two times	ten times.
For AA Sec 40	nil times	one times.
For AA Sec 11	one time	one times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, N/A

or

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for from 1930 hrs 12 Oct 44 to 0745 hrs 15 Oct 44 days in civil custody, and from 2015 hrs 6 Nov 44 to 14 days in military custody, making a total of 14 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 23 yrs - 4 mos.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 16 Jun 1940.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). N/A

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated _____ and in his regiment (*or* corps *or* department) the rank of N/A dated _____

(*18230) Wt.15852/144 125,000 6/41 A.&E.W.Ltd Gp.698

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Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G 22930 Rank PTE Name MURPHY Rankin of 4 Cdn Rft Bn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		N/A	N/A	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of November 1944

(A E Davidson) Capt, Adjt,
4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

(INSTRUCTION—*If any entry in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

No. G 22930 Name PTE MURPHY T.A. Sqn, Battery, or Company | Corps CIC | Date of enlistment 16-6-40 | GC Badges | Service or Proficiency Pay | K.T. | MFM 6 (AFB 122) 60/P&S/126 (3428)

Date of last entry in Company Conduct Sheet 4-7-10 | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sussex N.B.	2-8-41	Pte		AA 15 (1) AWL from 0830 hrs 2-2-41 until 1300 hrs 2-8-41 Absent 4 hrs 30 mins.	Cpl Foley	7 days C.B.	3-8-41	Maj J.A. McNaughton	
Sussex N.B.	28-2-41	Pte		AA 15 (1) WOAS AWL from 2359 hrs 28-2-41 until 0900 hrs 4-3-41 Absent 3 days 9 hrs.	Cpl Foley Sgt Wood R.M.P.	10 days C.B. Pay & Allrehension Charges	8-3-41	Lt.col J.A. Leger	Forf 4 days Pay M&I 149 (1)(a)
Sussex N.B.	10-3-41	Pte		AA 40 WOAS Conduct etc in that he used language not in keeping with good order and military discipline to his superior officer.	Sgt Doucett Sgt O'Neil Sgt Wood	Admonished	13-3-41	Major McCalkin	
Sussex N.B.	14-4-41	Pte		AA 15 (1) WOAS AWL from 0700 hrs to 1250 hrs 14-4-41. 5 hrs 50 min	L/Cpl Cameron	4 days C.B.	14-4-41	Capt Anderson	
Sussex N.B.	12-6-41	Pte		Conduct etc. on parade with a dirty rifle.	L/Sgt McLoughlin	7 days C.B.	13-6-41	Major MacNaughton	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27-8 41	Pte		AWL from cookhouse 1230 hrs to 1645 hrs 27-8-41	Sgt Murray	7 days C.B.	28-8-41	Major MacNaughton	
Field	29-10 41	Pte		AWL Louisburg Bks 2200-2230 hrs 29-10-41	Sgt Murray	5 days C.B.	1-11-41	Lieut Gough	
Field	31-10-41	Pte		Conduct etc Improper language	L/Cpl Bertin	14 days detn	1-11-41	Maj Hayhurst	
Field	1-2 42	Pte		AWL 2359 hrs 1-2-42 till 0130 hrs 2-2-42 AA 15 (1)	L/Cpl Sylude	7 days C.B.	2-2-42	Lt.col Lough	
Field	13-6 42	Pte		AWL from 2230 hrs 13-6-42 to 0930 hrs 14-6-42 AA Sec 15 (1)	L/Cpl Barry	Forf 1 days pay 6 days C.B.	16-6-42	Major MacNaughton	
Field	14-9-42	Pte		Neglect etc neglected his duty	Pte McIntyre	7 days C.B.	28-9-42	Capt Anderson	
Field	24-12 42	Pte		NCOAS found beyond limits fixed by Regt'L Orders without pass	L/Cpl Boudreau	7 days C.B.	28-12-42	Capt Fell	
Field	2-1- 43	Pte		AWL from 1700 hrs to 1735 hrs	CSM Lynch	3 days C.B.			
Field	26Jul 44	Pte		AA Sec 11 NCOAS Neglected to obey camp orders, broke curfew	Documentary	7 days C.B.	29 Jul44	Lt.col McRenna	

No G28930 Name TE MURPHY T... Sqn, Battery, or Company | Corps CIC | Date of enlistment 16-6-40 | GC Badges | Service or Proficiency Pay | K-T | MFM 6 (AFB 122) 40/PAS/136 (3428)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5-9-44	Pte		AA Sec 15 (1) WOAS AWL 24 hrs	Sgt Tamblyn	7 days C.B. 1 days pay	6 Sep 44	Capt O'Neil	
Field	12-9-44	Pte		AA Sec 15 (1) WOAS AWL 7 days 23 hrs 15 mins.	Documentary	7 days pay 7 days F.P. 28 days forf	28-9-44	Major Morgan	

CERTIFIED TRUE COPY FROM REGT'L BOOKS IN MY CUSTODY.

A. E. Davidson

(A E Davidson) Captain
Adjutant,

18 Nov 44. 4 Cdn Hrt Bn - 1 Cdn Bn & Hrt Group - C.M.F.

(PTO)

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE

I hereby certify that I have this date 15 Nov 1944 received from 4 Cdn Rft Bn, 1 C B R Gp, 1 copy of Charge Sheet and Summary of Evidence referring to charge (s) of Desertion AA 12(1)(A) & AWL AA 15(1) for which I was remanded for Court Martial.

T A Murphy
(Sig of Accused)

REQUEST FOR DEFENDING OFFICER

I hereby request that Lieut F Egener if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, 1 C B R Gp appoint an officer to act in my behalf.

T A Murphy
(Sig of Accused)

Pursuant to Chap V Sec V Sub Sec of NML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

T A Murphy
(Sig of Accused)

2

RECORDED AT CMHQ IN AB 160 [illegible]

Correspondence to be PINNED here.

E 143

Army Form A.3.

C.M.H.Q. 30 MAR 1944 G.H.Q. 2nd ECHELON

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. 2

Order convening the Court.

On Active Service, this Seventh day of March, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*I am unable to appoint (1) Three Officers to form the Court; (2) A Field Officer as President for the following reasons, namely:~~

*Omit if not applicable.

PROCEEDINGS REVIEWED 25 Apr 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	F Trudeau	R 22e R

Members.

Rank.	Name.	Regiment.
Captain	C E Pettipiece	Carlt & York R
Lieut	G M Stark	Carlt & York R
Waiting Lieut	F S Mogan	~~R 22e R~~

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Lt-Col

T/Commanding 3 Cdn Inf Bde

Convening Officer.

E143

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G22930 Pte Thomas Aubrey MURPHY West NSR	First Charge Sec 15(1) AA	Guilty	Guilty 6 months detention 8 3/44 F.J.	Confirmed

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [illegible] Lt-Col (Signed) [illegible] Major
T/Commanding 3 Cdn Inf Bde
Convening Officer (c) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the eight day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*Omit if not applicable.

~~*(3. The Interpreter)~~
~~*(4. The officers under instruction)~~

were duly sworn.

Signed this eight day of March 1944

[illegible] Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 10 day of Mar 1944

[illegible] Lt Col
Confirming Officer.
T/Commanding, 3rd Cdn Inf Bde

Promulgated and extracts taken in the case of G22930 Pte. Thomas Aubrey Murphy West N.S.R.

(a) (Dated) 22 Mar 44 (Signed) [illegible] Capt. Adjt. West N.S.R.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23617) Wt.46178/650 50,000 2-43 A. & E.W.Ltd. Gp.498

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at ~~RCAF~~ W.N.S.R.

on the Eight day of March 1944, by order of

Lt. Col. J. A. Calder.

T/Commanding 3 Can Inf. Bde.

dated the Seventh day of March 1944.

President.

Major F. Judeau R22R.

Members.

Capt. C. E. Pettepiece C.Y.R.

Lieut. G. J. Stark C.Y.R.

Judge ~~Advocate~~.

Trial of* G 22930 Pte J. R. Mcfarling W.N.S.R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that J. J. is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt. R. G. Shepherd W.N.S.R.

Counsel‡ or defending officer† Lieut. E. H. Holloway W.N.S.R.

At 0350 o'clock the Trial commences.

The order convening the Court is read, and is marked A2 signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q2296. Wt. W32663/1113. 43,000 sets. 11/43. K. & H., Ltd. G667/15. Forms A 9-20.

Fernand Judeau Major

B

The President, members ~~and judge advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The medical Officer's certificate is signed by the President, marked B2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read? *Question to the accused.*

Guilty *Answer.*

~~Are you guilty or not guilty of the second charge against you, which~~ you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to First charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

Tenant
Tuesday
Major

B2

CHARGE SHEET

The accused, C22930 Pte Thomas Aubrey MURPHY, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, CMF, on Active Service, is charged with:-

1st Charge
Sec 15 (1)
Army Act

When on Active Service, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, at approx 1215 hrs 6 Feb 44 did absent himself without leave and remained absent until being apprehended by the Military Police at SAN SEVERO at approx 1500 hrs 24 Feb 44.
Total time absent 18 days 2 hrs 45 mins.

In the Field
4 Mar 44

F. E. Hiltz
(F E Hiltz) Major
T/Comd West N S R.

To be tried by Field General Court Martial.

In the Field
7 Mar 44

T/Comd 3 Cdn Inf Bde.

Freemand
Smedley Maj

B3

Has healed. To return for treatment

MEDICAL OFFICER'S CERTIFICATE

K&R.(C&T) PARA 557

I certify that I have this morning examined

No. E 22830 Pte. Murphy T. A.

of W. A. S. R. and [illegible] he is

fit

~~unfit~~ to undergo trial by Court Martial.

Station Freels

Date 8/3/44

Medical Officer.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused G 22 930 Gr. Thomas Anthony Murphy West NSR is found guilty of first charge Sec 15(1) AA

†The summary (~~or abstract~~) of evidence is read, marked 2C signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

yes.

Answer. The accused in mitigation of punishment says :—

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Pt Murphy T.A. joined the W.A.S.R. early in July 43. Since that time he has served with the unit and has not had any crimes.

Forward Judge Advocate

Instructions.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

J.J.

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

No.

Answer.

Evidence as to character.

Female
Murder.
May.

E

"To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

Finding.*

The Court is closed for the consideration of the finding.

The Court find that the accused

G 22930 Pte Thomas Anthony Murphy
West Nova Scotia Regiment

Guilty of first charge
under Sec 15 (1) AA.

**When the Court is already open this sentence will be struck out.*

Proceedings on Conviction *before Sentence.*

~~*The Court being re-opened, the Judge is again brought before it.~~

Capt R.S. Shipton is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked E2 & E3 signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment, in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused

Sentence.

4 22930 Pte Thomas Aubrey Murphy
West Nova Scotia Regiment
Six (6) months detention

Fernand Trudeau Major.
C. A. Pepperrigger
G. H. Stairs Capt.

Certificate under Section 163 (1) (JJ) A.A.

I certify that No. G.22930 Rank Pte. Name MURPHY T. A.

Unit D Coy. West Nova Scotia Regt was arrested at San Severo

at 1500 hours on the 24.2.44

He was dressed in uniform/~~civilian clothing~~.

Date 24-2-44

A S [illegible]
Capt.

O.C., 160th Provst Company.

Officer into whose custody the above named was taken on arrest.

2C

SUMMARY OF EVIDENCE in the case of G22930 Pte Thomas Aubrey MURPHY, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, on Active Service.

By Order of Major F E Hiltz, T/Comd, West Nova Scotia Regiment.

Evidence taken on Oath.

First Witness for Prosecution — F59940 Sgt Evans J W E, West Nova Scotia Regiment, having been duly sworn states:-

"On the 6 Feb 44, at Ortona, at 1215 hrs I had occasion to contact the accused, G22930 Pte Murphy T A, but he was not in the platoon area. No. 18 platoon had bee n warned to remain in their platoon area. I reported the absence of the accused to the coy office, at 1600 hrs. A final roll call was taken before moving out of the area and Pte Murphy T A was still absent. I searched the coy area but the accused was not to be found."

Signed: [illegible] Sgt.

The accused declines to cross-examine this witness.

Second Witness For Prosecution — Capt R V Inman, RCAPC, having been duly sworn states:-

"I am Capt R V Inman, RCAPC, posted to West N R, I am at the present time acting in the capacity of adjutant, West NSR. I produce as evidence Certificate of apprehension under Section 163 (1) (jj) Army Act, and Posting Notice, from 4 Bn 1 CBRD to West NSR, both relating to the accused, G22930 Pte Murphy T A."

Signed: R V Inman Capt

The accused declines to cross-examine this witness.

The accused having been duly cautioned as follows:- "Do you wish to make any statement or to give evidence upon oath ? You are not obliged to say anything or to give evidence unless you wish to do,so, but what ever you say or any evidence you give will be taken down in writing and may be given in evidence", declines to make a statement or to give evidence on Oath.

Certified that Rules of Procedure 4 (c)(d)(e) and (f) have been complied with.

Taken down by me, in the Field, this 4th day of March, 1944, in the presence and hearing of the accused.

In the Field
4 Mar 44

[illegible] Lt.
Officer taking Summary.

Fernand Tudor Major

Supplementary Sheet.

No. G22930 Name Murphy T.A. Sqn., Battery, or Company D Corps C/C

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment | Sheet No. | G.C. Badges | Signature O.C. Company, etc. | Service or Proficiency Pay | Character

M.F.M. 6 (A.F. B.122) 40/P & /3136 (2965) 3

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20 Nov 43	Pte		1) AR Sec 11 - Neglecting to obey standing orders in that he was out of Bounds and 2) AR Sec 11 Neglecting to obey Camp Orders in that out of Camp without a pass. 3) AR Sec 19 Drunkenness - was drunk at 1820 hrs 20 Nov 43	Documentary	7 days forfeiture of old pay	24 Nov 43	FC Pace Major RCASC Comd. CMHS	
Certified true extract from the regimental book in my custody. Forwarded Jan 1944								Officer i/c Regimental Records	

(P.T.O.)

E 2

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED

No. G22930 Rank Pte Name Murphy T.A. Regiment West Nova Scotia Regt

1. The following is a fair and true summary of the entries in the regimental Conduct Sheet of the Accused:

Within last 12 months

Supplementary Sheet Only.

Sec 11 AA - 2 times
Sec 19 AA - 1 time

Since Enlistment

Sec 11 AA - 2 times.
Sec 19 AA - 1 time.

No of instances of gallantry or distinguished conduct. Nil

The accused is NOT under sentence at the present time

The accused has been under Close Arrest awaiting trial on the present charge for . . . 9 . . . days of which no days were spent in Hospital.

The present age of the accused is . . . 23 . . . . . years

SCHEDULE

On conviction by Court Martial, of a summary award under Sec 47 of the Army Act, and of cases in which trial has been dispensed with of accused, No. G22930 Rank Pte Name Murphy T.A. of the West Nova Scotia Regiment.

Nil

I hereby certify that the foregoing schedule of convictions and dispensations with trial is true extract from the regimental books in my custody.

Signed this 4th day of March 1944

(Officer i/c regtl records
West Nova Scotia Regiment)

The above statement with schedule of convictions and of cases in which trial has been dispensed with) is remarked signed by the presiding officer and annexed to the proceedings.

Ferguson Major
Lindsay Major

H.Q.C. 55-M-1680 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT MARTIAL-

MICHAUD, EMILE E-42153 PTE

CONFIDENTIAL
H.Q.C. 55-M-1680

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")			
				DRB	FOR REQUISITION MAR 1 1947		
				DRG	405-M-37619		
MAY 20 1947	19-5-47			3C	with 405 M-37619		20 May 47

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FILE No: M-1-M-16504 ADIS

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

MONTREAL, P.Q.,
3rd Oct. 1945.

CONF. 1073
OCT 4 1945
C55-M-1680
Referred to Jag

Secretary,
Department of National Defence,
OTTAWA, Ontario.

E-42153 MICHAUD E.

Reference HQC 55-M-1680

2. Attached hereto Form for Remission in respect to the marginally named soldier.

(E.J. RENAUD) Major General,
District Officer Commanding,
Military District No. 4.

Encl.

Noted
ADR
Cmdr 4
1200 hrs

57

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No...HQC 55-M-1650...
District File No.....1-MX-1604.....

PART I

No.B42153.....Rank....PTE.....Name..MICHAUD.E.....
Unit.....No.4.District.Depot.....

PART II

Date of Trial.....
Charge(s).....
Sentence.....
Date of Sentence.....
Confirmation -- (a) Authority: .....
(b) Date : .....

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit (~~commutation~~)(~~mitigation~~) the balance of term of detention

Signed at..MONTREAL.....this..30.day of Aug 45
.....
(Appointment)(E.L. RENAUD) Major General, DOC)
To be signed by the Remitting Authority personally. M.D. No.4

PART IV

PROMULGATION

Remission (~~commutation~~)(~~mitigation~~) promulgated and extracts taken at..Montreal.South.Que.....this27.Th....day of.September.....
1945..

(i)

.....
Ass-Officer i/c Documents. (L.R. HAMELIN) Lieut.,
C.I.C., C.A., attached to
No.4 District Depot, C.A.

(i) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

B42153.Rank.Pte.....Name..MICHAUD, E.....
The sentence of 3 yrs. penal servitude.....awarded by District Court
Martial on the .....16.Mar.....1944.....has been.Remitted.....
.....on the 16.Sept.45.....1945....by..D.O.C.....
UNIT Military.District.No.4.,.Montreal.Que.....
Certified true Extract of Daily Orders Part II of No.4 District Depot
.....Place..Montreal.South.Que.....Date..27.Sept.1945.....
.....
Adjutant
(L.M. CHARLEBOIS) Capt.-Adjt.,
General List, C.A.,
Att'd to No.4 District Depot, C.A.

Strike out and initial words not applicable.

52

IN REPLY PLEASE QUOTE No. M.S. 2-45 Vol.3 A/DIS

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CR
Please pa
HQC-55-M-1650

Montreal, Quebec, 9th August 1945.

CENTRAL REGISTRY Army
CONF. SEC.
AUG 10 1945
File C.S.F.-M-1650
Chgd. to G 9-8-45
Referred to

SECRET

334793

District Officer Commanding,
No. 5 Military District,
QUEBEC CITY, Quebec.

The Secretary,
Department of National Defence (Army)
OTTAWA, Ontario.

(For Information)

E-42153 - Pte. MICHAUD, E.

Your reference Q 39-M-1934.

2. Attached hereto communication received at this H.Q. from N.D.H.Q., which, it is presumed, was submitted to this H.Q. in error, forwarded for your necessary action and reply to N.D.H.Q.

(E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

Encl.

55

NAT. DEF. H. QU.
(20,000-A-44 74811)
H.Q. 1772-28-767

C
O
P
Y

DEPARTMENT OF NATIONAL DEFENCE

- ARMY -

HQC 55-M 1690 (ICM)

NDHQ Ottawa, Ont.

6 Aug 45

CONFIDENTIAL
F.G.C.M.

District Officer Commanding,
Military District No. 4,
MONTREAL, Que.

E 42153 - Pte MICHAUD, E.

Ref Q 39-M-1934.

2. Enclosed herewith:-

(a) AFA 3104

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

(Signed for) (A.E. WALFORD)
Major-General
Adjutant-General

54

DEPARTMENT OF NATIONAL DEFENCE
ARMY

M. 8-1-19 A/DIS

MONTREAL, P.Q., 4 Sep 45.

SPECIAL DELIVERY

AIRMAIL

Secretary,
Department of National Defence, ATTN: C.M. Br.
OTTAWA, Ontario.

SOLDIERS under SENTENCE

Reference N.D.H.Q. Radiotel Ranks 6084 pertaining to the marginally noted subject.

2. Following information is respectfully submitted in connection with the under-mentioned soldiers:

D-56398 GERMAIN, L.

Case was reviewed on 29 Aug 45 - no remission or suspension of sentence deemed advisable at that date. Case will again be reviewed on 22 Oct 45 when half of sentence will have been completed. Attached A.F.A. 3104, together with Appendix "C" in accordance with CARO 5913.

E-5465 - PROULX, S.

Please refer to N.D.H.Q. communication HQC 55-P-921 Adm 3(c)2 dated 21 Aug 45. No action has as yet been taken by this Headquarters, and none seems advisable prior to half of sentence being completed. Please despatch A.F.A. 3104, if action to be taken this District.

53

D-63223 - PRATTE, N.

Case of soldier was reviewed at N.D.H.Q. on 10 Jun 44, 11 Jan 45, 26 Feb 45 and 16 Apr 45. This soldier was released from No. 65 M.D.B. on 18 Apr 45, sentence having been completed, taking into account remission earned as a result of good conduct.

E-117080 - PILOTTE, G.

Case reviewed on 14 Aug 45. No remission or suspension of sentence granted. Case will again be reviewed on 16 Oct 45 when half of sentence will be completed in accordance with CARO 5913. MFM 288 and Appendix "C" attached.

D-137492 - LAVALLE, R.

Case was reviewed on 28 Aug 45, and as conduct of soldier was good remission of sentence was granted by D.O.C., M.D. No. 4, wef 17 Sep 45 in accordance with CARO 5913. Please refer to our letter M.1-L-9315 dated 1 Sep 45. Attached Appendix "C" in accordance with C.A.R.O. 5913. Please despatch AFA 3104 if action to be taken by this District.

E-42353 - MICHAUD, E.

Case reviewed on 28 Aug 45. Conduct good. In accordance with provisions of CARO 5913 the D.O.C. M.D. 4 granted a remission of sentence, wef 16 Sep 45. Attached AFA 3104 and Appendix "C" duly completed.

Over/

Noted 10 Sep 45 A.G.

NTM. TO NOTE & P.A.

D-150148 - LEONARD, P.E.

Case reviewed on 28 Aug 45. Conduct of soldier good. In accordance with Provisions of C.A.R.O. 5913 the D.O.C., M.D. No. 4 granted a remission wef 25 Sep 45. Attached is A.F.A. 3104, together with Appendix "C" submitted in accordance with C.A.R.O. 5913 duly completed.

D-163119 - OLIGNY J.R.

Case was reviewed on 28 Aug 45, and as conduct of soldier was good remission of sentence was granted by D.O.C., M.D. 4, with effect from 23 Sep 45. Please refer to our letter M.1-O-781 dated 1 Sep 45. For information of N.D.H.Q. attached is copy of our review of sentence, Appendix "C" submitted in accordance with C.A.R.O. 5913. AFA 3104 requested if action to be taken by this District.

D-58511 - LAMBERT, L.

Case was reviewed on 28 Aug 45, and as conduct of soldier was good, remission of sentence was granted by D.O.C. M.D. No. 4, wef 24 Sep 45. Please refer to our letter M.1-L-1016 dated 1 Sep 45. Attached is Appendix "C" in accordance with CARO 5913.

D-611345 - PROULX, M.

Sentence suspended wef 19 Apr 45 by NDHQ. MFM 288 received at this Headquarters from Petawawa on 24 Aug 45. Review of suspended sentence being carried out (attached for your information is copy of our letter dated 1 Sep 45 addressed to the Officer Commanding, No. 4 District Depot.)

D-82232 - SAWYER, L.

Soldier transferred from No. 62 M.D.B. to No. 4 District Depot for discharge, and then to be committed to a Civil Institution for completion of sentence. This was done on 18 Jul 45. No further action has as yet been taken. May AFA 3104 please be forwarded to this Headquarters, if action to be taken this District.

E-6193 - TURCOTTE L.

This soldier was committed to St Vincent de Paul Penitentiary from No. 5 District Depot. No action has as yet been taken by this Headquarters. May A.F.A. 3104 please be despatched, if action to be taken this District.

3. May the enclosed documents please be returned to this Headquarters after they have served their purpose.

(E.J. RENAUD) Major General,
District Officer Commanding,
Military District No. 4.

Encl.

21 Army 365 / 247

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

E102

I.—Case of No. E42153 Pte Michaud E Unit R 22e R

Sentenced to Three years penal servitude on 16 Mar 44

Age on, and date of enlistment 18, 2 Jul 41 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be *reviewed at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20819) W.t.46972/276 500,000 2.42 A.&E.W.Ltd. Gp.698 Forms/A.3104/12

5

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
11 Jun 44	No remission or suspension.	Approved MAJ-GEN GOC 1 Can Div	
	No remission. B/F 16 Mar 45.	Ernest Fuller U. S. Army Group 12 Gen. Gen. S.O.S. 1 Inf. 12 SEP 1944	
	NO REMISSION RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews) Brigadier A/D.A.G. C. M. H. Q. 10 Apr 45.	
23 JUL 45	~~I would recommend a remission of sentence in view of the fact that time of has served 16 months out of 36.~~	~~(Edmond Blais) Brigadier DOG --- HD 5~~	
28 AUG 45.	This man interviewed by S.C. Conduct good. Remission of sentence granted w.e.f. 16 Sept 45.	(E.J. Renaud) Maj-Gen D.O.C. M.D. No4	

(Continued on page 4.)

Remission
M F M 483
completed

APPENDIX "C" TO CANADIAN ARMY ROUTINE ORDER NO. 5913

REVIEW OF SENTENCE

First review due: N/A

Second review due: N/A

Date: 27 Aug 45

File: M-1-M-16504

1. No. Rank and Name: E 42158 Pte Michaud E.
2. Unit at Date of Offence: R 22e R.
3. At Present on Strength of: discharged
4. Date of sentence: 16 Mar 44
5. Award: 3 yrs PS
6. Confirmed Sentence: 19 May 44
7. Being served at: St Vincent de Paul Penitentiary
8. Offences::

(a) Present Age: 22 yrs.

9. Previous Conduct: unknown.
10. Conduct While Under Sentence: good.
11. Earliest Date of Release: 16 Sept 45.
12. Recommendation of:

Commanding Officer: No remarks.

Confirming Officer: Sentence to be served in full.

Commandant or Governor: Conduct good. Recommends remission. (Verbal)

Staff Officer Preparing Review Sheet:

This soldier was interviewed by a SC from this H.Q. No complaints. Conduct good. As 1/2 of sentence will be completed on the 16 Sept 45. I recommend remission of sentence.

G Rochon Capt.

21/8/45

51

TRANSLATION

9 July 1945

Sir;

I the undersigned Emile Michaud , soldier of the Royal 22nd Regt No. E 42153 after having served 5½ months combatant duty in Ortona was condemned to 3 years in prison on the accusation of desertion. I have already served 13 months in prison in Italy was returned to Canada 11th March 1945 and have been at the St. Vincent de Paul Penitentiary to finish my sentence.

I have never been in prison in the course of my life , and as I am the support of my mother and father I ask you to do everything in your power to liberate me as soon as possible.

Yours truly,

Emile Michaud # 4076

Penitentiary St. Vincent De Paul

County Laval. Que.

50

Les correspondants sont priés d'écrire leur nom et adresse, au long, sur toutes leurs lettres aux prisonniers.

PENITENCIER ST. VINCENT DE PAUL

ST. VINCENT DE PAUL, P.Q.

DATE juillet 8, 1946

Département Défense Nationale
Ottawa.
Canada.

Messieurs,

Je soussigné "Emile Michaud," soldat du 23e Régiment #E 42153 Après avoir fait une nuit et demi de combat à Delma je fus condamné à trois ans de prison sur l'accusation "Déserteur" J'ai déjà passé 13 mois en prison en Italie, revenu au Canada le 14 de mai 1945 on m'envoie en prison de St Vincent de Paul pour finir ma sentence.

Comme je n'ai jamais fait de prison au cours de ma vie et que je suis soutien de mon père et de ma mère, je vous demanderais de faire tout en votre pouvoir pour que je sois mis en liberté le plutôt possible

Bien à vous.

Emile Michaud #4076

Pénitencier St Vincent de Paul
Comté Laval. P.Q.

Oct. Week ending Mar 18 Jun

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. 1st Charge; AA Sec 12(1)(a) WOAS: Deserting His Majesty's Service	15 Feb 44	16 Mar 44
2nd Charge: AA Sec 9 (2) WOAS: Disobeying a lawful command given by his Superior officer.	17 Feb 44	16 Mar 44
Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
9 May 44	No remarks	J E Clarke Maj for Comd 9 Inf Bde

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
19 May 44	I recommend that the sentence be served in full.	N Wilson Brig

44

HQC 55-M-1680 (CMBR 4)

PAGE 1. Case No----------

REVIEW OF SENTENCE

1. No, Rank and Name: E.42153, Pte. MICHAUD, E.

2. Unit at date of offence: Royal 22e Regt CAO, CMF

3. Charge: 1. AA 12(1)(a) Desertion (after having been warned to proceed to front line)

2. AA 9(2) Disobeying a lawful command (when ordered refused to join his coy in front line)

4. Place and Date of Trial: In the Field 16 Mar 44

5. Finding: Guilty (on both charges)

6. (a) Sentence; 3 yrs penal servitude

(b) Date of Sentence: 16 Mar 44

7. Date of Confirmation: 19 Apr 44

8. Date of Promulgation: 30 Apr 44

9. Being served at St. Vincent de Paul Penitentiary in MD 4

(N.B. - Discharged under RO 1029 (8) for Misconduct wef ?).

47

Case No_____

CONDUCT

11. (a) Prior to conviction: Good

Date of enlistment: 2 Jul 41

Date of enrolment: Age: 22

(b) After conviction:

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances).

Letters from prisoner vide folios 5 and 14
Petition on behalf of prisoner vide folio 38

13. Recommendations: (State by whom made, e.g., CMHQ, DJC, Reviewing Offr, etc).

Reviewing Offr: Remission of sentence effective 1 Oct 45

Reviewed by (A.B. Gold) Lieut.

---

14. Decision of the Board:

DJC 4 has remitted w.f. 16 Sep 45 was.

46

DATE _____194---

_____
Chairman/Member/Secretary.

INCLUDE ORIGINATOR'S NO. AS INTRODUCTION IN TEXT OF MESSAGE.

CLEAR

ARMY MESSAGE

(OUTGOING)

FILE HQ 55-1-49, FD 2, Adm 3(b)

PLACE: OTTAWA, Ont

DATE: 5 Sep 45.

TO:

District Officer Commanding,
Military District No 4,
MONTREAL, P.Q.

RANKS: 6084 (UNCLASSIFIED) URGENT ACTION (.) SUPERIOR MILITARY AUTHORITY AT NDHQ WILL SPECIALLY REVIEW CASES OF UNDERMENTIONED SUS (.) SEND IMMEDIATELY CONFIDENTIAL AIRMAIL SPECIAL DELIVERY MARKED quote IMMEDIATE ATTENTION CMER unquote NPM 288 OR ARMY FORM A3104 AND LATEST REPORT ON CONDUCT AND REPORT ANY ACTION TAKEN BY YOU UNDER RO5913 FOR:

D-56398	GERMAIN	L
L-5465	PROULX	S
D-63223	PRATTE	N
B-117080	PILOTTE	G
D-137492	LAVALLE	R
E-42153	MICHAUD	E
D-150148	LEONARD	P E
D-163119	OLIGNY	J R
D-58511	LAMBERT	L
D-611343	PROULX	M
D-82232	SAWYER	L
E-6193	TURCOTTE	L

ADJUTANT GENERAL.

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT: INCLUDING (WIRELESS) (A E Walford)
Major-General, Adjutant-General.

SIGNED

DEGREE OF PRIORITY: IMPORTANT

TIME OF ORIGIN

SINGLE FORM FOR CLEAR MESSAGE

USE FOR ADDITIONAL DISTRIBUTION

45

RDG/LP Q.G.G. 55-M-1680 Adm 5(b)E

le 23 août 5.

Monsieur le maire,

Je vous accuse réception de votre recours en grâce en faveur de l'ex-soldat E. Michaud, matricule E-42153, qui purge au pénitencier Saint-Vincent-de-Paul, une peine infligée par une cour militaire.

Les autorités militaires m'informent que cet ex-soldat a été traduit devant une cour martiale générale de campagne le 16 mars 1944, pour répondre à une accusation de désertion, alors qu'après avoir reçu l'ordre de se rendre à la ligne de feu, il s'était absenté sans permission du 15 février 1944 jusqu'au lendemain, dans l'intention de se soustraire à cet ordre. Il répondait aussi à une autre accusation d'avoir désobéi à un ordre de rejoindre sa compagnie sur la ligne de feu le 17 février 1944. Il a refusé d'obéir et ne s'est pas rendu avec sa compagnie. On l'a trouvé coupable et condamné à trois ans de travaux forcés.

Après avoir revisé la sentence, les autorités d'outre-mer ont ordonné que l'ex-soldat Michaud soit renvoyé au Canada comme prisonnier; elles ont de plus recommandé, vue la gravité de l'infraction, qu'il soit tenu de purger la totalité de sa peine et soit libéré de l'armée canadienne.

Nonobstant la recommandation susmentionnée, sa sentence continuera d'être revisée périodiquement en vue d'une remise de peine, si l'intérêt de la justice et de la discipline militaire et la conduite de l'intéressé la motivent. On prévoit que la sentence sera de nouveau revisée vers la fin d'août, alors que l'ex-soldat Michaud aura purgé la moitié de sa peine. Si les rapports reçus sont satisfaisants, il se peut que le reste de sa peine lui soit remis.

Votre bien dévoué,

le sous-ministre,

M. Charles Lavoie, maire,
Paroisse Saint-Edmond,
Lac au Saumon,
Comté de Matapédia, P.Q.

QUOTE No. H20 55-M-1680 Adm 3(b)2

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

OTTAWA, CANADA,
22 August 1945

Dear Sir:

This will acknowledge receipt of your petition for clemency on behalf of E-42153 Pte E Michaud, who is at present serving a sentence, awarded by military court, at St Vincent de Paul Penitentiary.

I am informed by the military authorities that this ex-soldier was tried by Field General Court-Martial on 16 March 1944 on a charge of desertion, after having been warned to proceed to the front line, with intent to avoid so proceeding, absented himself without leave from 15 February 1944 until the following day; and on a further charge of disobeying a lawful command when on 17 February 1944 ordered to join his company in the front line refused to do so and did not proceed with his company. The accused was found guilty of the offence and was sentenced to suffer penal servitude for a period of three years.

On review of sentence by the military authorities overseas, it was directed that this ex-soldier be returned to Canada in custody with a recommendation that in view of the serious nature of the offence committed, he be required to serve the balance of his sentence in full and be discharged from the Canadian Army.

Notwithstanding the above recommendation, the sentence awarded will continue to be reviewed at regular intervals with a view to remission when the interests of justice and military discipline and the conduct of the soldier warrant such action being taken. At the present time it is anticipated that the sentence will again be reviewed towards the end of this month when this soldier will have served one-half of the term. If favourable reports are received at that time, it is possible that the sentence will be remitted.

Yours truly,

Deputy Minister,
(Army)

D.O. Parks cap

Charles Lavoie, Esq,
Mayor,
Paroisse St-Edmond,
Lac au Saumon,
Cte Matapedia, P.Q.

FT

For translation, pls.

22 Aug 45

(J E MacDermid), Col
D Adm

RECEIVED FOR TRANSLATION
AUG 22 1945
AUG 23 1945
NATIONAL DEFENCE

Nat. Def. A-1st-A
1,000M—5-43 (8628)
H.Q 1772-30-370

HQC 55-M-1680 AA 3(b)2

CONFIDENTIAL

22 Aug 45

District Officer Commanding,
Military District No 4,
MONTREAL, P.Q.

B-42153 Pte MICHAUD, E

This ex-soldier is at present serving a sentence of three years penal servitude awarded by FGCM 16 Mar 44. On his return to Cda he was committed to No 89 MDB and later despatched to No 5 DD for discharge and subsequent committal to Vincent de Paul Penitentiary where sentence is being served.

2. Enclosed herewith copy of translation of petition recently received at this HQ addressed to the Minister of Justice and letter from DOC, MD 5, for your infm and use on review of sentence. It is noted that one-half of the term will have been served on 15 Sep 45.

(A E Walford),
Major-General,
Adjutant-General.

WOP:OAJ
Encls.

42

REFER TO OUR No. R-105562

DEPARTMENT OF JUSTICE
REMISSION SERVICE
OTTAWA

CENTRAL REGISTRY Army
CONF. SEC.
AUG 9 1945
File C 55-m-1680
Chgd. to
Referred to a 4

July 30th, 1945.

Dear Sir:

Re: Emile Michaud
St. Vincent de Paul Pen'y

I have been directed by the Minister of Justice to forward to you the attached petition for clemency, on behalf of the above named, who was convicted by a Field General Court-Martial.

Mr. Charles Lavoie, whose signature is the first one on the list, has been advised that the petition has been referred to you for consideration.

Yours very truly,

M. F. Gallagher,
Director of Remission Service.

The Adjudant General,
Department of National Defence,
O t t a w a.

AUG 3 1945
Nat. Defence Hqrs.
Ottawa Canada

St-Edmond Parish,
Lac-au-Saumon,
Co. Matapédia, QUE.

TRANSLATION
(Aug.18-1945) To Hon. Louis St-Laurent,
Minister of Justice - OTTAWA.

Honourable Sir:

The undersigned are hereby strongly insisting on having EMILE MICHAUD released from St-Vincent-de-Paul Penitentiary. He is the son of Jean Michaud, Lac Pitre, Co. Matapédia., and was sentenced in Italy.

All the relatives and friends of this young soldier feel very bad to see him in jail, for he is a volunteer.

The undersigned pray the military authorities to take into consideration the fact that the family enjoys an excellent reputation, and gave 3 sons to the army.

Hoping that you will kindly give our request favourable attention, for which we shall be very grateful to you, ...

(Sgd) Charles Lavoie, mayor
Joseph B Roy, c ssp. P. priest etc.

(Pls. see original for signatures)

CHJ

40

St-Edmond Parish,
Lac-au-Saumon,
Co. Matapédia, QUE.

TRANSLATION
(Aug.18-1945) To Hon. Louis St-Laurent,
Minister of Justice - OTTAWA.

Honourable Sir:

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Hoping that you will kindly give our request favourable attention, for which we shall be very grateful to you, ...

(Sgd) Charles Lavoie, mayor
Joseph A Roy C.S.S.P., P. priest
etc.

(Pls. see original for signatures)

CHJ

39

103562

PAROISSE ST-EDMOND
LAC AU SAUMON
CTÉ MATAPÉDIA, P.Q.

Pardon

A l'Honorable Louis St.Laurent
Ministre de la Justice
Ottawa,Can.

Honorable Monsieur,

Les soussignés vous prient avec instances de bien vouloir accorder sa libération à Monsieur Emile Michaud, fils de Jean,de Lac Pitre cté.de Matapédia,Qué.-lequel est actuellement détenu au Pénitencier de Saint Vincent de Paul,à la suite d'une sentence portée contre lui,alors qu'il était soldat en Italie.Tous,parents et amis,sont bien affligés du sort fait à ce jeune homme qui a eu le mérite de s'enrôler comme volontaire;et ils demandent aux autorités judiciaires de bien vouloir prendre en considération ce fait que la famille jouit d'une excellente réputation dans l'endroit et qu'elle a déjà fourni trois de ses membres à l'armée canadienne.Nous espérons donc que vous voudrez bien prêter une oreille attentive à nos supplications et acquérir par là un nouveau titre à notre gratitude.

Charles Larose Maire
Joseph A. Roy c.s.p.
Curé du Lac au Saumon
Gudger Leblanc
P. Benoit Turbide ne. Ges.
Napoléon Desfosses
Philippe Paul
Jos Romeo Belanger
Gérard Dumais, N.P.
Philippe Bernier
Camille Viens.
Albert St Onge
Wilfrid Pion

BUREAU FOR TRANSLATIONS
AUG 14 1945
AUG 20 1945
NATIONAL DEFENCE

38

Ferdinand Ross.

Philé Ross

Bertrand Ross

J. B. Pierre Marchand Jardin Angers Victoria

J. N. Paradis Marchand, Angers

J. Léopold Lévesque Angers

Louis Levesque

Georges Pilote

J. O. Sinclair

Esprit Belanger Entrepreneur Cours

Ferdinand. Marchand Angers

Bertrand Michaud.

Oscar Michaud

Camile Michaud

Xavier Duhé

Jean Michaud Fils

Alphonse Michaud

Jos Aimé Dufour

Jos H. Dufour

Philippe Michaud

Jean Michaud Pièce Cultivateur

37

DEPARTMENT OF NATIONAL DEFENCE
- Army -

(ICM)

HQC 55-M 1690

NDHQ Ottawa, Ont.

~~6 Aug 45~~ 1945

CONFIDENTIAL
F.G.C.M.

~~District Officer Commanding~~

~~Military District No 4,~~

~~MONTREAL, QUE.~~

E 42153 Pte MICHAUD, E.

Ref Q 39-M-1934

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford)
Major-General
Adjutant-General

36

IN REPLY PLEASE QUOTE No. Q. 39-M-1934 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

QUEBEC, P.Q., 3 Aug 45.

THE SECRETARY,
Department of National Defence,
OTTAWA, Ontario.

DISTRY Army
AUG 5 1945
File G.55-M-16 Fs
Chgd. to
Referred to

333726

E.42153 Pte E. MICHAUD
No.89 MDB.

1. Reference HQC. 55-M-1680 Adm 3(b)2 dated 18 Jun 45.

2. Pte Michaud has now been discharged from the Canadian Army and has been committed to the Saint-Vicent-de-Paul Penitentiary.

3. In view of the fact that this soldier has now served 16 months out of 36, it is advised that consideration should be given to a remission of sentence.

4. However, as ex-private Michaud is not now under the command of this District, action can not be taken pursuant to Sec. 57 AA.

5. The proceedings of FGCM and AFA 3104 are returned herewith.

PT/C.

(Edmond BLAIS)- Brigadier,
District Officer Commanding
Military District No.5.

35

NAT. DEF. B. 440
330694-4-44 (432)
H.Q. 1712-29-767

Correspondence to be PINNED here.

ENTERED IN RECORDS OF C.M.

E102 HHH-126

Army Form A.3.

28 MAR 1944 G.H.Q. 2nd ECHELON

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twelfth day of March, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~I am unable to appoint~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

~~for the following reasons, namely~~

*Omit if not applicable.

No illegalities or irregularities such as would warrant withholding confirmation.

PROCEEDINGS REVIEWED 24 March.

R. Beaulieu Capt.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	R M Horsey	Queen's & York R

Members.

Rank.	Name.	Regiment.
Captain	G E Taylor	West NR
Captain	C C Dierk	RCASC. ~~Queen's & York R~~
Waiting	Lieut	E K Nickerson	West NR

*Signed. [signature] Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

E102

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E42153 Pte Emile MICHAUD, R 22e R	First Charge Sec 12(1)(a) AA	Not Guilty	Guilty	
	Second Charge Sec 9(2) AA	Guilty	Guilty To undergo Penal Servitude for a period of 3 years. 16 Lashes	Reserved for higher authority. [illegible] Brig. I confirm the finding and sentence and direct that a part of the sentence not exceeding 2 years shall be served in a Detention Barracks. P. Montague (P. J. Montague) Major-General i/c Administration Canadian Military Headquarters 19 APR 1944

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [illegible] Brigadier (Signed) [illegible] Major

Commanding 3 Cdn Inf Bde President.
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16 day of March, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter) E 4690 Pte Landriau. P.
*(4. ~~The officers under instruction)~~

*Omit if not applicable.

were duly sworn.

Signed this 16 day of March 1944

President of the Court Martial. Major

C. Certificate in case of death sentence.

*See footnote (b) on page 782 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct ~~that the soldier named in the margin be not com-~~ mitted to pris~~on or detention barrack until further orders~~.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19 .

Confirming Officer.

Adjutant General's Branch
Canadian Military Headquarters
19 APR 1944

Promulgated and extracts taken in the case of

Promulgated and extracts taken in the case of E-42153 Pte MICHAUD, E
R 22e R

(a) (Dated) 30 Oct 1944 (Signed) [illegible]
Adj-Capt R 22eR

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(22579) Wt.46179/850 30,000 2.43 A.G.E.W.Ltd. Gp.493

16

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialed by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a ~~Field General~~ Court-Martial held at the Field

on the 16 day of March 1944 by order of

Brigadier T. G. Gibson

Commanding 3 Cdn. Inf. Bde.

dated the 12 day of March 1944

President.

Major R. M. Forney. R.A.Y.

Members.

Capt. G. E. Taylor W.N.S.R.

Capt. D. B. Buck R.C.A.P.C.

, ~~Judge Advocate~~

Trial of*

E42153 Pte Emile Michaud, R.22R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that N.A. is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut J. A. Girolami. R.22R.

Counsel‡ or defending officer† Lieut B. Hagar R.22R.

At 1530 o'clock the Trial commences.

The order convening the Court is read, and is marked A, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

32257 W.O.W.4182(G2) 10,000 sets 12/41 K. & P., Ltd. G667/11. Forms A9/35.

33

B

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Do you object to E4690 Pte. Landrain P acting as interpreter?

No sir.

The interpreter is duly sworn

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Not guilty. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty. *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to the second charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CHARGE SHEET

The accused E.42153 Private MICHAUD Emile, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service, is charged with:-

1st Charge
AA Sec 12(1)(a)

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, at or about 1900 hrs, on the 15 Feb 1944, after having been warned to proceed to the front line, with intent to avoid so proceeding, absented himself without leave until reporting himself to "B" Echelon at about 0900 hrs on 16 Feb 1944

2nd Charge
AA Sec 9(2)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND GIVEN
BY HIS SUPERIOR OFFICER

in that he

In the Field, on the 17 Feb 1944, when ordered to join his company on the front line, by Major J.G. Charlebois, refused to do so, saying " I won't go", and did not proceed to his company.

J.G. Charlebois
(J.G. CHARLEBOIS) Major,
T/Commanding Royal 22e Regiment.

In the Field
7 Mar 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

T.C. Gibson
(T.C. Gibson), Brigadier,
Commanding 3 Can Inf Bde.

B2

In the Field
12 Mar 44

D.W. Horsey
Major

32

Buck

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. E42153

Rk. Pte. Name Michaud E. of Royal 22nd Regt.

In my opinion he is fit/~~unfit~~ to undergo Trial by Court Martial.

Station N. Tilbe Field

Date ~~14 March 1944~~ 16 Mars 1944

R L Buck Capt

Richard L Buck Capt

Medical Officer.

Buck

31

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No sir.

The prosecutor makes ~~an opening~~ address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution. See record of evidence attached

being duly sworn, is examined by the prosecutor.

30

I

I W Jones for Prosecution h/sgt Gadbon A.D 63290.

Being duly sworn:

The incident in question at about 1900 hrs 15 Feb 44 we were preparing to move up to the front line. I made platoon roll call and I noticed the absence of the accused. after he had been warned by myself of the fact I ~~reported~~ reported the absence to the C.S.M.

I warned the platoon at 1700 hrs.

The accused was ~~absent~~ when I warned the ~~accused~~ platoon. I told them that we were going to the front line and that there was danger involved.

I did not see the accused again until summary of evidence was taken.

X examn by Defence —

Q What was the date of the absence.

The date of the absence was on the 15 Feb 44

Q ~~I~~ did ~~you~~ you ~~see~~ Pte Hickland after he went away.

No

Q. Did you have a roll call day that Pte Hickland was at Rear Bn.

A. Several days after.

Q. by court.

~~Q.~~ I recognise the accused.

R.P. 83 B complied with

Sgt

29

2nd Witness for Prosecution.
Cpl Michaud T. E 57856 having been duly sworn states:

Pte Michaud, who I recognized was member of my section. On the night of 25 Oct I told my section to prepare to leave, the time was about 16 00 hrs. at 1930 hrs my section proceeded I noticed the absence of Pte Michaud. I reported the absence to L/Sgt Gadbois. I was present when Sgt Gadbois warned the Platoon. It was about 16 00 hrs when the Platoon was warned. The Platoon was warned that the Regt was going to relieve the West N.S.R. who was in the line. At the time of the warning the R22R were in reserve.

X Exam by Defence —

Q. Was Pte Michaud present when warned by the Sgt.
A. Yes Sir.
Q. Did you see him
A. Yes.
Q. Was he present when you warned your section
A. He was present, and I warned each man.
Q. Did Pte Michaud tell you he was going away.
A. No.
Q. What makes you believe the W N S R were in the front line.
A. It was a rumor among the men.
Q. Did they know for sure
A. They knew for sure at about 1900 hrs
Q. Was Pte Michaud present at that time.
A. Yes.

Signed RP 83 B Complied with

28

3rd Witness Pros. 111

R 5[redacted]8 L/Cpl E Hard F. Being Duly sworn.

At B Sch. in S. Leonardo at 0930 hrs on 16 Feb 1944 the accused reported to me as an absentee from the front line I ~~being~~ left the front the previous night. I brought him to a Sch. to be paraded to Major Chardebois. I asked the accused where he came from, he replied that he had left the front line the night before.

Cross Exam by Defence —

Q. Did Pte Richard tell you the time that he left the front

A. no.

Q. are you sure he told you that he left the front line.

A. yes

Q. Did you know where the unit was the night before.

A. No.

L P. 83 B Complied with.

Prosecution see page II

~~He was warned of a dangerous move. Method he was present when the warning was given. He also obeyed that he didn't go and fetch for the R.H.Q.L. Pg. 19 (20). reason that he reported to the sgt. next morning in spite of avoiding that Particular dangerous move.~~

27

Defence

as we see in the first charge Deserting H.M. service, and the statement of L/Cpl E Hard, states that the accused reports himself to B. sch in the next morning. If the accused had the

intention of deserting H.M. Service he would have gone as far as he could to hide himself with intention of not returning to report. Instead he reports straight away to Bardsey. It is just a change of place he is still in H.M. Service, he still has the intention of staying in H.M. Service.

Summing by Prosecution

Pte Richard was warned of a dangerous mine, it has been proved he was present when the warning was given. It is also obvious he did just go A.W.L. for the reason that he reported to "B" Sch the next morning with a view of avoiding a particular mine, a dangerous one that would take him up to the Front line. I refer the Court to the M.M.L. Page 19, sec 20.

Pte

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused E42153 PTE. EMILE MICHAUD R.A.R.
is found guilty of THE SECOND CHARGE

†The summary (~~or abstract~~) of evidence is read, marked M signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

NO

Answer. The accused in mitigation of punishment says:—

N.A.

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

25

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

NO.

Answer.

Evidence as to character.

D

The prosecution is closed.

Defence.

The accused advised of rights under R.P. 40

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No, sir.

Question. Do you intend to call any other witness in your defence?

Answer. No.

Question. Is he a witness as to character only? *Answer.* N.A.

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

24

Statement by Accused.

After asking my Pl. Saint, Lieut Beaulieu, in view of being paraded on'd my leg to be transferred from this coy. because I was a driver mech. in which trade I was better qualified than in infantry I am not sure if Saint Beaulieu saw my leg. but about 2 hours later he told me it was useless at that time to ask for a transfer It is then that I left but not with the intention of deserting.

"E"

Bd A

23

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

E 42153 Pte Emile Thibaud, R.A.R. guilty of the charges.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut J. A. Tirolani is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* YES

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked C & D, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* YES

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* YES

Cross-examined by the accused.

N. A.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of the additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* Yes, see appx E.

The Court is closed for the consideration of the sentence.

22

F

Sentence.

The Court sentence the accused

Sentence

See schedule.

Extracts entered as No. 3642 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 17 day of May 1927

LIST OF WITNESSES FOR THE PROSECUTION

in the case of

E.42153 Private MICHAUD Emile, Royal 22e Regiment.

FOR THE PROSECUTION	D.63280 L/S Gadbois	A.
	E.57856 Cpl Michaud	T.
	E.5298 L/C Emard	F.
	Major J.G. Charlebois	
	D.61038 Sgt Juteau	M.
FOR THE DEFENCE	N I L	

I hereby acknowledge the receipt of a true copy of the Summary of Evidence taken prior to my trial by FGCM. I furthermore acknowledge the receipt of a true copy of a charge sheet upon which I am being brought into Court-Martail.

I desire the services of an Officer to represent me at my trial.

I desire the services of Lieut P.E. Lavelle - R.22eR

if he is available.

E Michaud Pte

In the field
7 Mar 44

D.A.A.

21

M

SUMMARY OF EVIDENCE

In the case of E.42153 Private MICHAUD Emile, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service.

By direction of the Commanding Officer, this Summary of Evidence is taken under oath.

1st Witness For Prosecution

D.63280 L/Sgt Gadbois A. Royal 22e Regiment, having been duly sworn states:-

" I am D.63280 L/Sgt Gadbois A. of R.22e.R. posted to "C" Coy.

At about 1500 hrs on the 15 Feb 1944, I warned all the personnel in my platoon that they were about to move up the front line to take a defensive position. At about 1900 hrs, I made a roll call and E.42153 Pte Michaud E. was absent. I reported it to Sgt, A/CSM Lefebvre.

Q-1. Was E.42153 Private Michaud E. present when your platoon was warned of the move ?
A-1. Yes.

Q-2. Who gave them the warning ?
A-2. I gave it myself.

Q-3. Was that warning given in such a manner as to induce pte Michaud to think that the move involved some danger.
A-3. Yes.

Q-4. At what time did you start to move and was pte Michaud present at that time.
A-4. At about 1930 hrs and pte Michaud was absent.

The accused declined to cross-examine the witness.

Gadbois A. L/Sgt

2nd Witness For Prosecution

E.57856 Cpl Michaud T. Royal 22e Regiment, having been duly sworn states:-

" I am E.57856 Cpl Michaud T. of R.22e.R. posted to "C" Coy.

On the 15 Feb 44, at about 1930 hrs, when I warned my section to get ready to move I noticed the absence of E.42153 Pte Michaud E. I reported it to Sgt Gadbois.

The accused declined to cross-examine the witness.

Michaud T. Cpl

3rd Witness For Prosecution

E.5298 L/Cpl Emard F. Royal 22e Regiment, having been duly sworn states:-

" I am E.5298 L/Cpl Emard F. of R.22e.R. posted to police Section.

At about 0900 hrs on the 16 Feb 44, E.42153 Pte Michaud E. reported to me as having left his platoon the previous night. He was sent right away to "A" Echelon to be paraded to Major Charlebois.

The accused declined to cross-examined the witness.

Emard F. L/Cpl

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4th Witness For Prosecution

Major J.G. Charlebois, Royal 22e Regiment, having been duly sworn states:-

" I am Major J.G. Charlebois, of R.22e.R. posted as 2 i/c of Bn.

The accused E.42153 pte Michaud E. was paraded before me on a charge, and I told him that I was suspending the charge and that any further action connected with that particular charge would depend on his future behavious and I ordered him to get ready, and there would be a lorry to take him down to his coy in the front line. He said he would not go. I nevertheless gave instructions to the lorry and when it was reported to me as ready to leave I repeated the order to go and the accused refused to obey. I then ordered him to be placed under close arrest.

The accused declined to cross-examine the witness.

J.G. Charlebois Major,

5th Witness For Prosecution

D.61038 Sgt Juteau M. Royal 22e Regiment, having been duly sworn states:-

" I am D.61038 Sgt Juteau M. of R.22e.R. posted to "C" Coy.
On the 17 Feb 44 at about 1500 hrs I was present when Major Charlebois ordered E.42153 Pte Michaud E. to join his company up the front line and he refused to do so saying: " I have enough of it " or something similer.

The accused declined to cross-examine the witness.

Maurice Juteau Sgt

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two(2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

J.A. Dirlam Lieut.
Officer taking Summary

In the Field
7 Mar 44

D.D.N.

4th Witness For Prosecution

Major J.G. Charlebois, Royal 22e Regiment, having been duly sworn states:-

" I am Major J.G. Charlebois, of R.22e.R. posted as 2 i/c of Bn.

The accused E.42153 pte Michaud E. was paraded before me on a charge, and I told him that I was suspending the charge and that any further action connected with that particular charge would depend on his future behavious and I ordered him to get ready, and there would be a lorry to take him down to his coy in the front line. He said he would not go. I nevertheless gave instructions to the lorry and when it was reported to me as ready to leave I repeated the order to go and the accused refused to obey. I then ordered him to be placed under close arrest.

The accused declined to cross-examine the witness.

J.G. Charlebois Major,

5th Witness For Prosecution

D.61038 Sgt Juteau M. Royal 22e Regiment, having been duly sworn states:-

" I am D.61038 Sgt Juteau M. of R.22e.R. posted to "C" Coy.

On the 17 Feb 44 at about 1500 hrs I was present when Major Charlebois ordered E.42153 pte Michaud E. to join his company up the front line and he refused to do so saying: " I have enough of it " or something similar.

The accused declined to cross-examine the witness.

Maurice Juteau Sgt

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two(2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

J.A. Dinham Lieut.
Officer taking Summary

In the Field
7 Mar 44

D.W.

Destroyed Sheet 2-1-42

No. E-42153 Name E. MICHAUD Sqn., Battery, or Company "b" Corps R. 22 R. Date of enlistment 2-7-41 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F. B.122) 40/P & /8136 (2963)

Date of last entry in Company Conduct Sheet 29-12-41 No. and date of last drunk 8/1L. Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character good

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Allamburg	2-6-42	Tpr.		A.W.L. from 2359 hrs the 2-6-42 until 2200 hrs, the 3-6-42 TOTAL 22 hours 59 min.	Evidence documentaire		5-6-42	Major J. M. Corbett	Forfeits 12 days Pay Under F.A.&I
						"C"			

CERTIFIED TRUE COPY

(P.T.O.)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment
E47153	Pte	Maxwell E	Royal 22nd Regiment

The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months	Since enlistment
FOR AA Sec. 15(1) A.W.L	~~Times~~	1 Times
FOR	Times	Times
FOR	Times	Times
FOR	Times	Times

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or,

Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or The accused at the present time is under sentence for

N/A beginning on the N/A day of N/A

4. The accused has been in confinement, awaiting trial on the present charges for, nil days in civil custody and 29 days in military custody, making a total of 29 days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 21 yrs.

6. The date of his attestation specified in his record of service is July 4th

7. The service which the accused is allowed to reckon towards discharge or transfer to the service is N/A.

8. The accused is entitled to deferred pay or gratuity in respect N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or award).

11. (If the accused is a warrant officer) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (In the case of an officer) The accused holds in the army the rank of N/A dated N/A and in his regiment (or corps or department) the rank of N/A dated N/A

"D" Dell

17

To 12-7-45

ST. VINCENT DE PAUL PENITENTIARY

File No. 4076

Adjutant-General,
Department of National Defence (Army)
Ottawa, Ont.

Date: July 11, 1945.

405-M 39,619

Dear Sir:

RE: No.4076 MICHAUD, Emile
Ex. Reg. No. E-42153
Convicted by Court Martial

1. Please find hereto attached an application for clemency written by the above-named convict.

2. Submitted for your information and whatever action you may deem advisable.

Director of Records
A. G. Branch
JUL 13 1945
Nat. Defence Hqr.

G. LeBel,
Warden.

15

TRANSLATION

9 July 1945

Sir;

I the undersigned Emile Michaud , soldier of the Royal 22nd Regt No. E 42.53 after having served 5½ months combatant duty in Ortona was condemned to 3 years in prison on the accusation of desertion. I have already served 13 months in prisonin Italy was returned to Canada 11th March 1945 and have been at the St. Vincent de Paul Penitentiary to finish my sentence.

I have never been in prison in the course of my life , and as I am the support of my mother and father I ask you to do everything in your power to liberate me as soon as possible.

Yours truly,

Emile Michaud # 4076

Penitentiary St. Vincent De Paul

County Laval. Que.

14

OFFICE COPY H.Q. C.55-M-1660
M.D. 10/Michaud, E/1

GS

MEMORANDUM - FIELD GENERAL DISTRICT COURT-MARTIAL

No. E. 42153 Name MICHAUD, Emile

Rank Pte Unit R 22e R CAO CMF

Charge (1) A.A. 12(1)(a) Desertion

(2) A.A. 9(2) WOAS Disobeying a lawful....

Date of Crime (1) 15-2-44; (2) 17-2-44

Date of Arrest (1) 16-2-44; (2) Charge Signed 7-3-44

Orders for F.G.C.M. Brig Comd 3 Cdn Inf Bde

Place and Date of Trial In the field; 10-3-44

Sentence Penal servitude 3 yrs.

Date of Confirmation 19-4-44

Date of Promulgation 30-4-44

Entered in Records of J.A.G. as No. 3642

Date 14-5-45

MEMO. Conf Auth directs that a part of the sentence not exceeding two yearsshall be served in a military prison.

Reviewed at GMHQ

Balance of sentence remitted by Conf. Auth. 16-9-45

for Judge Advocate General

13

10M-1-45 (M-4629)

HQC 55-M-1660
Adm 3(b)2

CONFIDENTIAL

18 Jun 45

District Officer Commanding,
Military District No 5,
QUEBEC, P Q

E.42153 Pte MICHAUD, E
NO 89 MDB

This SUS has recently been returned from Italy and was committed in the first instance to No 89 MDB. He was despatched to No 5 DD on 13 Jun 45 for discharge and ultimate committal to St Vincent de Paul Penitentiary.

2. An undated letter was received at CMHQ addressed to the Comd No 56 MP and DB from this SUS subsequent to the direction that he be returned to Canada to complete the balance of his sentence and the same was forwarded to this HQ for consideration and action.

3. It appears that this document was submitted after the expiration of 6 months from the date of promulgation of this sentence. It is considered that it does not disclose any new or substantial grounds either in fact or in law which would justify permission being granted to submit a Petition (KR (Can) 574 (c)). May this SUS be so informed, pls.

4. It is considered that the letter of this SUS should be treated simply as a request for a reduction of sentence.

5. The sentence awarded was carefully reviewed at CMHQ. A copy of the letter directing the return of this SUS is enclosed herewith for your information together with review of sentence, AFA 3104 and Proceedings of FCCM. It is considered advisable in view of the representations received from this SUS, that the sentence again be reviewed. It will be particularly noted that the accused implies that he was convicted on 1 charge and that for an absence of 9 hrs. The Proceedings indicate that he was convicted on 2 charges and that the absence was for a period of 14 hrs.

6. May your action taken on review of sentence be endorsed on page 2 of AFA 3104 and the same, together with Proceedings of FCCM be returned to this HQ in due course, pls.

(A E Walford)
Major-General
Adjutant-General

Encl.

NOP:da

12

CANADA

Department of National Defence

IN REPLY PLEASE QUOTE
No. K.55-M-5607-C (A)

Kingston, Ontario. 15 June, 1945.

CENTRAL REGISTRY Army
CONF. SEC.
JUN 16 1945
File C55-M-1680
Chgd. to
Referred to Admin

322218

Secretary,
Department of National Defence,
Ottawa, Canada.

E.42153 - Pte. MICHAUD, E.

Reference HQC 55-M-1680 Adm 3(b)2 dated 7 June 45.

2. Documents in the case of the marginally named soldier under sentence are returned herewith.

3. It is advised that this soldier was struck off strength No. 3 District Depot and despatched to No. 5 District Depot on the 13 June 45. On arrival at Military District No.5 he will be discharged and then committed to St. Vincent de Paul Penitentiary, St. Vincent de Paul, P.Q.

4. It is therefore suggested that this matter be taken up with the District Officer Commanding, MD 5, or the District Officer Commanding, MD 4.

L. McMerritt Major,
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

WKM/EV.

E N C.

M. F. B. 250
1000m—4-60 (4027-8-9)
H.Q. 1772-20-194

KINGSTON, ONTARIO SECRET

A.G. 111850/JUN/45
(ACTION)

5767

SECRET

TO DOC HD 5 QUEBEC PQ RPTD SECTY DND OTTAWA

RELET KS 674 DATED 29 MAY 1945 AND HQS 8536-5VOL 2 ADM 3 (B) 2 DATED 27 APRIL 1945 FROM DEFENSOR

THE FOLLOWING SOLDIERS UNDER SENTENCE PRESENTLY CONFINED AT NO. 69 MILITARY DETENTION BARRACKS FORT HENRY KINGSTON WILL ARRIVE PALAIS STATION QUEBEC 2310 HOURS 15 JUN 1945 UNDER ESCORT REQUEST ESCORTS MEET THIS TRAIN ON ARRIVALL

E.100644 BLAIS R

E 9373 GAUDET I

E 42091 LAPOINTE G

E 42153 MICHAUD E

E 57725 QUELLETTE PE

E 5465 PROULX S

E 4652 SARAH JP

E 6193 TURGOTTE L

E 1665 SIVRET J

ADDSD GEOG 5 RPTS DEFENSOR

10

COMMANDING 5

S1537/JC/111950/JUN/45

HQC 55-M-1680
Adm 3(b)E

CONFIDENTIAL

7 Jun 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

E.42153 Pte MICHAUD, E
No 89 MDB

An undated letter was received at CMHQ addressed to the Comd No 56 MDB subsequent to the direction that this SUS be returned to Cds to complete the balance of his sentence and the same was forwarded to this HQ for consideration and action.

2. It appears that this document was submitted after the expiration of 6 months from the date of promulgation of this sentence. It is considered that it does not disclose any new or substantial grounds either in fact or in law which would justify permission being granted to submit a Petition (KR(Can) 574 (e)). May this SUS be so informed, pls.

3. It is considered that the letter of this SUS should be treated simply as a request for a reduction of sentence.

4. Notwithstanding that the sentence was most carefully reviewed at CMHQ, it is considered advisable that the sentence be again reviewed at this time. For this purpose, Proceedings of FGCM and AFA 3104 are enclosed. It will be particularly noted that the accused implied that he was convicted on 1 charge and that for an absence of 9 hrs. The Proceedings indicate that he was convicted on 2 charges and that the absence was for a period of 14 hrs.

5. May your action taken on review of sentence be endorsed on page 2 of AFA 3104 and the same, together with Proceedings of FGCM be returned to this HQ in due course, pls.

(A E Walford)
Major-General
Adjutant - General

Encl.

WGP:de

In reply quote No. H.Q.C. 55-M-1680 (JAG/D-9)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

OTTAWA, 2 June 45

TO: D. OF ADMIN.

E.42153 Pte. E. Michaud

Reference your memorandum H.Q.C.55-M-1680 Adm 3(b) dated 25 May 45.

2. It would appear that the undated document (attached to letter from C.M.H.Q. dated 10 May 45) was submitted after the expiration of six months from the date of promulgation. It is considered that the said document does not disclose new and substantial grounds either in fact or in law which would justify permission being granted to submit a Petition after the expiration of six months. (K.R. (Can) 574(c).

3. It is considered that the undated letter should be treated as a request for reduction of sentence and as such may be dealt with as you see fit.

4. It will be noted that the accused implies that he was convicted on one charge only, whereas the proceedings show that he was found guilty of two charges.

for (R.J.Orde) Brigadier,
Judge Advocate-General.

8

M.F.A. 1328
[illegible]
H.Q. 1772-99-2050

MEMORANDUM

DEPARTMENT OF NATIONAL DEFENCE

TO: JAG

HQC 55-M-1680 Adm 3(b)

OTTAWA, Ont. 25 May 45

E.42153 Pte MICHAUD, E

Your opinion is sought as to whether the document att to letter from CMHQ dated 10 May 45 at folio hereunder is to be treated as a Petition under KR(Can) 574.

2. This soldier is now serving a sentence of two yrs penal servitude awarded by FGCM 16 Mar 44. The document which he forwards is NOT dated but he states therein that he has now served a year of his sentence. It would appear therefore that the time limit allowed for submitting the Petition has expired. The sentence was promulgated 30 Apr 44.

3. If you concur that the time limit has expired, do you consider that the applicant has complied with KR(Can) 574(c) in such a manner as to permit a superior mil authority to extend the time, please?

4. Your directions as to how this matter should be dealt with are requested.

(J E MacDermid),
Colonel,
D Adm.

WAS:sp

7

10/MICHAUD E/1
A.G.REV(a)

ADDITION ENTERED

Director General
A. G. Branch
MAY 22 1945
Nat. Defence Hqr
Ottawa, - Canada.

CANADIAN MILITARY HEADQUARTERS,
2, COCKSPUR STREET,
TRAFALGAR SQUARE,
LONDON, S.W.1.

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

10 May 45.

008224
405-M-39,619

E.42153 Pte Michaud, E.

1. The enclosed petition of the m/n soldier, who was sentenced to 3 years penal servitude by FGCM 16 Mar 44 in Italy, was received by this HQ from 1 Ech AFHQ after the sentence had been reviewed and it had been directed that this soldier be returned to Canada in custody under sentence. He has now been despatched from Italy pursuant to the aforesaid direction.

2. The a/m petition is therefore forwarded to you for consideration and such action as may be deemed appropriate.

(E.G. WEEKS) Major-General
for In charge of Administration
CANADIAN MILITARY HEADQUARTERS.

Enc.1.

H1

6

To The Commandant.
5th Military Prison & Detention Bks.
C.M.F.

Sir I No E 42153. Pte. Michaud E. —
Unit. R22R
5th Military Prison & Detention Bks.
C.M.F.

At present serving under sentence of 3 years P.S. respectfully submit this my application to petition against the severity of my Sentence passed on me by G.C.M. on the 19th of April 1944.

1. Owing to my Father health which is not good and I being his only Dependent.
2. At present serving under sentence of 3 years P.S. which I think is to severe for being 9 HRS absent.
3. I now have served a year of my Sentence and I am sure that it has taught me a lesson, and I want to go back to place my mates in the Canadian Army

I am Sir,
Your Obedient Servant
No E 42153 Michaud E

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

7 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

E.42153 Pte Michaud E./
SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 29 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of penal servitude.

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

for (A E Walford) Major-General
Adjutant-General

Encl. 3

3642

4

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Michaud E/1

CANADIAN MILITARY HEADQUARTERS

LONDON

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

10 Apr 45.

6-5-5-M-1690

E-42153 Pte Michaud E.

1. The m/n soldier is now serving a sentence of 3 years penal servitude awarded by FGCM 16 Mar 44 for an offence under AA Sec 12(1)(a) and an offence under AA Sec 9(2). He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released, if he continues so to do, is 15 Mar 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence.

5. In view of the serious nature of the two offences of which this soldier has been convicted, his previous record and all available reports, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para.8 of Appx to C.A.R.O. 1029, and it is so recommended. This soldier clearly misconducted himself in order to avoid front line duty, and he must have realized that he would incur severe punishment including possible discharge for misconduct.

6. It has accordingly been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 16 Mar 44, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E.G. Weeks) Major-General
In charge of Administration
Canadian Military Headquarters

Enc. 4.

1/39a CMHQ 1000-76
40/P & S/803 (6739)

REVIEW OF SENTENCE

SPECIAL REVIEW

DATE : _____

FILE : 10/Michaud, E/1

1. NO., RANK AND NAME: E.42153 Pte. Michaud, E.

2. UNIT AT DATE OF OFFENCE: R 22e R.

3. AT PRESENT ON STRENGTH OF: "X2" List. R 22e R.

4. DATE OF SENTENCE: 16 Mar 44.

5. AWARD: 3 years penal servitude.

6. CONFIRMED SENTENCE: As awarded.

7. BEING SERVED AT: Italy.

8. OFFENCES:

AA Sec 12(1)(a) - WOAS - Desertion. after having been warned to proceed to the front line, absented himself with intent to avoid so proceeding. Reported after 14 hrs.

AA Sec 9(2) - WOAS - disobeying a lawful command given by his superior officer. When ordered to join his Coy. refused to do so.

8(a) PRESENT AGE: - 22 years.

9. PREVIOUS CONDUCT: - Enlisted 1 Jul 41.
Charged under AA Sec 15(1) - 2 offences.
Maximum punishment awarded - 5 Jun 42 - awarded 5 dys CB & 1 dys pay fo

(From MFM 2)

2

10. CONDUCT WHILE UNDER SENTENCE: - Good.

11. EARLIEST DATE OF RELEASE: - 15 Mar 46.

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS E-42153 Pte Michaud E. of R 22e R
was by Field General Court-Martial held in the field convicted of the offence(s) of deserting His Majesty's Service and disobeying a lawful command given by his superior officer
and by a sentence signed on the 16th day of March, 1944
sentenced to undergo penal servitude for 3 years

said sentence of penal servitude commencing on the aforesaid day, and such sentence has been confirmed by the Maj-Gen i/c Adm CMHQ as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 10th day of APRIL, 1945.

(Beverley Matthews) Brigadier
A/Deputy Adjutant General
Canadian Military Headquarters.

H.Q.C. 55-M-1681 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MENARD. GEORGES D.94104 PTE.

OVERSEAS CONSOLIDATED FILE

CONFIDENTIAL H.Q.C. 55-M-1681

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which removed cannot be expressed on one line, add minute to file and enter here. Rule Minute)		APR 20 1945
				D. ADM.	NEW FILE C.R.		
MAY 28 1945		P.A.	E.L.M.	JAG	passes	wof	7.5.45
JUN 25 1945	25.6.45	PA	wof	Admin	For Information C.R. JUN 29 1945		
JUL 9 1945	9.7.45	PA	O.Z.	Admin	For Information R.C. JUL 9 1945		
				J.A.	For Prosecution C.R. JUL 31 1945		
AUG 1 1945				JAM	Lamb	jm	31-7-45
AUG 6 - 1945	6.7.45	PA	WOS	adm to note remarks			AUG 1 - 1945
OCT 30 1945	29 10 45	PA	ajm	EMAR	For Information C.R. OCT 29 1945		
JAN 8 - 1946	7/1/46	PA	aic	CAGR	[redacted] JAN 4 1946		
JUN 6 - 1946	JUN 6	PA	WAS	DRB	For Information MAY 3 1946		
JAN 15 1947	15/1/47	PA			For Information JAN 3 1947		
JAN 23 1947	23 Jan 47	PA.		D.G.R.	PER REQUEST CR JAN 17 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

Correspondence to be PINNED here.

RECORDED AT CMHQ IN A8 160 KKK 75

Certified true copy
Capt
(R CORDEAU)

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A1
"D Mc G Archibald"

A.

Order convening the Court.

On Active Service, this Twenty-third day of March, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.] "TGG"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [I am unable to appoint:—
*(1. Three Officers to form the Court.)
*(2. A Field Officer as President.)
for the following reasons, namely:—] "TGG"

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	D. Mac Archibald	West NSR

Members.

Rank.	Name.	Regiment.
Capt	R.G. Thexton	West NSR
Capt	H. Tellier	R 22e R
Lieut	R Piche	R 22e R

*Signed "T.G.Gibson" Brigadier
Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D94104 Pte Georges MENARD, Royal 22e Regiment	First Charge Sec AA 15(1)	Guilty	Guilty	
	Second Charge AA Sec 9(2)	Guilty	Guilty	
			To undergo 2 years imprisonment with hard labour	Confirmed "TGG"
	Third Charge AA Sec 24(2)	Not Guilty	Not Guilty	

"D Mc J Archbald" Major

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"

Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) "T.G. Gibson" Brigadier (*Signed*) "D Mac Archbald" Major

Commanding 3 Cdn Inf Bde

Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24 day of March, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

"DMacA"

Signed this 24 day of March 19 44.

"D MacArchibald Major"
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

"DMacA"

~~Signed this day of 19 ,~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

"TGG"

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 26 day of March 19 44.

"T.G.Gibson" Brig.
Confirming Officer.

Promulgated and extracts taken in the case of D94104 Pte G. MENARD

(*a*) (Dated) 1 Apr 44 (Signed) P.A. Tremblay Lieut"

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(22575) Wt.46179/650 50,000 2/43 A.&E.W.Ltd. Gp.698
(24254) Wt.11192/71 100,000 2-43

CHARGE SHEET

The accused D94104 Private Georges MENARD, a soldier on the Royal 22e Regiment, Canadian Army Overseas, CMF, On active service is charged with:-

1st Charge
AA Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

IN THAT HE

B2
"D McG Archibald"

In the Field, on 5 Feb 1944 absented himself without leave at 2200 hrs until apprehended by Military Police at TARANTO at 1350 hours 18 Feb 1944

Total absence: 12 days 9 hrs 50 mins

2nd Charge
AA Sec 9(2)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND GIVEN
BY HIS SUPERIOR OFFICER

In that he

In the Field, on 17 Mar 1944 did not return to his company in the Field when ordered to do so by Captain L Cannon, Royal 22e Regt.

3rd Charge
AA Sec 24(2)

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS EQUIPMENT,
CLOTHING, AND REGIMENTAL NECESSARIES

in that he

In the Field, on 6 Feb 1944 was deficient of the regimental necessaries listed below

			75 %	
1 Field Service Cap	£	0.	1	10½
1 Blouse B.D.		0.	17	7½
1 Trousers B.D.		0.	18	1½
1 Drawers wollen		o.	4	03/8
1 Vest wollen		0.	4	03/8
1 Greatcoat		1	17	11½
1 Boot Ankle		0	18	3½
1 Socks Pr		0	1	3
1 Anklets web		0	3	3½
1 Shirt angola		0	6	9½
Total	£	5	13	3 3/8

In the Field
17 Mar 1944

"J.G.Charlebois"
(J.G. CHARLEBOIS) Major
T/Commanding Royal 22e Regiment

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
23 Mar 44

"T.G.Gibson"
(T.G.Gibson) Brigadier
Commanding 3 Cdn Inf Bde

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined No. D[illegible]104.

Pte MENARD G. of Royal 22e Regiment

and in my opinion he is fit/~~unfit~~ to undergo trial

by Court Martial.

Station - In the Field

Date - 24 Mar 1944

"CB Caswell"
~~(B. Caswell)~~ Capt
Medical Officer

Dr G Archibald

"A"

CERTIFICATE UNDER ARMY SECTION 162 (1) (ii)

I certify that No D94104 Pte MENARD of the 22nd Royal Regiment of Canada was arrested at TARANTO, on the 18 February 1944, about 1350 hrs.

??????????? Capt
Officer Commanding
231 L of C Provost Coy
C.M. Police

In the Field
19 Feb 1944

"A" mel a

A

Army Form A 9.

**All printed matter not applicable to the particular Court-martial held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field

on the 24 day of March 19 44 by order of

Brigadier T. G. Gibson

Commanding 3 Cdn Inf Bde

dated the 23 day of March 19 44

President.

Major D. MacArchibald West NSR

Members.

Capt H. Tellier ~~West NSR~~ R22eR

Lieut R. Piche Royal 22e Regt.

~~Judge Advocate.~~

Trial of* D94104 Pte Georges MENARD, Royal 22e Regiment

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court

The Court satisfy themselves that Capt RG Thexton is not available to serve owing to duty at the front lines

Lieut Piche waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut P.A. Tremblay

Counsel‡ or defending officer† Lieut C.D. Dussanet

At 1400 o'clock the Trial commences.

The order convening the Court is read, and is marked "A1" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

9726. 81.W.2563.(11) 40,000 sets. 11.43 K. & H., Ltd. 9667/11 Forms A 9-10.

B

"Dme G.a"

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read ? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

Not Guilty *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

N/A *Answer.*

The accused having pleaded Guilty to 1st & 2nd charge , the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty.

Prosecution advises that no evidence to offer on third charge. Court direct finding of not guilty be entered.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

"DMcGa"

The accused D94104 Pte Georges MENARD is found guilty of First & Second charge

"DMcGa"

†The summary (or abstract) of evidence is read, marked A2 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:— No

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer. No

Evidence as to character.

E

Finding.*

**To be struck out except in cases where trial has taken place on a plea of "Not Guilty."*

The Court is closed for the consideration of the finding.

The Court find that the accused D/94104 Pte Georges BERNARD is guilty of First & Second charges. Not guilty on third charge. Finding of not guilty announced in open court.

Proceedings on Conviction *before Sentence.*

**When the Court is already open this sentence will be struck out.*

*Evidence of character, &c.**

*The Court being re-opened, the accused is again brought before it.

DMcGa

is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* The prosecution produces MFM 6 & MFB 355

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked E1 & E2 signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused D96104 Pte Georges MENARD

Sentence.

2 years imprisonment with hard labour

"D MacArchibald"
~~(D. MacArchibald) Major~~
President

SUMMARY OF EVIDENCE

In the case of D94104 Private MENARD Georges, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF On Active Service.

By direction of the Commanding Officer this Summary of Evidence was taken under oath.

1st Witness For Prosecution — E4591 Sgt Despres R.O. Royal 22e Regiment having been duly sworn states:-

A2
"D Mc J Archibald"

I am E4591 Sgt Despres R.O. of Royal 22e R posted to Police Section as P/Sgt. On 17 Mar 1944 D94104 Pte Menard G declared in my presence that he absented himself without leave at 2200 hrs on 5 Feb 44 and remained absent until apprehended by Military Police on 18 Feb 44 at about 1350 hrs. Furthermore on 17 Mar 1944, I heard Capt L. Cannon order D94104 Pte Menard G. to return to his coy and Pte Menard refused saying "I refuse to go"

The accused declined to cross-examine the witness.

"R.O. Despres"
~~R.O. Despres~~ Sgt

2nd Witness For Prosecution — E4421 CQMS Peloquin E Royal 22e Regiment, having been duly sworn states:

"I am E4421 CQMS Peloquin E of Royal 22e Regiment, posted to "D" Coy. On the 6 Feb 1944 I made a kit inspection in the case of D94104 Pte Menard G and found him deficient of the articles listed below.

	75%	100%
1 F.S. Cap	0. 1. 10½	0. 2. 6
1 Blouse B.D.	0.17. 7½	1 3 6
1 Trousers B.D.	0.18. 1½	1 4 1½
1 Drawers Woollen	0 4. 0 3/8	0 5 4½
1 Vest Woollen	0 4 0 3/8	0 5 4½
1 Greatcoat	1 17. 11½	2 10 7
1 Boot ankle	0 18 3½	1 4 5
1 Sock	0 1 3	0 1 8
1 Anklet web	0 3 3½	0 4 5
1 shirt angola	0 6 9½	0 9 1
Total	5 13 3 3/8	7 11 0½

The accused declined to cross examine the witness.

"E. Peloquin"
~~E. Peloquin~~ CQMS

3rd Witness For Prosecution — Capt J.B. Rousseau, Adjutant, Royal 22e Regiment, having been duly sworn states:

I, Capt J.B. Rousseau, of Royal 22e Regiment posted as Adjutant, hereby produce certificate of apprehension in the case of D94104 Pte Menard, G. whom I now recognize. This certificate is marked Exhibit "A" and signed by O.C. 231 L of C Provost Coy C.M. Police.

J.B.Rousseau
~~(J.B.Rousseau)~~ Capt

In view of the loss of time and expenses involved, it is not necessary in my opinion, to have the presence of OC 231 L of C provost Coy in the taking of this Summary of Evidence.

"P.A.Trembley"
~~(P.A.Trembley)~~ Lieut

The accused does not request the presence of OC 231 L of C provost Coy

"G.Menard"
~~Menard G~~ Pte

4th Witness
for Prosecution

Capt L.Cannon, Royal 22e Regiment, having been duly sworn states:

I, Captain L Cannon, of the R 22e R posted to "D" Coy ordered D94104 Pte Menard G to proceed to his Coy on 17 Mar 44, saying to him "Pte Menard, I order you to return to your Coy in the field, to-day. You understand that if you refuse that you will be charged". Menard replied "I refuse to go" and he did not proceed to his Coy, and was placed in custody.

The accused declines to cross-examine the witness.

"L.Cannon"
~~(L.Cannon)~~ Capt

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two(2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c)(d)(e)(f) and (g) were duly complied with.

In the Field
17 Mar 44

"P.A.Tremblay"
~~(P.A.Tremblay)~~ Lieut
Officer taking Summary

Certified true Copy (Copy-Extra) KKK-75
R Indeau Capt
(R. CORDEAU)

F 123
F 150

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

A1
"D. McK. Archibald"

On Active Service, this **Twenty-third** day of **March**, 19 **44**.

Whereas it appears to me, the undersigned, an officer in Command of **3 Cdn Inf Bde**, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted] "TGG"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [redacted]

*(1. [redacted]

*(2. [redacted]

[redacted] "TGG"

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	D. Mac Archibald	West NSR

Members.

Rank.	Name.	Regiment.
Capt	R.G. Thexton	West NSR
Capt	H. Tellier	R 22e R
Lieut	R Piche	R 22e R

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "T.G.Gibson" Brigadier
Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D94104 Pte Georges MENARD, Royal 22e Regiment	First Charge Sec AA 15(1)	Guilty	Guilty	
	Second Charge AA Sec 9(2)	Guilty	Guilty	
			To undergo 2 years imprisonment with hard labour	Confirmed "TGG"
	Third Charge AA Sec 24(2)	Not Guilty	Not Guilty	

"D. McG Archibald Maj"

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) "T.G. Gibson" Brigadier (Signed) "D McG Archbald" Major

Commanding 3 Cdn Inf Bde
Convening Officer (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24 day of March, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*Omit if not applicable.

"DMcGA" *~~[illegible]~~
~~[illegible]~~ (The witnesses under instruction)
were duly sworn.

Signed this 24 day of March 19 44.

"D McG Archibald Major"
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

"DMcGA" ~~Signed this day of 19 ,~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~[illegible]~~ "TGG"

Signed this 26 day of March 19 44.

"T.G.Gibson" Brig.
Confirming Officer.

Promulgated and extracts taken in the case of D94104 Pte G. MENARD

(a) (Dated) 1 Apr 44 (Signed) "P.A. Tremblay Lieut"

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23579) Wt.44179-850 50,000 2-43 A.&E.W.Ltd. Gp.698
(24256) Wt.11192-73 100,000 5-43

CERTIFIED TRUE COPY

R. Cordeau CAPT.

(R. CORDEAU)

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. D-94104 Pte. Georges MENARD Unit R 22e R.

Sentenced to two years imprisonment-hard labour on 24 Mar 1944

Age on, and date of enlistment 19 years, 13 Jan 42 Term of service duration

FIRST TRIAL.

For details of offences, see paragraph VII.

For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.

For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20912) W.L.40072/E.79 100,000 3/43 S.S.S.W.Ltd. Gp.668 Forms/A.3104/12

Charge or Charges giving particulars	Date of Offence	Date of Trial
1st Charge. VII.—First Trial. A.A. Sec 15(1) WOAS: In the Field, AWL from 2200 hrs, 5 Feb 44 until apprehended at 1350 hrs, 18 Feb 44. Total absence: 12 days, 9 hrs, 50 mins.	5 Feb 44	24 Mar 44
2nd Charge. A.A. Sec 9(2) WOAS: In the Field, did not return to his Coy when ordered to do so by Capt. L. Cannon.	17 Mar 44	24 Mar 44
"P.A.Tremblay" Lieut. Signature of Officer making entry.		
VIII.—Second Trial. Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
In the Field 31 Mar 44	I do not recommend the sentence to be remitted, commuted, mitigated or suspended.	"J.G.Charlebois," Major T/Comd R 22e Regt.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
3 Apr 44	I recommend that the sentence be served in full	"T.G.Gibson". Brig.

CHARGE SHEET

The accused D94104 Private Georges MENARD, a soldier on the Royal 22e Regiment, Canadian Army Overseas, CMF, On active service is charged with:-

1st Charge
AA Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

IN THAT HE

In the Field, on 5 Feb 1944 absented himself without leave at 2200 hrs until apprehended by Military Police at TARANTO at 1350 hours 18 Feb 1944

Total absence: 12 days 9 hrs 50 mins

B2
"D mcd. archibald"

2nd Charge
AA Sec 9(2)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND GIVEN
BY HIS SUPERIOR OFFICER

In that he

In the Field, on 17 Mar 1944 did not return to his company in the Field when ordered to do so by Captain L Cannon, Royal 22e Regt.

3rd Charge
AA Sec 24(2)

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS EQUIPMENT,
CLOTHING, AND REGIMENTAL NECESSARIES

in that he

In the Field, on 6 Feb 1944 was deficient of the regimental necessaries listed below

			75%	
1 Field Service Cap	£	0.	1	10½
1 Blouse B.D.		0.	17	7½
1 Trousers B.D.		0.	18	1½
1 Drawers wollen		0.	4	0 3/8
1 Vest wollen		0.	4	0 3/8
1 Greatcoat		1	17	11½
1 Boot Ankle		0	18	3½
1 Socks Pr		0	1	3
1 Anklets web		0	3	3½
1 Shirt angola		0	6	9½
Total	£	5	13	3 3/8

In the Field
17 Mar 1944

"J.G.Charlebois"
(J.G. CHARLEBOIS) Major
T/Commanding Royal 22e Regiment

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
23 Mar 44

"T.G.Gibson"
(T.G.Gibson) Brigadier
Commanding 3 Cdn Inf Bde

"Armd. Archives"

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined No. D[illegible]94.

Pte MENARD G. of Royal 22e Regiment

and in my opinion he is fit/[illegible] to undergo trial

by Court Martial.

Station - In the Field

Date - 24 Mar 1944

"CB Caswell"
(B.Caswell) Capt
Medical Officer

CERTIFICATE UNDER ARMY SECTION 163 (1) (ii) "A"

I certify that No D94104 Pte MENARD B of the 22nd Royal Regiment of Canada was arrested at TARANTO, on the 18 February 1944, about 1350 hrs.

In the Field
19 Feb 1944

?????????? Capt
Officer Commanding
231 L of C Provost Coy
C.M. Police

D McG a

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field on the 24 day of March 19 44 by order of

Brigadier T. G. Gibson

Commanding 3 Cdn Inf Bde

dated the 23 day of March 19 44

President.

Major D. MaGArchibald West NSR

Members.

Capt H. Tellier ~~West NSR~~ R 22e R

Lieut R. Piche Royal 22e Regt.

~~Judge Advocate.~~

Trial of* D94104 Pte Georges MENARD, Royal 22e Regiment

The order convening the Court, the charge-sheet and the summary (~~abstract~~) of evidence are laid before the Court

The Court satisfy themselves that Capt RG Thexton is not available to serve owing to duty at the front lines

Lieut ~~R~~ Piche waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut P.A. Tremblay

Counsel‡ or defending officer† Lieut C.D. Dussanet

At 1400 o'clock the Trial commences.

The order convening the Court is read, and is marked "A1" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

9726. 40,000 m. 1940. K. & N., Ltd. (462/40) Forms A 9-10

B

"D.McG.A."

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Not guilty *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

N/A *Answer.*

The accused having pleaded Guilty to **1st & 2nd** charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty.

Prosecution advises that no evidence to offer on third charge. Court direct finding of not guilty be entered.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

* ~~The Court having been re-opened, the accused is again brought before it, and the charge is read to him, and he pleads Guilty, and~~

"D.McG.A."

The accused D94104 Pte Georges MENARD is found guilty of First & Second charge

"D.McG.A."

†The summary ~~[illegible]~~ of evidence is read, marked A2 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

Answer. The accused in mitigation of punishment says :— No

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer. **No**

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused D49104 Pte Georges MENARD is guilty of First & Second charges. Not Guilty on third charge. Finding of not guilty announced in open court.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*~~The Court being cleared, the accused is again brought before the~~ ~~President, and the President~~ "D.McG.A." ~~is informed~~ ~~that~~

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* The prosecution produces MFM 6 & MFB 355

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked E1 & E2 signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused D94104 Pte Georges MENARD *Sentence.*

2 years imprisonment with hard labour

"D MacArchibald"
~~(D. Mac Archibald) Major~~
President

SUMMARY OF EVIDENCE

In the case of D94104 Private MENARD Georges, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CWF On Active Service.

By direction of the Commanding Officer this Summary of Evidence was taken under oath.

1st Witness For Prosecution E4591 Sgt Deapres R.O. Royal 22e Regiment having been duly sworn states:-

I am E4591 Sgt Despres R.O. of Royal 22e R posted to Police Section as P/Sgt. On 17 Mar 1944 D94104 Pte Menard G declared in my presence that he absented himself without leave at 2200 hrs on 5 Feb 44 and remained absent until apprehended by Military Police on 18 Feb 44 at about 1350 hrs. Furthermore on 17 Mar 1944, I heard Capt L. Cannon order D94104 Pte Menard G. to return to his coy and Pte Menard refused saying "I refuse to go"

"A2"
"D Mech Archibald"

The accused declined to cross-examine the witness.

"R.O. Despres"
~~R.O. Despres~~ Sgt

2nd Witness For Prosecution E4421 CQMS Peloquin E Royal 22e Regiment, having been duly sworn states:

"I am E4421 CQMS Peloquin E of Royal 22e Regiment, posted to "D" Coy. On the 6 Feb 44 I made a kit inspection in the case of D94104 Pte Menard G and found him deficient of the articles listed below.

	75%			100%		
1 F.S. Cap	0.	1.	10½	0.	2.	6
1 Blouse B.D.	0.	17.	7½	1	3	6
1 Trousers B.D.	0.	18.	1½	1	4	1½
1 Drawers Woollen	0	4.	3 3/8	0	5	4½
1 Vest Woollen	0	4	0 3/8	0	5	4½
1 Greatcoat	1	17.	11½	2	~~210~~ 10	7
1 Boot ankle	0	18	3½	1	4	5
1 Sock	0	1	3	0	1	8
1 Anklet web	0	3	3½	0	4	5
1 shirt angola	0	6	9½	0	9	1
Total	5	13	3 3/8	7	11	0½

The accused declined to cross-examine the witness.

"E. Peloquin"
~~E Peloquin~~ CQMS

3rd Witness For Prosecution Capt J.B. Rousseau, Adjutant, Royal 22e Regiment, having been duly sworn states:

"I, Capt J.B. Rousseau, of Royal 22e Regiment posted as Adjutant, hereby produce certificate of apprehension in the case of D94104 Pte Menard, G. whom I now recognize. This certificate is marked Exhibit "A" and signed by O.C. 231 L of C Provost Coy C.M. Police.

J.B.Rousseau
~~(J.B.Rousseau)~~ Capt

In view of the loss of time and expenses involved, it is not necessary in my opinion, to have the presence of OC 231 L of C provost Coy in the taking of this Summary of Evidence.

"P.A.Tremblay"
~~(P.A.Tremblay)~~ Lieut

The accused does not request the presence of OC 231 L of C provost Coy

"G.Menard"
~~Menard G~~ Pte

4th Witness for Prosecution

Capt L.Cannon, Royal 22e Regiment, having been duly sworn states:

I, Captain L Cannon, of the R 22e R posted to "D" Coy ordered D94104 Pte Menard G to proceed to his Coy on 17 Mar 44, saying to him "Pte Menard, I order you to return to your Coy in the field, to-day. You understand that if you refuse that you will be charged". Menard replied "I refuse to go" and he did not proceed to his Coy, and was placed in custody.

The accused declines to cross-examine the witness.

"L.Cannon"
(L.Cannon) Capt

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two(2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c)(d)(e)(f) and (g) were duly complied with.

"P.A.Tremblay"
(P.A.Tremblay) Lieut
Officer taking Summary

In the Field
17 Mar 44

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. MS 2-45 Vol 2
District File No.

PART I

No. D-94104 Rank PTE. Name MENARD, G.
Unit

PART II

Date of Trial
Charge(s)
Sentence
Date of Sentence
Confirmation -- (a) Authority:
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit (~~commute~~)(~~mitigate~~)* the balance of the term of detention.

Signed at MONTREAL this 19th day of July 1945

(Appointment) (E.J. RENAUD) MAJOR GENERAL)
To be signed by the Remitting Authority personally. DOC MD 4.

PART IV

PROMULGATION

Remission ~~commuted/mitigated~~ promulgated and extracts taken at Montreal South, Quebec, this 21 day of Jul 1945 (1)

Officer i/c Documents. (W. BAIRD) Captain, C.G.C., C.A., att'd to No. 4 D.D., C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-94104 Rank Private Name MENARD, G.
The sentence of 2 years detention awarded by District Court Martial on the 28 Mar 1944 has been REMITTED on the 19 Jul 1945 by D.O.C.
UNIT Military District No. 4
Certified true Extract of Daily Orders Part II of NO. 4 DISTRICT DEPOT, C.A.
No. 176 Place Jacques Cartier Barracks, Date 21 Jul 45.
Montreal South, Quebec.

Adjutant

(R. Champagne) Captain, A/Adjt. General List, C.A., att'd to No. 4 District Depot, C.A.

*Strike out and initial words not applicable.

IN REPLY PLEASE QUOTE No. M.S. 2-45 A/DIS

CONF. SEC.
C55-M-168

CENTRAL REGISTRY Army
JUL 31 1945
Chgd. to
Referred to DAG

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

G.R.

C-55-M-1681

Montreal, Quebec, 25th July 1945.

332748

Director of Records
A. G. Branch
AUG 28 1945
Nat. Defence Hdr
Ottawa, Canada

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

REMISSION OF SENTENCE
D-94104 - Pte. MENARD, G.

Attached hereto form of remission in respect to the marginally named soldier, duly completed, with the exception of Part II.

2. It is advised that Part II of the enclosed form could not be completed at this H.Q. as the proceedings of the F.G.C.M.'s are not on hand at this H.Q.

p. (E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

Encl.

noted on cards
JQ.

(10)

(5)

COPY

SECRET

KINGSTON, ONTARIO 061230/JULY 45

A.G.
-ACTION-

2596

SECRET

DOC MD 4 INFO DEFENSOR

RELET KS 674 VOL 2(A) DATED 4 JULY 1945 AND HQC 9039-1-3 ADM 3 DATED 15 JUNE 1945 FROM DEFENSOR.

FOLLOWING SOLDIERS UNDER SENTENCE PRESENTLY HELD NUMBER 89 MILITARY DETENTION BARRACKS WILL BE DESPATCHED UNDER ESCORT AND WILL ARRIVE MONTREAL QUEBEC 1745 HOURS 13 JULY 1945

D.105817 CANTIN R

D 27297 DISTASIO JG

D 91663 KIRKMAN WG

D 94104 MENARD G

D 3671 PATTEN EL

D 150087 RAYMOND JA

D 57272 ROULEAU V

REQUEST TRAIN MET ON ARRIVAL AT TRAINSIDE AND SOLDIERS UNDER SENTENCE PLACED IN NO 4 DISTRICT DEPOT GUARD ROOM. OFFICER IN CHARGE SECOND ECHELON CENTRAL HAS BEEN REQUESTED TO DESPATCH DOCUMENTS DIRECT TO OFFICER COMMANDING DISTRICT DEPOT 4

ADDSD CMDO 4 RPTD DEFENSOR

CMDO 3.

30732/EA/070245 0/JULY 45

Hardcard

SECRET

DEPARTMENT OF NATIONAL DEFENCE
ARMY

FILE NO: K.S. 674;K.55-G-4977-C;

K.55-B-3699-C; K.55-R-3860-C; K.55-C-4933-C; K.55-D-4881-C;
K.55-D-4936-C; K.55-G-4977-C; K.55-L-4268-C; K.55-M-3609-C;
K.55-M-3640-C; K.55M-3843-C; K.55-R-3864-C; K.55-R-3963-C;
K.55-S-4977-C; K.55WT-2551-C; K.55-W-4285-C; K.55-W-4206-C (A)

KINGSTON, Ontario 18 June 45

Commandant, 69 Military Detention Barracks, BARRIEFIELD, Ont.
A.J.A.G. MD 3 Kingston, Ontario
Officer Commanding, 3 District Depot, Kingston, Ontario
District Paymaster, MD 3, Kingston, Ontario
District Medical Officer, MD 3, Kingston, Ontario
D.A.P.M., MD 3, Kingston, Ontario
District Records Officer, MD 3, Kingston, Ontario
Officer Commanding, 3 Ordnance Depot, RCOC, Kingston, Ontario
D.S. & T.C., MD 3, Kingston, Ontario
D.A.C.M.C., MD 3, Kingston, Ontario
Commandant, Ottawa Area Command, Ottawa, Canada
Officer Commanding, 33 Coy., C.Pro.C. Ottawa, Canada

EUR HQ ITALY GO 151/44
HMC 69, Fort Henry

Under HQS 8534-6 Vol 2 Adm 3(b)2 dated 27 Apr 45 and HQS 8534-6 Vol 2 Adm 3(b)2C(A) dated 1 Jun 45, National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy to No 69 Military Detention Barracks, Fort Henry, BARRIEFIELD, Ontario.

2. The sentences of the undermentioned soldiers now at No. 69 Military Detention Barracks will expire as shown hereunder:

A.[illegible] BEND, C.	21 July 45		
R.[illegible] BLAIR, F	22 July 45	"	1[illegible] (S)
R.[illegible] BAYER, B	22 July 45	"	1[illegible] (S)
G.[illegible] BRYANSON, A J	21 July 45	"	1[illegible] (S)
R.[illegible] Ristenie, E C	20 July 45	"	1[illegible] (S)
R.[illegible] BURNIN, R	23 July 45	"	1[illegible] (S)
R.[illegible] LAMARRE, C	6 July 45	"	1[illegible] (S)
D.[illegible] MERRAND, C	24 July 45	"	1[illegible] (S)
R.[illegible] MOYE, F A	21 July 45	"	1[illegible] (S)
D.[illegible] RAYMOND, J A	24 July 45	"	1[illegible] (S)
F.[illegible] SMITH, R G	27 July 45	"	1[illegible] (S)
F.[illegible] MOORE, M E	9 July 45	"	1[illegible] (S)
F.[illegible] SMITH, G J	27 June 45	"	1[illegible] (S)
C.[illegible] TOWNE, G W	21 July 45	"	1[illegible] (S)
K.[illegible] WHITE, J	22 July 45	"	1[illegible] (S)
A.[illegible] WILLIAMS, A J	22 July 45	"	1[illegible] (S)

3. Consequently the Commandant, 69 Military Detention Barracks, will arrange to have the marginally named soldier despatched to arrive at their respective District Depots for the purpose of discharge seven (7) days prior to the expiration of their sentence.

4. The AJAG will prepare the necessary Order of Release and forward it to the Commandant, 69 Military Detention Barracks.

5. The DAPM, MD 3, will arrange for sufficient escort to guard the movement of the above mentioned soldiers from 69 Military Detention Barracks to their respective District Depots, such escort being supplied from 69 Military Detention Barracks or 33 Coy. C.Pro.C.

6. The D.S. & T.C., MD 3, will issue the necessary transportation on demand.

OVER

Not required

7. The soldier mentioned above will cease attachment to No 99 Military Detention Barracks and be struck off strength 5 District Depot to their respective District Depots for discharge effective the date they are despatched. Such personnel will be discharged in accordance with instructions received from National Defence Headquarters as set opposite their names.

8. The Commandant, 99 Military Detention Barracks, will advise this Headquarters when the above personnel are ready for despatch in order that the GOC-in-C, Pacific Command, or the District Officers Commanding concerned may be advised twenty-four (24) hours before the arrival of such personnel at their respective District Depots.

9. In this connection the attention of the GOC-in-C, Pacific Command, and the District Officers Commanding concerned is drawn to National Defence Headquarters' Letter H&R 8836-6 Vol2 Adm 3 dated 28 May 48 (H&R(3)).

MGD:??????????
(W.K. MacGregor) Major,
D.A.A.G. MD 5

COPIES TO

Secretary Dept. of National Defence, OTTAWA, Canada

District Officer Commanding, MD 6 HALIFAX, NS
Officer Commanding, 6 District Depot, HALIFAX, NS

District Officer Commanding, MD 1, LONDON, Canada
Officer Commanding, 1 District Depot, LONDON, Canada

District Officer Commanding, MD 5 QUEBEC, P Q
Officer Commanding, 5 District Depot, QUEBEC, P Q

District Officer Commanding, M D 4, MONTREAL, P Q
Officer Commanding, 4 District Depot, MONTREAL, P Q

GOC-in/C, Pacific Command, VANCOUVER, B C
Officer Commanding, 11 District Depot, VANCOUVER, B C

MGD:.??????? Major
for (F L Armstrong) Brigadier,
District Officer Commanding,
Military District No 5

WKM/EV

FILE COPY H.Q. C.55-M-1681
M.D. 10/Menard, G/1

GS

MEMORANDUM - FIELD GENERAL ~~DISTRICT~~ COURT-MARTIAL

No. D.94104 Name MENARD, Georges

Rank Pte Unit R 22e R CAD CMF

Charge (1) A.A. 15(1) WOAS, A W L.

(2) A.A. 9(2) WOAS, disobeying a lawful....

(3) A.A. 24(2) WOAS, Losing by neglect....

Date of Crime (1) 5-2-44; (2) 17-3-44; (3) 5-2-44

Date of Arrest (1) 18-2-44 Charge Signed 17-3-44

Orders for ~~D~~ FG C.M. Brig Comd 3 Cdn Inf Bde

Place and Date of Trial In the field; 24-3-44

Sentence Imprisonment W.H.L. 2 yrs.

Date of Confirmation 26-3-44

Date of Promulgation 1-4-44

Entered in Records of J.A.G. as No. 3643

Date 14-5-45

MEMO Balance of sentence remitted by Auth. 1144

Reviewed at CMHQ

for Judge Advocate-General

10M-1-45 (M-4629)

Quote No. H.Q.C.55-M-1681 (JAG/D-9)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada

25 May 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

D.94104 Pte. Georges Menard,
R.22e R.,CAC CMF

1. Receipt is acknowledged of your **10/Menard, G/1** dated **10 Apr** 194**5**, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

A.F. A3104 is also acknowledged.

E.L.M. Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

MM

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario
7 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

D-94104 Pte MENARD G
SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CLHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of imprisonment with hard labour.

3. CLHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

for (A E Walford) Major
Major-General
Adjutant-General

Encl. 3

CONFIDENTIAL

AIR MAIL

Quote No. 10/Menard G/1

FOLDER

CANADIAN MILITARY HEADQUARTERS

LONDON 10 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

6-55-M-161

D.94104 Pte Menard G.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 24 Mar 44 for an absence without leave of 12 days (AA Sec 15(1))and disobeying an order to return to his Company in the field (AA Sec 9(2)). He has so far earned full remissions for good conduct while serving his sentence, and the earliest date on which he should be released if he continues so to do is 24 Jul 45.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but probably unsuitable for further combatant service.

5. In view of the serious nature of one of the two offences of which this soldier has been convicted, his previous record, and all available reports, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029, and it is so recommended. It is apparent that this soldier misconducted himself deliberately to avoid his duty and he must have realized that his offence under AA Sec 9(2) would be severely punished and would possibly lead to his discharge for misconduct.

6. It has accordingly been directed, pursuant to P.C.1304/44 that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 24 Mar 44, original A.F. A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E.G.Weeks)Major-General
In Charge of Administration
CANADIAN MILITARY HEADQUARTERS

ENC.4

1/39a CMHQ 1000-76 40/P & S/832 (6739)

REVIEW OF SENTENCE

DATE : _____

SPECIAL REVIEW

FILE : 10/Menard G/1

1. NO., RANK AND NAME: D.94104 Pte Menard G.

2. UNIT AT DATE OF OFFENCE: R 22e R.

3. AT PRESENT ON STRENGTH OF: "X2" List R 22e R.

4. DATE OF SENTENCE: 24 Mar 44.

5. AWARD: 2 years imprisonment with hard labour.

6. CONFIRMED SENTENCE: As awarded.

7. BEING SERVED AT: Italy.

8. OFFENCES: A.A.Sec 15(1) - WCAS - AWL - in the field - apprehended after 12 days 9 hrs.
A.A.Sec 9 (2) - WOAS - Disobeying a lawful command given by his superior officer in that he did not return to his Company in the field when ordered to do so by his superior officer.

8(a) PRESENT AGE: - 21 years.

9. PREVIOUS CONDUCT: - Enlisted 13 Jan 42.
Charged under A.A.Sec 15(1) - 3 offences
A.A.Sec 22 - 1 offence
Maximum punishment awarded - 14 dys F.P. - Escape from custody - 2 Feb 44.

10. CONDUCT WHILE UNDER SENTENCE:- Good.

11. EARLIEST DATE OF RELEASE:- 24 Jul 45.

12. RECOMMENDATIONS:

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS D-64104 Pte Menard, G. of Royal 22e Regt was by Field General Court-Martial held in the field convicted of the offence(s) of **Absence without leave and Disobeying a lawful command given by his superior officer.** and by a sentence signed on the 24th day of March, 194 sentenced to undergo imprisonment with hard labour for 2 years said sentence of imprisonment commencing on the aforesaid day, and such sentence has been confirmed by Comd 3 Cdn Inf Bde as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 10th day of April, 1945

(Beverley Matthews) Brigadier
Deputy Adjutant General
Canadian Military Headquarters

Army Form A 3104

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

JUDGE ADVOCATE GENERAL'S SECTION
2nd ECHELON
MAR 1944

I.—Case of No. D.94104 Pte Georges MENARD Unit R.22e
Sentenced to Two years imprisonment,-hard labour on 24 Mar 1944
Age on, and date of, enlistment 19 years, 13 Jan 42 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII.
For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude

(*22948) Wt.36836/311 60,000 11/42 A.& E.W.Ltd. Gp.698 Forms/A.3104/11.

VI.—Action on Review.
(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
31 Mar 44	No remission	[illegible] Maj Gen GOC 1 Cdn Div	
	No remission. B/F 24 Mar 45.	[illegible] Colonel Deputy Adjutant General 18 SEP 1944	
	NO REMISSION RETURN TO CANADA IN CUSTODY UNDER SENTENCE	(Beverley Matthews) Brigadier A/D.A.G. C. M. H. Q. 9 APR 45.	

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
1st Charge AA Sec 15(1) WOAS: In the Field, AWL from 2200 hrs, 5 Feb 44 until apprehended at 1350 hrs, 18 Feb 44 Total absence: 12 days, 9 hrs, 50 mins	5 Feb 44	24 Mar 44
2nd Charge AA Sec 9 (2) WOAS: In the Field, did not return to his coy 17 Mar when ordered to do so by Capt. L. Cannon	17 Mar	24 Mar 44

VII.—First Trial.

[illegible] Lieut
Signature of Officer making entry.

VIII.—Second Trial.

Signature of Officer making entry.

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
In the Field 31 Mar 44	I do not recommend the sentence to be remitted, commuted, mitigated or suspended.	[illegible] Major Acting Adjt.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
3 Apr 44	I recommend that the sentence be served in full	[illegible] Brig

Correspondence to be PINNED here

RECEIVED AT CMHQ IN AB 1002 KKK 75

Army Form A.8.

C. MILITARY SECTION, CIRCULATION & REV. SECTION, 8 APR 1944, D.H.Q. 2nd ECHELON

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-third day of March, 19 44

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reasons to an superior military officer~~]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*If any unable to appoint—~~

~~*(Two Officers to form the court~~

~~*Field Officer as President~~

~~for the following reasons, namely:~~

PROCEEDINGS REVIEWED
Capt 16 May 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	D Mac Archibald	West NSR

Members.

Rank.	Name.	Regiment.
Capt	R G Thexton	West NSR
Capt	H Tellier	R 22d R
Lieut	R Piche	R 22d R

Waiting

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

FISO

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D94104 Pte Georges MENARD, Royal 22é Regiment	First Charge Sec 15 (1)	Guilty	Guilty	
	2nd Charge Sec 9 (2)	Guilty	Guilty To undergo 2 yr. imprisonment with hard labour	Confirmed
	3rd Charge Sec 24 (2)	Not Guilty	Not Guilty Thos Burch. Lt Major	

~~Withdrawn by Prosecutor~~ ~~Thos B~~

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"

Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) N. Christie Brigadier (*Signed*) Thos Burch. Lt Major

Commanding 3 Cdn Inf Bde *Convening Officer* (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Fuends

on the 24 day of March 19 44 by order of

Brig. T. B. Gibson

Commanding 3 Cdn Inf Bde.

dated the 23 day of March 19 44.

President.

Major D. Mc. Clark. Ind. W.Ont.R.

Members.

Capt H Tulin K.R.R.

Lieut R.A Picks K.R.R.

Trial of* D94104 Pte Georges Menard K.R.R. , ~~Judge Advocate.~~

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

The Court satisfy themselves that Capt R.H. Thatton is not available to serve owing to duty at the front lines.

Lieut Picks , waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. P. G. Tremblay.

Counsel‡ or defending officer† Lt. C.D. Wisconsit

At 1400 o'clock the Trial commences.

The order convening the Court is read, and is marked "A", signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W16629/78. 35,000 sets. 6/40. K. & M., Ltd. G457/11. Forms A 9/55.

B

Sworn.

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty. *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

~~on motion by Prosecution this charge has been withdrawn.~~ Not Guilty. *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

N/a. *Answer.*

The accused having pleaded Guilty to 1st & 2nd charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CHARGE SHEET

The accused D.94104 Private Georges MENARD, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:-

1st Charge
AA Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, on 5 Feb 1944 absented himself without leave at 2200 hours until apprehended by Military Police at TARANTO at 1350 hours on 18 Feb 1944.

Total absence: 12 days, 9 hrs, 50 mins.

B Z
Wholly Cust. bad

2nd Charge
AA Sec 9 (2)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND GIVEN
BY HIS SUPERIOR OFFICER

in that he

In the Field, on 17 Mar 1944, did not return to his company in the Field when ordered to do so by Captain L. Cannon Royal 22e Regiment.

3rd Charge
AA SEc 24 (2)

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS EQUIPMENT,
CLOTHING, AND REGIMENTAL NECESSARIES

in that he

In the Field, on 6 Feb 1944, was deficient of the regimental necessaries listed below:

		75%
1 Field Service Cap	£	0. 1. 10½
1 Blouse B.D.		0.17. 7½
1 Trousers B.D.		0.18. 1½
1 Drawers woollen		0. 4. 0½
1 Vest woollen		0. 4. 0½
1 Greatcoat		1.17. 11½
1 Boot Ankle		0.18. 3½
1 Socks Pr		0. 1. 3
1 Anklets web		0. 3. 3½
1 Shirt angola		0. 6. 9½
Total	£	5. 13. 3½

In the Field
17 Mar 1944

J.G. Charlebois
J.G. CHARLEBOIS Major
Commanding Royal 22e Regiment.

P.T.O

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

T G Gibson

In the Field
23 Mar 44

(T G Gibson), Brigadier
Commanding, 3 Cdn Inf Bde

MEDICAL OFFICERS CERTIFICATE — ✓

I CERTIFY THAT I HAVE THIS MORNING EXAMINED No. 194104

RANK PTE NAME MENARD G OF K 22e K

AND IN MY OPINION HE IS FIT/~~UNFIT~~ TO UNDERGO TRIAL BY COURT MARTIAL

STATION IN THE FIELD

DATE 24 MARS 1944

C B Caswell Capt.
MEDICAL OFFICER

Khaki Ties

CC

Proceedings on Plea of Guilty.

Prosecution admits that no evidence to offer on third charge. Court direct pending plea of not Guilty be entered

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and ~~the charge~~ to which he has pleaded "Guilty" read ~~to him~~ again.]

The accused D94104 Pte Griggs Thomas is found guilty of first & second charge

†The summary ~~(or abstract)~~ of evidence is read, marked A2. signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:— No.

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

Answer. No.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused D 94104 Pte Georges Menard is guilty of first & second charge not guilty on third charge. Finding of not guilty announced in open Court.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

~~The Court being re-opened, the accused is again brought before it.~~

~~is duly sworn.~~

Evidence of character, &c.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* The Prosecution produces MFM6 & MFB 8.5.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked E1 & E2 signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused D94104 Pte Sentence.

George Tunnard

two years imprisonment with hard labor

[illegible] President.

Extracts entered as No. 3643 in the Record of Courts-Martial kept in the office of the Judge-Advocate-General this 17 day of May 1942

CERTIFICATE UNDER ARMY ACT SECTION 163 (1). (ii).

"A"

I certify that No.D. 94104 Pte.MENARD.G. of the 22nd Royal Regt of Canada was arrested at TARANTO, on the 19th February, 1944, about 1350 hrs.

Field.
19th Feb.1944.

Capt.
OFFICER COMMANDING,
231 L of C Provost Coy.
C.M.Police.

SUMMARY OF EVIDENCE

In the case of D.94104 Private MENARD Georges, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service.

By direction of the Commanding Officer this Summary of Evidence was taken under oath.

1st Witness For Prosecution

E.4591 Sgt Despres R.O. Royal 22e Regiment, having been duly sworn states:-

" I am E.4591 Sgt Despres R.O. of R.22e.R. posted to Police Section as P/Sgt. On 17 Mar 1944, D.94104 pte Menard G. declared in my presence that he absented himself without leave at 2200 hrs on 5 Feb 44 and remained absent until apprehended by Military Police on 18 Feb 44 at about 1350 hrs. Furthermore on 17 Mar 1944, I heard Capt. L. Cannon order D.94104 pte Menard G. to return to his coy and pte Menard refused saying: " I refuse to go ".

The accused declined to cross examine the witness.

R O Despres Sgt.

2nd Witness For Prosecution

E.4421 CQMS Peloquin E. Royal 22e Regiment, having been duly sworn states:/

" I am E.4421 CQMS Peloquin E. of R.22e.R. posted to "D" Coy. On the 6 Feb 1944 I made a kit inspection in the case of D.94104 pte Menard G. and found him deficient of the articles listed below.

		75 %	100 %
1	F.S. Cap	0. 1. 10½	0. 2. 6
1	Blouse B.D.	0. 17. 7½	1. 3. 6
1	Trouser B.D.	0. 18. 1½	1. 4. 1½
1	Drawers woollen	0. 4. 0 3/8	0. 5. 4½
1	Vest woollen	0. 4. 0 3/8	0. 5. 4½
1	Greatcoat	1. 17. 11½	2.10. 7
1	Boot ankle	0. 18. 3¾	1. 4. 5
1	Sock	0. 1. 3	0. 1. 8
1	Anklet web	0. 3. 3¾	0. 4. 5
1	Shirt angola	0. 6. 9¾	0. 9. 1
	Total	5. 13. 3 3/8	7.11. 0½

The accused declined to cross examine the witness.

E Peloquin CQMS

3rd Witness For Prosecution

Capt. J.B. Rousseau, Adjutant, Royal 22e Regiment, having been duly sworn states:-

" I, Capt. J.B. Rousseau, of R.22e.R. posted as Adjutant, hereby produce certificate of apprehension in the case of D.94104 pte Menard G. whom I now recognize. This certificate is marked Exhibit "A" and signed by O.C. 231 L of C Provost Coy. C.M. Police.

J B Rousseau Capt.

In view of the loss of time and expenses involved, it is not necessary in my opinion, to have the presence of OC 231 L of C Provost Coy in the taking of this Summary of Evidence.

[illegible] Lieut.

The accused does not request the presence of OC 231 L of C Provost Coy.

G Menard Pte

4th Witness
For Prosecution

Capt. L. Cannon, Royal 22e Regiment, having been duly sworn states;

" I, Captain L. Cannon of the R.22e.R. posted to "D" Coy, ordered D.94104 Pte Menard G. to proceed to his coy on 17 Mar 1944, saying to him " Pte Menard I order you to return to your coy in the field, to-day. You understand that if you refuse that you will be charged ". Menard replied, " I refuse to go " and he did not proceed to his coy, and was placed in custody.

The accused declined to cross examine the witness.

L. Cannon Capt.

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages ~~xxxxxxxxxxx~~ was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

Officer taking Summary

In the Field
17 Mar 44

E1
Attachment B

M.F.M. 6.
(A.F. B.122)
40/P & /5136 (2065)

No. D 94104 Name Menard G. | Sqn., Battery, or Company | Corps C.I.C. | Period not reckoning towards freedom from extra fine | Date of enlistment 13 Jan 42. | G.C. Badges | Signature O.C. Company, etc. | Sheet No. | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Fined	11 Jan 43	Pte		W.O.A.S. A.W.L. 2300 hrs 11 Jan. 43 till 0600 hrs 13 Jan 43 absence 7 hrs.	Sgt. Bussno	C Dunnicliff	14 Jan 43	Jnr Officer	Fined $5 Pay F.D.L. 1069-1 ea
"	13 Oct 43			W.O.A.S. A.A. 15(1) A.W.L from parade 1300 hrs 13 Oct 43 absence	W/Sgt	3 days C.B.	13 Oct 43	Capt. Reid	
"	13 Dec 43			A.A. 15(1) A.W.L. from 1800 hrs. until reported 1830 hrs. 13 Dec. 43					
"	11 Jan 1944			whilst on punishment escape from close arrest 1800 hrs 11 Jan 44 until 1830 hrs 11 Jan 44.		14 days F.P.	2.2.44	Lt-Col J.V. Allard	Forf 7 days pay.
				do. 7 days 13 hrs. 30 mins					

(P.T.O.)

Certified true copy

E2 Blue Clearhead

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number D 94104 Rank Gte Name Menard G Regiment (or unit)

1. The following is a fair and true summary of the entries in the Conduct sheets / Service and General or Company Conduct sheets / Regimental and Squadron, Battery of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A A 15 (1)	1 times	A A 15 (1) 2 times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for N/A beginning on the N/A day of

4. The accused has been in confinement awaiting trial on the present charges, for days in civil custody, and ~~14 days~~ 5 days in military / Air Force custody, making a total of days in custody, of which N/A days were spent in hospital.

5. The present age of the accused according to his record of service is 21 / attestation paper is 13 Jan 42

6. The date of his commission specified in his record of service is / attestation / attestation paper

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward. / military / military / military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A. / Air Force

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. Plt Trembley Lieut. Pro. A.4.

Signed this 20 day of MAR 44.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24 day of March, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~
*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 24 day of March 19 44

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 26 day of Mar 1944.

Confirming Officer.

Promulgated and extracts taken in the case of 7. 9410 Pte. G. Mehar 7.

(a) (Dated) 1 APR 44 (Signed) [illegible] Lieut.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

H.Q.C. 55-M-1682

CONFIDENTIAL

N.F.B. 1026
(55)—4-0 (9020)
H.Q. 55-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MCNEIL. JOHNN ANGUS F.75830 PTE.

1029-3

CONFIDENTIAL
H.Q.C. 55-M-1682

CENTRAL REGISTRY	DATE	P.A. CHIEF S.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				D. Adm.	NEW FILE C.R.		APR 20 1945
MAY 2 8 1945	5-5-45				passed		7-5-45
JUL 26 1945	JUL 25 1945			164			
AUG 17 1945				Admin	Per Requisition C.R. AUG 14 1945		
AUG 24 1945	23-8-45			Admin	Per Requisition C.R. AUG 31 1945		
SEP 1 - 1945					Non Paper C.R. AUG 30 1945		
SEP 5 1945	4/9/45						
SEP 1 - 1945	5-9-45				Return to sender		31-8-45
				CMBR	Per Requisition C.R. SEP 12 1945		
SEP 21 1945				ADM 1B	as requested file returned		
				SE(AG)	SE		25.9.45
							26.9.45
				S.6(AG)	Returned file		6.10.45
				Admin	returned - for report		6/10/45
				C.M.B.R.	returned		9.10.45
OCT 23 1945	20.10.45			AG	Vol 34		OCT 19 1945
	22/10/45			Adm	Passed file		20/10/45
				D. Adm.	Per Requisition C.R. OCT 26 1945		
MAY 29 1946	29/5/46				Per Requisition C.R. MAY 8 1946		
SEP 21 1946	19/9/46				Per Requisition C.R. SEP 17 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to S.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the officer and file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. H. Mc-2820 (JAG)
YOUR FILE: HQC.55-M-1662

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CANADA

Headquarters, M. D. No. 6,
Halifax, N.S. 26 Oct 45. 104

CONF SEC
6175
OCT 31 1945
File 055-M-1662
Chgd. to DAG
Referred to

CONFIDENTIAL

Secretary,
Department of National Defence,
Ottawa, Ontario.

F-75830 Pte. J.A. McNEIL
No.6 D.D., SUS No.69 MOS

Retel RANKS 1059 RESTRICTED relayed here by M.D.7 under their A 7869 Unclassified.

2. Forwarded herewith Form of Remission of Sentence completed, remitting 9 mos and 1 day effective 27 Oct 45.

3. Army Form A3104 is not at this HQs. It was forwarded to N.D.H.Q. under cover of our H.Mc-2820(JAG) d/31 Aug 45.

(J.C. Stewart) Brigadier,
D. O. C., M. D. No. 6.

noted
JOR

N.D. 23
3000M—10-44 (5789)
H.Q. 1772-101-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF
SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No: HQC.55-M-1682
District File No: N.M6-2520

PART I

No. F-75830 Rank Private
Unit No. 6 District Depot, C.A. NAME J.A. McNEIL

PART II

Date of Trial 28th July, 1944.
Charge(s) Sec.12(1)(a) A.A., While On Active Service, Deserting His Majesty's Service.
Sec.12(1)(a) A.A., While On Active Service, Deserting His Majesty's Service.
Sentence Two (2) years Imprisonment without hard labour.
Confirmation -(a) Authority:
(b) Date :

PART III
REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit (~~commuted~~) ~~mitigate~~ nine (9) months and one (1) day of his sentence, effective 27th October, 1945.

Signed at Halifax, N. S., this 23rd day of October, 1945.

J. C. STEWART) Brigadier,
D. O. C., M. D. No. 6.

PART IV
PROMULGATION

Remission (~~commutation~~)(~~mitigation~~) promulgated and extracts taken at Halifax, N.S. this 27th day of October, 1945.

Sgd. H.S. Feder Lt.
Officer i/c Documents.
(Unit, attachment and appointment to be stated) (G.A.BRAINE) Captain,
Records Officer, No.6 District Depot, CA.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. F-75830 Rank Private Name McNEIL, J.A.
The sentence of two (2) years.
awarded by F.C. Court-Martial on the 28 July 44.
has been remitted nine (9) months and (1) day. 194 ,
on the 27 Oct 45 194 , by D.O.C.,
Unit M.D.No.6.
Certified True Extract of Daily Orders Part II of No. 6 District Depot, C.A.
No. 258 Place Halifax, N.S. Date 27 Oct 45.

Sgd. M.C. Tutty Capt.
Adjutant
(L.H. LEBLANC) Captain,
No. 6 District Depot, C.A.

Released on the 27th October, 1945.

Conf file

RECEIVED OCT 25 1945 3A

C. SIGS OCT 24 1945 OFFICE

VER V AC NR 160

FROM COMMANDING SIX HFX 24 1605Q

TO DEFENSOR OTT

GR 25 BT C-55-M-1682

JAG 8126 UNCLASSIFIED RECEIPT OF RANKS 1059 RELAYED FROM MD 7 THEIR A

7869 UNCLASSIFIED ACKNOWLEDGED

1130 55/10/25

BT 24 1625Q EC B

242118

IF THIS IS AN ACTION COPY BELOW ACTION DIRECTED COMPLETE

82037

VER W-AC NR 258

FROM COMMANDING SEVEN STJOHN N B 202000Q

TO ADJUTANT GENERALL D N D OTTAWA ONT

GR: 20 BT

A 7803 UNCLASSIFIED RETEL RANKS 1059 DATED 20 OCT 45 STOP

ACKNOWLEDGED

BT 202211Q (WF) BB

R.C. SIGS
NATIONAL DEFENCE BLDG.
OCT 20 1945
OTTAWA, ONT.
ARMY SIGNAL OFFICE

RECEIVED
OCT 21 1945

70145

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

HQC 55-M-1682, Adm 3(a)

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE

PLACE OTTAWA, Ont DATE 20 Oct 45.

District Officer Commanding,
Military District No 7,
ST JOHN, N.B.

RANKS: 1059 (RESTRICTED)

REVIEW REF AG 0267 D/18 OCT 45 REFERS

F-75830 PTE McNEIL J A (.) CMBR RECOMMENDS

IMMEDIATE RELEASE (.) AG CONCURS (.) ACK

ADJUTANT GENERAL

Infm copy to; AG
CMBR
JAG

GDB:mw

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	DATE-TIME-GROUP WHEN USABLE TO BE PUTTING	DEGREE OF PRIORITY	TIME OF ORIGIN

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

HQC 55-M-1682 (CMER-4)
13 Sep 45
Case No CASO

PAGE 1.

REVIEW OF SENTENCE

1. No, Rank and Name: F.75830, Pte. McNeil, J.A.

2. Unit at date of offence: Carleton & York Regt CAO, CMP

3. Charges: 1. AA 12(1)(a) Desertion - (In the field after his regt had been warned to proceed to a forward area into the attack on the Hitler Line, absented himself for 1 day, 4½ hrs until he surrendered himself)

2. AA 12(1)(a) Desertion - (In the field when serving with his coy in a forward area absented himself for 22 hrs until he surrendered himself)

4. Place and Date of Trial: In the Field (Italy) 28 Jul 44

5. Finding: Not Guilty of Desertion but Guilty of AWL on both charges

6. (a) Sentence; 2 yrs imprisonment

(b) Date of Sentence: 28 Jul 44

7. Date of Confirmation: 7 Aug 44

8. Date of Promulgation: 10 Aug 44

9. Being served at Dorchester Penitentiary in MD 7

Recommended by CMHQ for
(N.B. - Discharged under RO 1029 (8) for misconduct
wef).

35

Case No----------

CONDUCT

11. (a) Prior to conviction: Good

Date of enlistment: 2 Oct 42

Date of enrolment: Present Age: 37

(b) After conviction: Good

(Earliest possible date of release is 27 Nov 45)

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

Accused landed in Sicily with his unit and fought continuously in every battle all through Sicily and Italy. Finally his nerves went bad. He is the only survivor of the original section with which he started out.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC Reviewing Offr, etc).

Rev. Offr: In view of previous service in action recommend remission effective immediately.

Reviewed by (A.B. Gold) Lieut.

34

14. Recommendation of the Board

Immediate Release.

Date OCT 15 1945

Major
Secretary
Courts-Martial Board of Review

CONFIDENTIAL

Ottawa, 4 October, 1945.

Doctor M. E. McGarry, M.P.,
House of Commons,
O t t a w a.

Dear Doctor McGarry,

Re: F.75830, Pte J.A. McNeil

I have now received a report regarding the above mentioned soldier concerning whom I wrote to you on 18th September, 1945.

I am informed that this soldier is now serving a sentence of two years imprisonment imposed by Court Martial on 28 July, 1944 on a charge of absence without leave.

Private McNeil's case has, however, recently been reviewed and it has been recommended that his sentence be remitted in the latter part of November if his conduct continues to be good.

Yours very truly,

MS

C. 55-M-1682 Adm 3(b)2

25 Sep 45

SE 5323B 6/19 Sep 45

F-75830 Pte MaNKIL, J A

This SUS was tried by FGCM in Italy 28 Jul 44 on a charge of desertion after having been warned to proceed to a forward area in contact with the enemy with intent to avoid so proceeding, absented himself from 0530 hrs 23 May 44 until 1000 hrs 24 May 44 and a second charge of desertion when serving with his coy in a forward area, with intent to avoid such service, absented himself from 0900 hrs 25 May 44 until 0700 hrs 26 May 44. He was found not guilty of desertion on either of the above charges, but guilty of absence without leave and was sentenced to be imprisoned for 2 years.

2. On review of sentence O/S, it was directed that this SUS be returned to Cda in custody under sentence with a recommendation that he be required to serve the balance of his sentence in full and be discharged for misconduct from the Cdn Army. He was returned to Cda in May 45 and committed to No 89 MDB. He was despatched to MD No 6 in Aug 45 where he is presently serving his sentence.

3. On recent review of sentence by DOO, MD 6, it was recommended that the sentence be remitted 27 Nov 45 if conduct is good.

4. Correspondence is returned herewith.

for (A E Walford),
Major-General,
Adjutant-General.

W. H. Beckman
Lt Col

FINAL

WOP/6293/oaj

32

3

A.G. (Co-ord.3)
May a report be submitted for the Minister's information, please, with the return of the attached correspondence.

Col.
M.S.

OTTAWA, 18 September 1945

Doctor M.E. McCarry, M.P.,
House of Commons,
Ottawa.

1029-3

Dear Doctor McCarry,

Re: F-75830, Pte. John A. MacNeil

I have your letter of the 14th of September 1945, enclosing a copy of a letter you received from Mr. Donald A. MacDonald, with reference to his son-in-law.

As you no doubt know, sentences of Courts-Martial are carefully reviewed to ensure that no injustice is done and I am sure you will understand that I would not be justified in intervening to grant remission except on the advice of the responsible officers of the Department.

It is not the desire of the Department to keep any soldier in detention for any longer than the interests of justice and discipline require and for that reason further periodic reviews are made. In addition a soldier may earn automatic remission up to as much as one third of the sentence for consistent good conduct.

You can be assured that when Private MacNeil's case is reviewed it will be given careful and sympathetic consideration with due regard to the interests of the soldier.

I am, however, asking for a report on this man's case and as soon as it comes to hand I will write you again.

Yours very truly,

RECEIVED
SEP 20 1945
ADMIN.

31

DOC 6 reports on H.121-1-2 d/14/9/45

F-75830 Pts. McNEIL, J.A.: A.F.A 3104 returned to NDHQ under cover of our H.Mc-2820(JAG) dated 27 Aug 45, receipt ackd on your HQC55-M-1682 (JAG/D) d/31 Aug 45. Only report on conduct, while in detention o/s, conduct was good. Authority has been granted by this HQs to discharge this soldier under R.O. 1029(8) when he is released with earned remission on 27 Nov 45. (Mc-2820)

...../2

SPECIAL ENQUIRY C-55-M-1682

Date SEP 19 1945

No. 5323B

To: D Admin

Reply addressed to M.S will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

COPY

HOUSE OF COMMONS
CANADA

Ottawa, September 14, 1945

Honourable D C Abbott,
Minister of National Defence,
Ottawa, Canada.

Dear Mr Minister:-

Please find enclosed a copy of a letter which I received from Mr Donald A MacDonald, Inverness, N.S. The matter contained in his letter has reference to his son-in-law who has been serving in the Carleton and York Regiment.

During the time of his service he has evidently been convicted for some misdemeanor and has been serving some tome. He is at present serving time in Halifax.

I understand that he is very much needed at home with his family and I was wondering if you would have his case investigated and if possible, use your influence with the proper authorities to have him granted a discharge.

I shall appreciate if at your convenience you would arrange for an investigation of this man's case.

Yours very truly,

" M E McGarry"

Dr M E McGarry, M.P.
Inverness-Richmond.

30

C
O
P
Y

Railway Street,
Inverness, Nova Scotia
September 11, 1945.

Dr M E McGarry, M.P.
House of Commons,
Ottawa, Ont

Dear Dr McGarry:

I am writing you once in regard to Pte John A MacNeil, F75830. He was sent to Halifax from Toronto and was awaiting his discharge. But now he has to serve time until sometime in November.

Have you got in touch with anyone regarding his discharge? I do hope that you can do something for him now that all the boys are coming back especially his regiment "The Carleton and York".

Thank you, I remain

Yours truly,

(sgd) Donald D MacDonald.

29

HQC 55-M-1682
(JAG/D)

OTTAWA, 31 August, 5

District Officer Commanding
Military District No. 6
HALIFAX, N.S.

Field General Court-Martial
F-75830, Pte. McNEIL, J.A.

Receipt is acknowledged of your H. Mc-2820 (JAG) dated 27 Aug 45, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial together with A F. A3104 in respect thereof.

(R.J. Orde) Brigadier
Judge Advocate General

/jm

noted on cad
JCS

28

IN REPLY PLEASE QUOTE
No. H. Mo-2820 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, M. D. No. 6,
Halifax, N. S., 27 Aug 45.

CONFIDENTIAL

338697

104 REGISTRY Army
SEC.
AUG 30 1945

Secretary,
Department of National Defence,
Ottawa, Ontario.

C-55-M-1682

Referred to

F-75830 Pte. McNEIL, J.A.
S.U.S. Ex-Italy

Ref "QS 8536-6 Vol.3 Admin 3(b)2 d/23 Aug 45.

2. The m/n soldier will be released 27 Nov 45 and discharged under R.O. 1029(8) if he earns his full remission for good conduct hereafter.

3. A3104 and proceedings of FGCM are herewith returned.

(D.A. White) Brigadier,
D. O. C., M. D. No. 6.

27

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

RECORDED AT CMHQ IN AB 160 XXX-3

(CPA96 (1b 3rd of AFAB) 40/P.N.S./1608 (2004))

FIELD GENERAL COURT-MARTIAL

RECEIVED 25 SEP [illegible] CMHQ

(K-75)

By Order of Brig. P.E. Bernatchez Comd 1 Can Inf Bde dated 26 July 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR/Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-75830	Pte	John Angus	McNeil	Cardt - York R.

PROCEEDINGS REVIEWED 27 Sep 44 [illegible] Capt

JCHC REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Field (Country) Italy on (date(s)) 28 July 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 695, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) H.T.

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0950 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ H.T.

(1. KR Can 557. 2. AA 46(B). RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans .....~~ ~~as shorthand writer? Ans .....~~ H.T.

~~The Interpreter is sworn.(1) Do you object to .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H. Tallon	R 22e R.
Member	Capt	W. R. Morse	Cardt - York R
Member	Lieut	G. W. Drew	Nova NSR
Judge-Advocate		[illegible]	
Prosecutor	Lieut	C. J. Taylor	Cardt - York R.
Defending Offr	Lieut	W. C. Gallagher	Cardt - York R.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused F-155 [illegible] before arraignment make(s) (no) (~~a~~) plea.(1) H.T.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the H.T. pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. 26

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans.....[5]

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.[1]

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET.

The accused F75030 Private John Angus MCNEIL, a soldier of the Carleton & York Regiment, Canadian Army Overseas, C.M.F., when on Active Service is charged with:-

First Charge
Sec 12(1)(a)AA.

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE,

in that he,

in the Field at about 0530 hrs on 23 May 44 when his Regiment, with which he was then serving, had been warned to proceed to a forward area, into the attack on the HITLER LINE, with intent to avoid so proceeding absented himself fromhis said Regiment until surrendering himself to G22047 Sjt Ullock, H.J., Pl Sgt "A" Coy Carlt & York R., at about 1000 hrs on 24 May 44.
Total absence - 1 day, 4 hrs 30 mins.

Second Charge
Sec 12(1)(a)AA.

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE,

in that he,

in the Field, at about 0900 hrs on 25 May 44, when serving with his Company in a forward area, advancing to the MELFA river, with intent to avoid such service, absented himself from his said Company until surrendering himself to G22047 Sjt Ullock, H.J., Pl Sgt "A" Coy Carlt & York R., at about 0700 hrs on 26 May 44.
Total absence - 22 hrs.

In the Field.

Date 12 Jul 44.

J.H. Ewart Major.,
T/Comd Carlt & York R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field.

Date 26 Jul 44

R. Burnstow Brigadier,
Comd 3 Cdn Inf Bde.

H.T.

25

CFA95 (In lieu of AFA3)
40/FAB/1697 (2068)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F75830	Pte		John Angus	McNeil	Carlt & York R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 26 Jul 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior commander)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible] (a) three Offrs to form the Court, (b) valid Offr as President to fill the vacancy [illegible] authorized herein.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint an Judge-Advocate [illegible] authorized herein.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	H Tellier (Must be named. RP 106.)	R 22e R (Unit.)

MEMBERS.

Captain	W R Moore	Carlt & York R
Lieut (Rank.)	G L Drew (Named or detailed. RP 106.)	West NSR (Unit.)

WAITING MEMBER.

Lieut (Rank.)	W N S Watts (Named or detailed, if any. RP 106.)	West NSR (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 26 Jul 44

Commanding 3 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

24

K.T.

MEDICAL OFFICERS CERTIFICATE

KR(C&N) PARA 357

H.T.

I certify that I have this morning examined

No. F 75830 Pte. McNeil J.A.

of the Carleton & York Regiment and in my opinion he is

fit ~~unfit~~ to undergo Trial by Court Martial

23

Station In the Field

Date 28 Jul 44.

W. R. Eberwein Capt.

Medical Officer

R.M.O. Carleton & York Regt.

Statement by defending Officer: P.T.

Neither the accused or myself have been provided with a copy of the charge sheet as it now reads.

The Court is adjourned to 1830 hrs. 28 July 44

Court re-opens at 1830 hrs 27 July 44. Present same members

1st Witness for Prosec. 6-220477 Sgt. H. J. Ullock. Carlt & York Regt. sworn states:

On the 23rd May 1944 I checked my Platoon and found that the accused, whom I now recognize, was absent. This was at approx 0530 hrs. This was prior to going into the Hitler line. The next day at approx. 1000 hrs acc. reported back to me.

On 25th May 1944, during the advance on the Melfa River at approx 0900 hrs. I checked my platoon and found acc. was absent. At 0900 hrs 26 May 44, acc. reported back to me.

On the 22nd May 44, at approx 2100 hrs I warned my platoon, collectively, that breakfast would be at 0430 hrs the next day and all dwell pit & kit bags turned in. And that we were attacking the Hitler line the following morning that is on 23 May 44. It was quite dark when I warned my platoon and I cannot swear wether acc. was present or not.

Cross-examined by defending Officer.

I did not tell the platoon what Zero Hour was when I warned them.

On the 25 May 44 we were just this side of the Melfa river. We had advanced approx 2 miles from our bivouac area. The whole company was halted on this side of the river. And prior to moving off again I checked my platoon. I don't always check my platoon every time I stop.

No re-examination.

By the Court.

On the 23rd May 44 acc. was present at breakfast. We were under shell fire at that time we were bivouacing. I saw acc. as we were moving off at about 0525 hrs. He was in a doorway. It took about 2 or 3 mins to get the

[illegible] start line where I checked and H.G.T. found acc. was absent.

On the 25 May 45, at about 0600 hrs, we started moving towards the Helfa. Acc. was present. I missed him at 0900 hrs when I checked my platoon and acc. was absent.

There were some enemy on the other side of the Helfa, and we were on this side. About 1 to 1½ hour after having halted at the river we went in actual fighting.

R.P. 83 (B) complied with.

Witness withdrawn.

76.T.

Summing up by Prosecutor.

It would have been impossible owing to shell fire and dispersion of sections to warn every body.

I submit Sgt Vlock's evidence is conclusive and establishes charge as laid.

By defending Officer.

Evidence of Prosecution does not establish desertion.

No proof acc. was warned he was going in action.

No intention to desert as in both occasions returned to platoon on his own. Possible to warn platoon before breakfast

Statement in mitigation by defending Officer.

Acc. landed in Sicily with this unit & fought in every battle all through Sicily and Italy. During 10 months never in hospital or L.D.B. Acc's services were not bad. Good records in the past. Asks leniency for acc. Acc. only survivor in his section, placed in another section just before last do.

20

E + A

16.7

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
P75830	Private	John Angus McNeil	Carleton & York Regt

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given in the most serious sequence in each entry, and to say recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge of drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec 15(1) AA AWL	(1) times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, NIL

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted. *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 63 days in military custody, making a total of 63 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 36 yrs. (9 Jun 1908)

6. The date of his ~~commission~~ attestation specified in his ~~attestation paper~~ record of service is 2 Oct 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 8 mos

8. The accused is entitled to deferred pay or gratuity in respect of 1 3/3 yrs service.

9. The accused is entitled to reckon 1 3/3 yrs service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM & clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of NIL

12. (*In the case of an officer.*) The accused holds in the Army the rank of _____ dated _____ and in his regiment (*or* corps *or* department) the rank of _____ dated _____

(*15259) Wt.15802/144 125,000 6/43 A.R.E.W.Ltd. Gp.698

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Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

W.C.D.

Certified true copy of ~~[illegible]~~ Statement to Character and particulars of Service of F 75830 Pte Mac Phil I.C.
W. C. O'H Capt.
Officer i/c Records, C.V.R.
24th July 44

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28th day of July 1944.

D. E. Smith Capt.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

Date of Promotion.

W.C.D.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.*)

No. P 75830 Name MacNEIL, J.D. Sqn., Battery, or Company H Corps Date of enlistment 20 Oct 42 G.C. Badges HT Serving or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 173M—7-41 (1219-20) H.Q. 1772-99-1002

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. [illegible] | Character Ex B

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11 May 44	Sgt		Sec 15(1) A.G. A.W.L. from 2130 hrs 11 May 44 to 1830 hrs 12 May 44	Sgt McCorkle	Reverts to permanent grade.	13 May 44	Lt col. G.L. Landry	Conf 1 days pay for AWL
							28 Jun 44		
						Certified true copy of MFM6 of P 75830 Pte MacNeil J.D.			
						D.E. Smith Capt.			
						Adjt and Off i/c Records			
						Canadian Guards R.			

(P.T.O.)

16-T

Summary of evidence in the case of F75830 Private John Angus McNeil of the Carleton & York Regiment, Canadian Army Overseas, C.M.P.

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

First Witness for Prosecution

G22047 Sjt Ullock, H.J. having been duly sworn states:-

I am G22047 Sjt Ullock, H.J. of the Carleton & York Regiment. On the 22 May 1944, I was acting Platoon Comd of 7 Platoon A Coy. The accused Pte McNeil was a member of my platoon at that time. On the 22 May 1944 at approximately 2100 hrs I warned the Platoon that breakfast would be at 0430 hrs on the 23 May 1944; that all small packs would be turned in and that we would attack the Hitler Line in the morning. Pte McNeil was present for breakfast parade and also present when my platoon moved off. On arriving at the start line at approximately 0530 hrs I checked my platoon and found Pte McNeil absent. On the 24 May 1944 at 1000 hrs Pte McNeil reported back to me. On the 25 May 1944 I was platoon serjeant and during the advance on the Melfa River at approximately 0900 hrs I checked my platoon and found Pte McNeil absent. On the 26 May 1944 at 0700 hrs Pte McNeil reported back to me, Sir.

Q.1. Was the accused present when you warned your platoon?
A.1. I don't know, Sir.

H J Ullock

The accused declines to cross-examine this witness.

The accused was cautioned as follows:-
Do you wish to make any statement, or give evidence on oath? You are not obliged to say anything or to give evidence, unless you wish to do so, but whatever you say or any evidence that you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

Certified that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

Taken down by me in the presence of the accused this 22nd day of June 1944.

Officer taking Summary

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RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. Yes Sir (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90/92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C); 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused ~~is (are) found Not Guilty~~ on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Do neither. Do you intend to call witnesses on your behalf? Ans. No Sir. Are they witnesses as to character only? Ans. N/A.

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 1st Charge, Rank charge(s), being subject to confirmation, will be promulgated later.(1)

~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2) H.J.

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. No Sir.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Any Defending Officer will.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Army Form A 3106.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. F75830 Pte McNeil, J.A. Unit Carlt & York R

Sentenced to 2 yrs imprisonment without H.L. on 28 Jul 44

Age on, and date of, enlistment 34 yrs 2 Oct 42 Term of service 1 ys 10 mos.

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date ....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date ....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(*22948) Wt.36636.311 60,000 11/42 A.& E.W.Ltd. Gp.698 Forms/A.3106/11.

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RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90/92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Do neither. Do you intend to call witnesses on your behalf? Ans. No Sir. Are they witnesses as to character only? Ans. N/A.

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 1st and 2nd charge(s), being subject to confirmation, will be promulgated later.(1)

Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

N.T.

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Sir.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Any defending officer wish. (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 3699 in the Record of Trial kept in the office of the Judge Advocate General this 17 day of May 1942.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F.75830 Pte McNeil John Angus Cornt + York Regt

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA. 12(1)(a)	NOT GUILTY		Not Guilty of desertion but guilty of absence without leave
2nd AA. 12(1)(a)	NOT GUILTY		Not Guilty of desertion but guilty of absence without leave.
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 63 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned without hard labour for two (2) years

(Sgd) ..... Judge-Advocate, if any. 28 July 44 Date awarded. (Sgd) K. Tellier Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Findings and sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) KS

(1. AA 57A. Delete if not used.)

Date 7 Aug 1944. (Sgd) R. E. Burnatchy Brigadier Commanding 3rd Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F75830 Pte McNeil J. A.	10 Aug 44	[illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. F75830 Pte McNeil, J.A. Unit Carlt & York R

Sentenced to 2 yrs imprisonment without H.L. on 28 Jul 44

Age on, and date of, enlistment 34 yrs 2 Oct 42 Term of service 1 yr 10 mos.

FIRST TRIAL.

For details of offences, see paragraph VII.

For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.

For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence *must* be reviewed *at least once* every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(*22948) Wt.26656/311 60,000 11/42 A.& E.W.Ltd. Gp.698 Form A.3104/11.

15

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	No remission. B/F 14 Jan 45.	Ewen Sweet 29 OCT 1944	
	No remission. B.F. 28 Apr 45.	W. H. Rock Brig Officer i/c Cdn Sec 1 Ech AFHQ 27 JAN 1945	
	NO REMISSION RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews) Brigadier A/D.A.G. C. M. H. Q. 9 APR 45.	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. (1) Sec 12(1)(a) A.A. Deserting His Majesty's Service, in that he at 0530 hrs on 23 May 44 when his regt had been warned to proceed to a fwd area into the attack on the Hitler Line absented himself until 1000 hrs on 24 May 44.	23 May 44	28 Jul 44
(2) Sec 12(1)(a) A.A. Deserting His Majesty's Service, in that he at 0900 hrs on 25 May 44 when serving with his coy in a fwd area absented himself until 0700 hrs on 26 May 44. B. E. Frazer Capt. Signature of Officer making entry.	25 May 44	28 Jul 44
VIII.—Second Trial. Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
10 Aug 44	I recommend that sentence be served in full	[illegible]

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
11 Aug 44	Recommend that the sentence be served in full.	[illegible] Brig

COPY

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

FILE NOS: K.S. 674 (A)
K.55-5-8606-0
K.55-[illegible]-4258-8
K.55-[illegible]-3948-0
K.55-[illegible]-3834-[illegible]
K.55-R-5187-0
K.55-F-3061-0
K.55-S-8654-0

KINGSTON, Ontario, 23 August 46.

District Officer Commanding,
Military District No. 6,
HALIFAX, N.S.

Dept. Parlee,
Administration Branch,
National Defence Headquarters,
OTTAWA, Ontario.

[illegible]-IN-IY 90 181/46
No. 55 Military Detention Barracks.

References K.S.674(A) dated 27th July 46.

1. A perusal of this Headquarters' file in the case of the u/m soldiers, shows that they were to be granted remission of sentence and were despatched to District Depot # 6 for discharge and that Army Form B104 was not enclosed.

F.60231 - Pte Boutilier, J.R.
F.41651 - Pte Burke R.E.
F.87610 - Pte Francis L.A.
F.10765 - Pte Hunt C.V.
F.96686 - Pte MacLaughlin A.H.
F.75630 - Pte Rafell J.J.
F.88677 - Pte Watson A.J.

2. By long distance telephone, Capt. Parlee, Admin. Branch, NDHQ., stated that the District Officer Commanding, M.D.6, requests these forms and by arrangements with him, Army Form A B104 are now forwarded by Air Mail with the exception of Army Form B104 for Pte BOUTILIER, J.R. This form was not received at this Headquarters but is being despatched direct by Capt. Parlee to M.D.6.

3. For the information of the District Officer Commanding, M.D.6, it is advised that only personnel whose conduct has been good while undergoing sentence at No. 55 Military Detention Barracks are recommended for remission of sentence and despatch for discharge. It is therefore considered unnecessary to forward request for information regarding conduct of the above mentioned while in Military Detention Barracks.

original on 50036-2 vols
noted
gcs

Major
for (W.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No. 6.

TEW:vb

CR(C) PA on file
C 55-M 1682
WD

14

Admin 3(b)

HQS 8536-6 Vol 3
Adm 3(b)2

CONFIDENTIAL
AIRMAIL
SPECIAL DELIVERY

OTTAWA, 23 Aug 45

District Officer Commanding,
Military District No 6,
HALIFAX, N.S.

District Officer Commanding,
Military District No 3,
KINGSTON, Ont.

F-88221	Pte BOUTILIER, J R	(Ref HQC 55-B-1701)
F-41651	Pte BURKE, R S	(Ref HQC 55-B-1702)
F-87610	Pte FRANCIS, L M	(Ref HQC 55-F-490)
F-16763	Pte HUNT, S W	(Ref HQC 55-H-815)
F-95526	Pte MacLAUGHLIN, R M	(Ref HQC 55-M-1676)
F-44845	Pte MacNAUGHTON, V	(Ref HQC 55-M-1654)
F-75811	Pte McNEIL, J A	(Ref HQC 55-M-1682)
F-45816	Pte NICKERSON, J N	(Ref HQC 55-N-204)
F-52677	Pte WATSON, A J	(Ref HQC 55-W-685)
F-51132	Pte ZWICKER, K W	(Ref HQC 55-Z-67)

Ref JAG 9963 d/21 Aug 45 and tel conversation your Capt Dwyer and Capt Parlee of this HQ:-

2. Enclosed herewith copy of CMHQ letter for each of the above SUS. It will be noted that this letter indicates in para 1 in each instance the conduct of the SUS while undergoing sentence up to the date of despatch to Canada.

3. DOC, MD 3, has been requested to forward AFA 3104 and all other pertinent documents.

4. DOC, MD 3, will inform DOC, MD 6, by telegram if in any individual case conduct while at No 89 MDB has been unsatisfactory. If such information is not received, it may be assumed that conduct has been good.

(A E Walford),
Major-General,
Adjutant-General.

13

WOP:OAJ
Encl.

COPY

VER V AC NR 122

FROM COMMANDING SIX HALIFAX NS 181515P

TO DEFENSOR OTTAWA ONT

GR 108 BT

A.9628 UNCLASSIFIED MAY PROCEEDINGS OF COURTS MARTIAL OF THE FOLLOWING BE FORWARDED PLS IN ORDER THAT THEY MAY BE REVIEWED WITH A VIEW TO REMISSION OF SENTENCE

F.88221 Pte Boutilier J.F.

F.41651 Pte Burke R.S.

F.87610 Pte Francis L.M.

F.16763 Pte Hunt W.S.

F.95526 Pte McLaughlin R.H.

F.75830 Pte McNeil J.A.

F.52677 Pte Watson A.J.

STOP ALL SUS EX ITALY

BT 18 1746P MH B.

(C 55-B-1701)
(C 55-B-1702)
(C 55-F-490)
(C 55-M-815)
(C 55-M-1676)
(C 55-M-1682)
(C 55-M-685)

12

CONFIDENTIAL

16 Aug 45

Matron Officer Commanding,
Military Hospital No 6,
HALIFAX, N.S.

F-87221	Pte BOUVILLES, J R	(Ref HQS 55-D-1701)
F-41651	Pte BURKE, R S	(Ref HQS 55-D-1732)
F-87410	Pte FRANCIS, L M	(Ref HQS 55-F-490)
F-16763	Pte HAYE, S W	(Ref HQS 55-H-815)
F-95526	Pte MacLEOD[illegible], R M	(Ref HQS 55-M-1676)
F-75930	Pte McNEIL, J A	(Ref HQS 55-M-1682)
F-53877	Pte [illegible], A J	(Ref HQS 55-P-665)

Ref HQ/262-5-1 PD 54 (TAD) 4/4 Aug 45.

2. As requested, enclosed herewith proceedings of FGCM for each of the above NCM.

3. Original AFA Z104 and Review Sheets, together with copy of letter from CMHQ, were forwarded to DGS, HQ 3, and it is assumed, accompanying the documents of each of the NCM. Pls advise this HQ if these documents are not received with these NCM, in which case immediate arrangements will be made for their despatch to you.

(A E Ballard),
Major-General,
Adjutant-General.

CONFIDENTIAL

11

COPY

H/3GS-5-1 FD 94 (JAG)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, M.D. No. 6,
Halifax, N.S. 4th Aug 45.

A R M Y

Secretary,
Department of National Defence,
Ottawa, Ontario.

SUB EX-ITALY GS 181/44
GS Military Detention Barracks.

Ref H&S 9639-1 Vol.2 Adm 3(b) dated 25 Jul 45.

2. D.O.C., M.D. No. 3, has written to this Headquarters, in part, as follows:

2. " Under H&S 8536-6 Vol 2 Adm 3(b)2 dated 27 Apr 45 and H&S 8536-6 Vol 2 Adm 3(b)NC(A) dated 1 June 45, National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy to No. 22 Military Detention Barracks, Fort Henry, Barriefield, Ontario.

Under H&S 9639-1-1 Adm 3 dated 15 June 45, National Defence Headquarters laye down the policy to be followed in the remission and suspension of sentences of soldiers under sentence in order that the situation in regard to accomodation at No. 22 Military Detention Barracks, at Fort Henry may be alleviated.

Consequently, it is considered that the undermentioned soldiers under sentence who have served half of their sentence should be sent to their home District Depots for discharge and granted a remission of the unexpired portion of their sentence.

MILITARY DISTRICT NO. 6

F.[illegible]	- Pte Boutilier J.R.	- 1 year imprisonment
F.41661	- Pte Burke R.B.	- 1 year imprisonment
F.27610	- Pte Francis L.M.	- 1 year imprisonment
F.16703	- Pte Hunt S.W.	- 1 year imprisonment
F.[illegible]	- Pte MacLaughlin N.F.	- 18 mos imprisonment
F.75830	- Pte McNeil J.A.	- 2 yrs imprisonment
F.32677	- Pte Watson A.J.	- 1 year imprisonment

3. It is suggested by the D.O.C. M.D. No. 3, that these soldiers be discharged according to the provisions of G.A.R.O. 1029(8).

4. In order to decide if these sentences should be remitted it is necessary to have full particulars of the offences and if possible copy of the FGCM proceedings

5. This information is required not only for the purpose of deciding on remission but in order to have full particulars in order to complete the Form of Remission required in each case.

10

6. According to the instructions set out in R.O. 8913 each case must be considered on its merits and it is, therefore, understood that remission after 50% of the sentence has been served is not automatic.

(D.A. White) Brigadier,
D.G.C., M.D. No. 6.

COPY

C55-M-1652

DEPARTMENT OF NATIONAL DEFENCE
ARMY

FILE NOS: K.S. 674(A)
and Personal Files

Kingston, Ontario. 27 JULY 45

Commandant, 89 Military Detention Barracks, BARRIEFIELD
A.J.A.G., MD 3, KINGSTON.
Officer Commanding, 3 District Depot, KINGSTON
District Paymaster, MD 3, KINGSTON.
District Medical Officer, MD 3, KINGSTON.
D.A.P.M., MD 3, KINGSTON.
District Records Officer, MD 3, Cdn 2nd Echelon (Central) BROCKVILLE Ont.
D.S.A.T.C., Md 3, KINGSTON.
D.A.Q.M.G., MD 3, KINGSTON.
District Records Officer, 3 Ordnance Depot Coy, RCOC, KINGSTON
O I/C 2nd Echelon (Central) BROCKVILLE.
Commandant, Ottawa Area Command, OTTAWA.
Officer Commanding, 33 Coy C. Pro.C. OTTAWA

SUS EX-ITALY CO 131/44
89 Military Detention Barracks.

1. Under HQS 8536-6 Vol 2 Adm 3(b)2 dated 27 Apr 45 and HQS 8536-6 Vol 2 Adm 3(b)SC(A) dated 1 June 45, National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy to No. 89 Military Detention Barracks, Fort Henry, Barriefield, Ontario.

2. Under HQC 9039-1-1 Adm 3 dated 15 June 45, National Defence Headquarters lays down the policy to be followed in the remission and suspension of sentences of soldiers under sentence in order that the situation in reguard to accommodation at No. 89 Military Detention Barracks at Fort Henry may be alleviated.

3. Consequently, it is considered that the undermentioned soldiers under sentence who have served half of their sentence should be sent to their home District Depots for discharge and granted a remission of the unexpired portion of their sentence.

				HOW TO BE DISCHARGED
MILITARY DISTRICT NO.1.				
A.4231	Pte Murray H.J.W.	- 2 yrs	imprisonment	CARO 1029(8)
MILITARY DISTRICT NO.2.				
B.133439	Pte Nolan F.H.	- 1 yr	imprisonment	CARO 1029(8)
B.39536	Pte Mandaro N.J.	- 1 yr	imprisonment	CARO 1029(8)
B.124371	Pte Redding G.D.	-18 mos	imprisonment	CARO 1029(8)
B.235	Pte Walker P.B.	-18 mos	imprisonment	CARO 1029(8)
MILITARY DISTRICT NO.5.				
E.5104	Pte Demers C.	-18 mos	imprisonment	CARO 1029(8)
E.5876	Pte St. Pierre G.	- 1 yr	imprisonment	CARO 1029(8)
MILITARY DISTRICT NO.6.				
F.88221	Pte Boutilier J.R.	- 1 yr	imprisonment	CARO 1029(8)
F.41651	Pte Burke R.S.	- 1 yr	imprisonment	CARO 1029(8)
F.87610	Pte Francis L.M.	- 1 yr	imprisonment	CARO 1029(8)
F.16963	Pte Hunt S.W.	- 1 yr	imprisonment	CARO 1029(8)
F.95526	Pte MacLaughlin RM	-18 mos	imprisonment	CARO 1029(8)
F.75630	Pte McNeil J.A.	- 2 yrs	imprisonment	CARO 1029(8)
F.52677	Pte Watson A.J.	- 1 yr	imprisonment	CARO 1029(8)

...../2

9

MILITARY DISTRICT NO.7

G.49369	Pte Cripps J.A.	- 1 yr	imprisonment	CARO 1029(8)
G.23463	Pte Lanteigne L.	-18 mos	imprisonment	CARO 1029(8)
G.4840	Pte LeBlanc M.J.	- 1 yr	imprisonment	CARO 1029(8)
G.27471	Pte Chestnut C.R.	-18 mos	imprisonment	CARO 1029(8)
G.56796	Pte Boudreau G.	- 1 yr	imprisonment	CARO 1029(8)

MILITARY DISTRICT NO.12

L.18053	Pte Hutch W.R.	- 6 mos	imprisonment	CARO 1029(8)

4. These soldiers will be despatched from 89 Military Detention Barracks to their various home District Depots under suitable escort arranged by the D.A.P.M., MD 3 for the purpose of carrying out their discharge, such escort being supplied from 89 Military Detention Barracks or 33 Coy., C. Pro C.

5. It is requested that after arrival at the various home District Depots for discharge the District Officer Commanding concerned arrange for the remission of sentence for these soldiers as set out under H-C 9039-1-1 Adm 3 dated 15 June 45, which allows remission of one-half the sentence, and that such remission be made effective the date of discharge.

6. The A.J.A.G., MD 3, will prepare the necessary Order of Release and forward it to the Commandant, 89 Military Detention Barracks.

7. The D.S.& T.O. MD 3, will issue the necessary transportation.

8. The above mentioned soldiers under sentence will cease attachment to 89 Military Detention Barracks and be struck off strength 3 District Depot to the various home District Depots for discharge effective the date they are despatched from 89 Military Detention Barracks. It is requested that these soldiers be discharged in accordance with instructions received from NDHQ as set out in opposite their names.

9. The Commandant, 89 Military Detention Barracks, will advise this Headquarters when the above personnel are ready for despatch in order that the various District Officers Commanding concerned may be advised before the arrival of these personnel at their home District Depots.

10. In this connection it is anticipated that these soldiers will be despatched on or about 31 July 45.

11. The Officer i/c 2nd Echelon (Central) Brockville, will be requested by wire to forward the documents of the above mentioned soldiers immediatley to the various home District Depots.

(W.K. MacGregor) Major
D.A.A.G. MD 3

COPIES TO:

Secretary, Department of National Defence, OTTAWA
(Attention Capt. Parlee, Administration Branch)

District Officer Commanding, MD 1 LONDON Ont.
Officer Commanding, 1 District Depot, LONDON, Ont

District Officer Commanding, MD 2, TORONTO, Ont.
Officer Commanding, 2 District Depot, TORONTO, Ont.

...../3

COPY

District Officer Commanding, MD 5, QUEBEC, P.Q.
Officer Commanding, 5 District Depot, QUEBEC, P.Q.

District Officer Commanding, MD 6, HALIFAX, N.S.
Officer Commanding, 6 District Depot, HALIFAX, N.S.

District Officer Commanding, MD 7, SAINT JOHN, N.B.
Officer Commanding, 7 District Depot, FREDERICTON, N.B.

District Officer Commanding, MD 12, REGINA, Sask
Officer Commanding, 12 District Depot, REGINA, Sask.

Major
for (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

WEM/EV

original on 56036-6 Vols
noted on cards
JS.

CR (c) CR on file
CSS M. 1682
WOV

Admin 3(b) 2

8

COPY

CSS-III-1682
CA(c) PA on file
W.D. Bowles
Adm 3(a)4

VIA Y CIA NR XX 52

FROM CMDG S KINGSTON ONTARIO 201600Z

TO EOC MD NO 6 HALIFAX

TO SECTY NSD OTTAWA

GRS 201 DT

9336 RESTRICTED NRLST NS 674 (A) DATED XX 27 JUL 1945 STOP THE FOLLOWING NUS PERSONNEL HELD AT SERIAL 2089 WILL BE REPATRIATED UNDER REGOST AND WILL ARRIVE AT HALIFAX NS AT 2230 HOURS ON 1 AUG 1945 FOR DISCHARGE UNDER NO 1089-8 REPRAT RIGHT AND GRANTED A RESTRICTION OF THE UNEXPIRED PORTION OF THEIR CONTCHGE STOP F EIGHT EIGHT TWO TWO ONE DOUTLIER J R STOP F FOUR ONE SIX FIVE ONE BURKE R A STOP F SEVEN SEV ONE ROUGHT FRANCIS L M STOP F ONE SIX SEVEN SIX THREE HURT S A STOP F NINE FIVE FIVE TWO SIX MACLAUGLIN R M STOP F SEVEN FIVE EIGHT THREE ROUGHT MERRIL J A AND F FIVE TWO SIX SEVEN SEVEN NATSON A J STOP OFFICER IN CHARGE RED RETURN CENTRAL RAS BEEN ADVISED TO FORWARD ALL DOCUMENTS OF THESE SOLDIERS DIRECT TO O C NO 6 D D STOP REQUEST TRAIN BE MET ON ITS ARRIVAL HALIFAX BY ESCORTS AND THIS PERSONNEL ESCORTED TO NO 6 DD STOP ADVSD CMDG SIX RPTD RUFINGR

DT 200CSS
GY B

original on S8536 Vol 7
noted on card
pd

7

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55-M-1682 (ICM)

NDHQ Ottawa, Ont

25 Jul 45 1945

District Officer Commanding

Military District No 3

Kingston, Ont.

CONFIDENTIAL
F.G.C.M.

F-75830 Pte McNEIL, John Angus

Ref MDB 89:

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford),
Major-General,
Adjutant-General.

6

- 3 -

Quote No H.Q.C.55-M-1682 (JAG/D-9)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

OTTAWA, Canada

25 May 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

F.75830 Pte. John Angus MacNeil,
Carleton & York Regt., CAO. CMF

1. Receipt is acknowledged of your **10/macNeil JA/2** dated **10 Apr** 1945, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

A.F.A.3104 is also acknowledged.

E L M Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

MM

5

OFFICE COPY H.Q. C.55-M-1683 2
M.D. 10/McNeil JA/2

GS

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. F.75830 Name McNEIL, John Angus

Rank Pte. Unit Carleton & York Regt, CAO CMF

Charge (1) A.A. 12(1)(a) WOAS, Desertion

(2) A.A. 12(1)(a) WOAS, Desertion

Date of Crime (1) 23-5-44; (2) 25-5-44

Date of Arrest (1) 24-5-44; (2) 26-5-44 Charge Signed 12-7-44

Orders for FG G.C.M. Brig Comd 3 Cdn Inf Bde

Place and Date of Trial In the field; 28-7-44

Sentence Imprisonment 2 yrs.

Date of Confirmation 7-8-44

Date of Promulgation 10-8-44

Entered in Records of J.A.G. as No. 3640M

Date 14-5-45

MEMO (1) and (2) Guilty A.W.L.

Reviewed at CMHQ

4

for Judge Advocate General

10M-1-45 (M-4629)

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

7 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

~~K.75830 Pte McNeil J.A.~~
~~SUS EX ITALY~~

1. This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 20 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of imprisonment

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

for (A E Walford)
Major-General
Adjutant-General

Encl. 3

3

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS F-75030 Pte McNeil, J.A. of Carleton & York Regt was by Field General Court-Martial held in the field convicted of the offence(s) of Absence without leave (2 charges)

and by a sentence signed on the 28th day of July 1944 sentenced to undergo Imprisonment for 2 years

said sentence of imprisonment commencing on the aforesaid day, and such sentence has been confirmed by Comd 3 Cdn Inf Bde as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 9th day of April, 1945

(Beverley Matthews) Brigadier
Deputy Adjutant General
Canadian Military Headquarters

CONFIDENTIAL

AIR MAIL Quote No. 10/McNeil J.A/2

CONFIDENTIAL

CANADIAN MILITARY HEADQUARTERS

LONDON 10 Apr 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

6-55-M-1682

F.75830 Pte McNeil J.A.

1. The m/n soldier is now serving a sentence of 2 years imprisonment awarded by FGCM 28 Jul 44 for two offences of absence without leave, both of which occurred while he was serving with an Inf Bn in contact with the enemy. The earliest date on which he should be released if he earns full remissions for good conduct while serving his sentence is 27 Nov 45.

22. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and S.P.O. have examined this soldier and in making the direction and recommendations herein, their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence.

5. In view of the circumstances surrounding these two offences of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029, and it is so recommended. Under these circumstances this soldier probably was aware that his misconduct would lead to severe punishment and possible discharge.

6. It has accordingly been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 28 Jul 44, original A.F. A.3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E.G.Weeks) Major-General
In charge of Administration
CANADIAN MILITARY HEADQUARTERS

ENCLS.4

2

1/39a CMHQ 1000/76 40/P & S/803 (6789)

H.Q.C. 55-L-1683 CONFIDENTIAL

M.F.B. 1/B

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS CONSOLIDATED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MACNIVEN. NORMAN LLOYD H.103162 PTE.

CONFIDENTIAL
H.Q.C. 55-L-1683

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				D. Adm.	NEW FILE C.R.		APR 23 1945
MAY 22 1945	19/5/45	PA					7-5-45
JUL 25 1945	JUL 25 1945	PA		16 M			
				CMBR	For Registration C.R. SEP 10 1945		
				A.G.	—		OCT 19 1945
OCT 1945	31 1945	cancelled					
OCT 31 1945	30-10-45	PA		Admin	For Registration C.R. OCT 29 1945		29/10/45
				J.A.	With Papers C.R. NOV 6 1945		
NOV 9 1945	9/11/45	PA		CMBR			7-11-45
NOV 26 1945	26/11/45	PA		CMBR	Registration C.R. NOV 26 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H.103162 Pte MacNiven, N.L. - Irish Regiment of Canada.

Charge.	Plea	Finding.	
(Insert "alternative" where applicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	
2nd	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~XXXX

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A)). As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H)). Accused may change a plea of Not Guilty to Guilty during trial. (RP 38). As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, see Record Form B below.

II. If pleas to all charges are NOT GUILTY, see Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, see Record Form C below. (RP 37(A)).

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A), (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1) "NHS"
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. ~~The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ "NHS"
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Wish to give evidence on oath. Do you intend to call witnesses on your behalf? Ans No ..... Are they witnesses as to character only? Ans N/A
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the Both charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~ "NHS"
(1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?~~(1) Ans ..... "NHS"
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex I and Ex ..... respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes ..... (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused H.103162 Pte Norman Lloyd MacNiven, The Irish Regiment of Canada, a soldier of the Canadian Army on Active Service, is charged with:-

First Charge
Sec 5(7) AA

Misbehaving before the enemy in such a manner as to show cowardice

in that he

on the 27th September 1944, when ordered to move with his section in an operational move, deserted his section.

MacNiven.

Page 2.

Second Charge
Sec 5(7) AA

Misbehaving before the enemy in such a manner as to show cowardice

in that he

on September 28, 1944, when ordered to help carry rations up to his company, left the ration vehicle and hid in a house, refusing to rejoin the ration party.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

~~Sgd.~~ "R.C. Clark"
~~(R.C. Clark) Lt. Col.~~
Commanding
The Irish Regiment of Canada

October 3, 1944

"MAC"

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MACNIVEN.
Page 2.

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~~Sgd.~~ "R.C. Clark"
~~(R.C. Clark) Lt. Col.~~
Commanding
The Irish Regiment of Canada

October 3, 1944

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 1-4. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A rank or A appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number	(a) Prmnt R	(b) Appmt, A R or A Appmt	Full Christian Names	Surname	Unit
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) [illegible] endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
A/Major	W.H. Shaw	I R of C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A/Captain	G.J. Wood	I R of C
Lieut	[illegible] Pilcher	A Inf Coy R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in [illegible] (Country.) [illegible] (Signed personally. RP 105 fn 2.) [illegible] (Rank.)

Date [illegible] Commanding [illegible] Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Amd - 2d Rev of AFAI 40 P & R/1097 (490)) (See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE

I certify that I have this afternoon examined

No. H.103162 Rank Pte Name MacNIVEN, N.L.

Unit. The Irish Regiment of Canada

and in my opinion he is fit to undergo trial by Court Martial.

Station. In the Field

Date. 4 October 1944

"J. Anderson", Major.
Medical Officer
7 Cdn Lt Fd Amb

MacNiven

First Witness
For Prosecution

C.65504 Cpl Graham J.L.P., The Irish Regiment of Canada, having been duly sworn, states

I was on the 27 Sept 1944 acting as Platoon Sergeant of No.12 platoon, of which Pte MacNiven is a member. At that time, this platoon together with the rest of "B" Coy had withdrawn from San Marno to the river Liso and had consolidated for a further attack. At that time Pte MacNiven was with the platoon. Together with some other men he was a little slow in getting on his equipment when we moved off and I ordered him to follow along. At the completion of the move, which was a flanking move on San Marno, Pte MacNiven in company with about a platoon and a section of the company was missing. I account for this by the fact that we had been mainly attached with small arms on the way up and everybody had scattered. The entire section i.e. No.7 section to which Pte MacNiven was attached, was missing but rejoined the company by 1200 hours the following day. MacNiven, however, was not with the section when it rejoined the company. I enquired from the section comdr, Cpl Stimmell, who is now a casualty and could obtain no satisfactory explanation. I have not seen MacNiven until yesterday the 3rd of October where I saw him at Batallion TAC. HQ.

There was no cross examination of the witness.

Second Witness
For Prosecution

B.42004 Sgt Cullaton A.J., The Irish Regiment of Canada, having been duly sworn states:

I am platoon sergeant of the batallion Scout platoon, and during the last operations was stationed at Batallion TAC HQ. On the afternoon of Sep 28 I checked the personnel at TAC HQ and found 3 "B" Coy men, among them Pte MacNivens. He had no explanation of his presence at TAC HQ. At about 1630 hrs a carrying party was required to get rations into "B" Coy. I detailed Pte MacNiven and two other B Coy men for this job and ordered them to get on the rations jeep, which then pulled away. The following morning I was walking up the road toward "B" Coy when I saw Pte MacNiven with two other men being taken up the road by a corporal of the medical section. They broke away and went into a nearby house. I went into the house and told MacNiven to go on up but he refused and said that he couldn't take it. I accordingly took him and the two other men back to TAC HQ where they were placed under arrest. There was no shelling at the time they went into the houses. The medical corporal called to these men to come on, and eventually took their names and left with the remainder of the party.

There was no cross examination of the witness.

Third Witness for Prosecution

R.79259 Pte Golden, F.T. The Irish Regiment of Canada having been duly sworn states:

I am the driver of the "B" Coy ration jeep which carries food to the men in the lines. On Sept 28 at about 1630 hrs I brought the jeep up to Trac HQ together with storeman. Since it was necessary to manhandle the rations part of the way, I asked the officer in charge of Trac HQ for a carrying party. I was given a party of three men, Pte MacNiven being one of them. We proceeded some distance down the road, when shelling began and short distance away. I stopped the jeep and we took cover. The accused and his two companions went into a nearby house. When the shelling stopped I went into the house and asked them to come along. The accused said he would not come, he couldn't do it. The storeman and I proceeded up to "B" Coy and delivered the rations having made arrangements to pick the accused and the other men up on our way back. Wehn we got back they were not longer there. I saw MacNiven the following day under arrest at Main HQ.

There was no cross examination of the witness.

Fourth Witness For Prosecution

Capt W.B. Spafford, Medical Officer, The Irish Regiment of Canada, having been duly sworn states:

On the evening of Sept 28 about 2030 hrs Pte MacNiven with two other soldiers came into the R.A.P. and said that they were too nervous to go up to the front. I explained that nervous cases were not evacuated but that I would see that they got a nights sleep. They slept at the R.A.P. that night and the following morning I sent him to Trac HQ for transfer to their company. In my opinion Pte MacNiven through undoubtedly nervous when he came into the R.A.P., was not a medical case. I examined him the following morning and in my opinion he was fit for duty.

There was no cross examintion of the witness.

Prosecution's case closed.

First Witness
for Defence

M.103162 Pte Norman Lloyd MacNiven, The Irish Regiment of Canada, having been duly sworn states:

On the 27th Sept, when the company moved off, my section leader, Cpl Stimmell told me to come along, and I told him I couldn't taken it. Four of us stayed behind in a house. We stayed there until the house got hit, and then moved to another house. That night we went back to TAC HQ. The following day I reported to the Officer in charge of TAC HQ and told him that I had lost all my equipment in the house when it was shelled. He sent me back to "A" Echelon to be re-equipped. I was re-equipped at "A" Echelon and returned to TAC HQ. Then I and two other men were detailed to the ration party to carry rations into the company. We got down the road a bit when shelling started. Then two other men and I went into a nearby house. Later the jeep driver came into the house and called us, but we told him we couldn't take it. He went on and we returned to the R.A.P. There we were given some pills and told to stay there for the night and we would be looked at by the MO in the morning. Dr. NEAT morning the medical corporal and the sergeant of the scout platoon started to take us back to the company. We told him we couldn't go on and were taken back to TAC HQ. This scout sergeant yelled at us that we could take it and fired a few rounds from a tommy gun. That is all.

Defence case closes.

MRS (14)

ADDRESS OF DEFENDING OFFICER

The accused has been in the Army since Nov 9, 1942.

He came to this theatre and was with the unit when it first went into the lines in the middle of January 1944. Since that time he has been in the lines with this unit in all its actions.

However, there had been no previous complaints as to his behaviour in the lines until the last few days, when the extremely heavy mortaring and shelling became too much for him to stand.

CERTIFICATE OF SUSPENSION OF RULES OF PROCEDURE

I certify that in the case of H.103162 Pte Norman, Lloyd MacNiven, The Irish Regiment of Canada, that exigencies of the service, namely the fact that the regiment is engaged in Active Operations, prevents observance of R.Ps 4(c)(d)(e)(f) and(g) 5,8,14,15 and 87(b).

"R C Clark"
Comd. The Irish Regiment of Canada

Oct 3/44

No. [illegible] Name [illegible] Sqn, Battery or Company

Company Conduct Sheet
Date of last entry in [illegible] NA

No and date of last drunk NA

Corps CIC [illegible]

Period not reckoning towards freedom from extra fine NA

Sheet No

Date of enlistment 8-11-42

GC Badges NA

Signature (OC Company, etc)

Service or Proficiency Pay NA

MFM 6
(AFB 122)
40-PAD 136 (3438)

Character

Date	Offence	Punishment awarded	Date of award of good conduct badge	Extra fine awarded	Remarks

(PTO

IN REPLY PLEASE QUOTE

No. W.44-M-3779 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Winnipeg, Manitoba. 13th October 1945

3583

The Secretary,
Dept. of National Defence (Army),
OTTAWA, Ontario.

HQC55-M-1683

Referred to: CMER

H-103162, Pte. MacNIVEN, N.L.

Reference your file HQC55-M-1683 (ICM)

2. May the proceedings of the court-martial in connection with the marginally-named soldier-under-sentence be forwarded to this office as soonas possible please.

III

May Stitwell.
This file Rd today.
Will you draw it?
W. Chubb Capt
vep
date 30/x

II

G.I.M.
You have file
please.
W. A. Stitwell
CMER
maj.

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

CR
Confidential file

IN REPLY PLEASE QUOTE
No. W.44-M-3779 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba. 29th October 1945

7343
NOV 5 1945

The Secretary,
Dept. of National Defence (Army),
OTTAWA, Ontario.

H-103162, Pte. N.L. MacNIVEN

Herewith, for custody, are forms of commutation and remission of sentence relative to the m/n, duly completed in accordance with C.A.R.O. 5913. Army Form A3104 is also enclosed herewith.

(R.O.G.Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

vep
encs.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

APPENDIX "B" to C.A.R.O. No. 5913

FORM OF REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR POSTPONEMENT OF EXECUTION OF SENTENCE AWARDED BY C.S.M.

GCM File No. HQC55-M-1683(ICM)
District File No. W.44-M-3779(J)

PART I

No. H-103162 Rank Private Name Norman Lorne MacNIVEN

Unit No. 10 District Depot, C.A.

PART II

Date of Trial 14th October 1944
Charge(s) 2 charges under Army Act Section 5(7)
Sentence 2 years detention
Date of Sentence 4th October 1944
Confirmation - (a) Authority Brig. I. J. Johnston, Commanding 11 Cdn. Inf. Bde
(b) Date 28th October 1944.

PART III

REMISSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby remit ~~xxxxxxxxxxxxxxxxxx~~ ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ the balance of the sentence of detention as of the 24th day of October 1945.

Signed at Winnipeg, Man this 25th day of Oct. 1945.

R.O.G. Morton

(R.O.G. Morton) Brigadier, District Officer Command-
(Appointment) ing, Military District No. 10.
To be signed by the Competent Authority
or Superior Military Authority personally.

PART IV

PROMULGATION

Remission(~~xxxxxxxxxxxxxxxxxxxx

ARMY AFT 'B' [illegible] No. 5913

[illegible] Unit, [illegible] Unit, Attached or Posted [illegible] Number of Unit

M-1683(ICM)

[illegible] No. HQC55-[illegible]

District File No.

PART I

No. H-103162 Rank Private Name Norman Lorne MacNIVEN

Unit No. 10 District Depot, C.A.

PART II

Date of Trial 4 October 1944
Charge (a) 2 charges under Army Act Section 5(7)
Sentence 2 years imprisonment without hard labour
Date of Sentence 4th Oct. 44.
Commutation - (a) Authority I.J. Johnston, Brig. Commanding 11 Cdn.Inf, Bde.
(b) Date 28 Oct. 44.

PART III

~~XXXXXXXX~~
COMMUTATION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby ~~xxxxx~~ (commute) (~~xxxxxxxx~~) ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ the sentence to two years detention

Signed at Winnipeg, Man this 18 day of October, 1945.

R O G Morton

(R.O.G. Morton) Brigadier, District Officer Commanding, Military District No. 10.
(Appointment)
To be signed by the Competent Authority or Superior Military Authority personally.

PART IV

PROMULGATION

~~xxxxxxxx~~ (commutation) (~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ ~~xxxxxxxx~~ promulgated and extracts taken at Winnipeg, Manitoba, this 18 day of October, 1945 (1)

C E Throp

Capt. Adj.
Officer i/c Documents, No. 10 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

[illegible] PART II

No. H-103162 Rank Private Name Norman Lorne MacNIVEN

The sentence of 2 years imprisonment without hard labour
[illegible] ~~xxxxxxxxxxxxxxxxxx~~ Field General Court-Martial on the 4th day of October 1944 has been commutted to two years detention
this 18th day of October, 1945 by Brigadier R.O.G. Morton, District Officer Commanding, M.D. No. 10.

Unit No. 10 District Depot, CA.

[illegible] Extract [illegible] Daily Orders Part II ~~xx~~ No. 250 para. 37 d/20 Oct. 45

Place Winnipeg, Man. Date 20 October 1945

Adjutant C E Throp Capt.

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I. Case of No. H103162 Pte MacNiven, N L Unit The Irish Regiment of Canada

Sentenced to Two (2) years imprisonment without hard labour on 4 Oct 44

Age on, and date of enlistment 9 Nov 42 Term of service 1 yr 11 mos

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II. To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment combined with Discharge with Ignominy cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20519) W.L.40/2276 100,000 2/42 A.& E.W.Ltd. Gp.698 Forms/A.3104/12

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority under Section 57 of the Army Act may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence so commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	No remission. B.F. 21 Mar 45.	(W. G. H. Roaf) Brigadier Officer in Chg. Adm. Serv. G.H.Q. (Ch.) 27 MAR 1945	
	NO REMISSION RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews) Brigadier A/D.A.G. C. M. H. Q. 9 APR 45.	
	BF 24 Sept '45	Nelson Capt for DOC MD 3 9 Aug '45	
18/10/45	Sentence commutted to 2 years detention	R O G Morton (R.O.G. Morton) Brig D.O.C., M.D.No.10.	
25/10/45	Sentence remitted as ~~of 24th Oct. 1945.~~	R O G Morton (R.O.G.Morton) Brig. D.O.C., M.D.No.10.	

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial

VII.—First Trial.

27 Sep 44
28 Sep 44

See attached

G S Horgan
G S Horgan, A/Capt & A/Adjt
The Irish Regiment of Canada

Signature of Officer making entry.

VIII.—Second Trial.

Signature of Officer making entry.

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
19 Oct 44	I recommend that the sentence be NOT reduced	R C Clark R C Clark, Lt-Col Comd The Irish Regiment of Canada

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
28 Oct 44	I recommend that the sentence be NOT reduced	[illegible] Brig C.O.I.D. [illegible] BDE

CORRECTION

This document has been rephotographed to assure legibility

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H.103162 Pte MacNiven, N.L. - ~~Irish Regiment of Canada.~~

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	
2nd	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for XXXXXXXXXXXXXXXXXXXXXXXXXXXX beginning on (date) XXXXXXXXXXXXXXXX~~ (1) "NHS"
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo two (2) years imprisonment without hard labour.

(Sgd) ..... Oct 4/44 (Sgd) N.H. Shaw, A/Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding & sentence of the Court.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) RJL Rec
(1. AA 57A. Delete if not used.)

Date 6 Oct 44 (Sgd) R.C. Clark, Lt.Col.
Commanding Irish Regiment of Canada
Confirming Officer.

I confirm the finding and sentence of the Court.
R.J. Johnston, Brig
Comd 11 Cdn Inf Bde
28 Oct 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H.103162 Pte MacNiven N.L.	28 Oct 44	F.C. Whyte (F.C. Whyte) Capt & Adjt The Irish Regiment of Canada

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY
(D. Owen) Capt
CD SEC GHQ 2 ECH - AAI

RECORDED AT CMHQ IN AB 160 4F128

CPA86 (In lieu of AFA3) 40/P & S/1608 (2604)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt.Col. R.C. Clark Comd I.R. of Can dated Oct 3 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.103162	Pte		Norman Lloyd	MacNIVEN	IRofC

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) Oct 4 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and "NHS" each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ "NHS"
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to XXXXXXXXXXXXXXXXXXXX

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....No.....(1)
(1. *If "yet", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~an~~ (no) opening address.(1) "NHS"
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. ~~The Prosecutor is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ "NHS"
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Wish to give evidence on oath Do you intend to call witnesses on your behalf ? Ans. No Are they witnesses as to character only ? Ans. N/A
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the Both charge(s), being subject to confirmation, will be promulgated later.(1)
~~(If, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~ "NHS"
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused :~~ Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans. "NHS"
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

"NHS" E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and "NHS" marked Ex. I and ~~Ex~~ respectively.(3)
(1. *MFB 355 or AFB 295.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A). KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"MAC"

CHARGE SHEET

The accused H.103162 Pte Norman Lloyd MacNiven, The Irish Regiment of Canada, a soldier of the Canadian Army on Active Service, is charged with:-

First Charge
Sec 5(7) AA

Misbehaving before the enemy in such a manner as to show cowardice

In that he

on the 27th September 1944, when ordered to move with his section in an operational move, deserted his section.

"MAC"

MACNIVEN
Pte

Second Charge
Sec 5(7) AA

Misbehaving before the enemy in such a manner as to show cowardice

In that he

on September 28, 1944, when ordered to help carry rations up to his Company, left the ration vehicle and hid in a house, refusing to rejoin the ration party.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

~~Capt.~~ "R.C. Clark"
~~(R.C. Clark) Lt. Col.~~
Commanding
The Irish Regiment of Canada

October 3, 1944

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.103162	Pte		Norman, Lloyd	MacNIVEN	I R of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) Oct 3 1944 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial". "RCC" "RCC"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~) "RCC"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ "RCC"

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ "RCC"

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
A/Major	N.H. Shaw	I R of C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A/Captain	G.J. Wood	I R of C
Lieut	R.M. Whicher	4 Cdn A/T R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	None	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	None	

On Active Service in the Fd

in ITALY (Country.) R.C. Clark (Signed personally. RP 105 fn 2.) Lt. Col. (Rank.)

Date Oct 3 44 Commanding The Irish Regiment of Canada Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE

I certify that I have this afternoon examined

No. H.103152 Rank. Pte Name. MacNIVEN, N.I.

Unit. The Irish Regiment of Canada

and in my opinion he is fit to undergo trial by Court Martial.

Station. In the Field

Date. 4 October 1944

"J. Anderson", Major.
Medical Officer
7 Cdn Lt Fd Amb

First Witness for Prosecution

C.65504 Cpl Graham F.L.P., The Irish Regiment of Canada, having been duly sworn, states

I was on the 27 Sept 1944 acting as Platoon Sergeant of No.12 platoon, of which Pte MacNiven is a member. At that time, this platoon together with the rest of "B" Coy had withdrawn from San Marino to the river Lisa and had consolidated for a further attack. At that time Pte MacNiven was with the platoon. Together with some other men he was a little slow in getting on his equipment when we moved off and I ordered him to follow along. At the completion of the move, which was a flanking move on the San Marino, Pte MacNiven in common with about a platoon and a section of the company was missing. I account for this by the fact that we had been mainly attached with small arms on the way up and everybody had scattered. The entire section i.e. No.7 section to which Pte MacNiven was attached, was missing but rejoined the company by 1200 hours the following day. MacNiven, however, was not with the section when it rejoined the company. I enquired from the section comdr, Cpl Stimsell, who is now a casualty and could obtain no satisfactory explanation. I have not seen MacNiven until yesterday the 3rd of October where I saw him at Batallion TAC. HQ.

There was no cross examination of the witness.

Second Witness for Prosecution

R.42004 Sgt Cullaton A.G., The Irish Regiment of Canada, having been duly sworn states:

I am platoon sergeant of the batallion Scout platoon, and during the last operations was stationed at Batallion TAC HQ. On the afternoon of Sep 28 I checked the personnel at TAC. HQ and found 3 "B" Coy men, among them Pte MacNivens. He had no explanation of his presence at TAC HQ. At about 1630 hrs a carrying party was required to get rations into "B" Coy. I detailed Pte MacNiven and two other B Coy men for this job and ordered them to get rations jeep, which then pulled away. The following morning I was walking up the road toward "B" Coy when I saw Pte MacNiven with two other men being taken up the road by a corporal of the medical section. They broke away and went into a nearby house. I went into the house and told MacNiven to go on up but he refused and said that he couldn't take it. I accordingly took him and the two other men back to TAC HQ where they were placed under arrest. There was no shelling at the time they went into the house. The medical corporal called to these men to come on, and eventually took their names and left with the remainder of the party.

There was no cross examination of the witness.

Third Witness for Prosecution

R.59250 Pte Golden, F.I. The Irish Regiment of Canada having been duly sworn states:

I am the driver of the "B" Coy ration jeep which carries food to the men in the lines. On Sept 28 at about 1830 hrs I brought the jeep up to ~~the~~ HQ together with storeman. Since it was necessary to manhandle the rations part of the way, I asked the officer in charge of ~~the~~ HQ for a carrying party. I was given a party of three men, Pte MacNiven being one of them. We proceeded some distance down the road, when shelling began and short distance away. I stopped the jeep and we took cover. The accused and his two companions went into a nearby house. When the shelling stopped I went into the house and asked them to come along. The accused said he would not come, he couldn't do it. The storeman and I proceeded up to "B" Coy and delivered the rations having made arrangements to pick the accused and the other men up on our way back. Wehn we got back they were not ~~longer~~ there. I saw MacNiven the following day under arrest at Main HQ.

There was no cross examination of the witness.

Fourth Witness for Prosecution

Capt W.E. Spafford, Medical Officer, The Irish Regiment of Canada, having been duly sworn states:

On the evening of Sept 28 about 2030 hrs Pte MacNiven with two other soldiers came into the R.A.P. and said that they were too nervous to go up to the front. I explained that nervous cases were not evacuated but that I would see that they got a nights sleep. They slept at the R.A.P. that night and the following morning I sent him to ~~the~~ HQ for transfer to their company. In my opinion Pte MacNiven though undoubtedly nervous when he came into the R.A.P., was not a medical case. I examined him the following morning and in my opinion he was fit for duty.

There was no cross examination of the witness.

Prosecution's case closed.

First Witness for Defence

H.108162 Pte Norman Lloyd MacNiven, The Irish Regiment of Canada, having been duly sworn states:

On the 27th Sept, when the company moved off, my section leader, Cpl Stimsell told me to come along, and I told him I couldn't taken it. Four of us stayed behind in a house. We stayed there until the house got hit, and then moved to another house. That night we went back to TAC HQ. The following day I reported to the Officer in charge of TAC HQ and told him that I had lost all my equipment in the house when it was shelled. He sent me back to "A" Echelon to be re-equipped. I was re-equipped at "A" Echelon and returned to TAC HQ. Then I and two other men were detailed to the ration party to carry rations into the company. We got down the road a bit when shelling started. Then two other men and I went into a nearby house. Later the jeep driver came into the house and called us, but we told him we couldn't take it. He went on and we returned to the R.A.P. There we were given some pills and told to stay there for the night and we would be looked at by the MO in the morning. The next morning the medical corporal and the sergeant of the scout platoon started to take us back to the company. We told him we couldn't go on and were taken back to TAC HQ. This scout sergeant yelled at us that we could take it and fired a few rounds from a tommy gun. That is all.

Defence case closes.

ADDRESS OF DEFENDING OFFICER

The accused has been in the Army since Nov 9, 1942.

He came to this theatre and was with the unit when it first went into the lines in the middle of January 1944. Since that time he has been in the lines with this unit in all its actions.

However, there had been no previous complaints as to his behaviour in the lines until the last few days, when the extremely heavy mortaring and shelling became too much for him to stand.

CERTIFICATE OF SUSPENSION OF RULES OF PROCEDURE

I certify that in the case of H.103162 Pte Norman, Lloyd MacNiven, The Irish Regiment of Canada, that exigencies of the service, namely the fact that the regiment is engaged in Active Operations, prevents observance of R.Ps 4(c)(d)(e)(f) and(g) 5,8,14,15 and 87(b).

"R C Clark"
Comd. The Irish Regiment of Canada

Oct 3/44

MFM 6
(AFB 122)
40/PAS/158 (3498)

No. 103162 Name MacNiven, N.L. Sqn. Battery or Company 8 Corps CIC ~~IRC~~ Date of enlistment 9-11-42 GC Badges NA Service or Proficiency Pay NA

Company Conduct Sheet Date of last entry in NA No and date of last drunk NA Period not reckoning towards freedom from extra fine NA Sheet No 1 Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Character Remarks
									Ex 1.
									H.H. Shaw
									A/Major

Certified true copy from the Regimental books in my custody. "F.C. Whyte"
(F.C. Whyte) Capt & Adjt
The Irish Regiment of Canada

(P10

IN REPLY PLEASE QUOTE
No. W.44-M-3779 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

I

Winnipeg, Manitoba. 13th October 1945

3583
OCT 17 1945
Chgd. to CMBR 10-10
Referred to CMBR

The Secretary,
Dept. of National Defence (Army),
OTTAWA, Ontario.

C55-M-1683

H-103162, Pte. MacNIVEN, N.L.,

Reference your file HQC55-M-1683 (ICM)

2. May the proceedings of the court-martial in connection with the marginally-named soldier-under-sentence be forwarded to this office as soonas possible please.

III

May Stitwell.
Has this left yet today.
Will you check it?
W.A. Stitwell
Capt
vep

II

Act on.
You have file
please.
W.A. Stitwell
maj. CMBR

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

N.D. 23
3000M—10-44 (5789)
H.Q. 1772-101-23

Confidential file

IN REPLY PLEASE QUOTE
No. W.44-M-3779 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba. 29th October 1945

Central Registry Army
7343
NOV 5 1945
Referred to

The Secretary,
Dept. of National Defence (Army),
OTTAWA, Ontario.

H-103162, Pte, N.L. MacNIVEN

Herewith, for custody, are forms of commutation and remission of sentence relative to the m/n, duly completed in accordance with CARO. 5913. Army Form A3104 is also enclosed herewith.

(R.O.G.Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

vep
encs.

N.D. 21
3000M—10-44 (5769)
H.Q. 1772-101-23

APPENDIX 'G' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No HQC55-M-1683(ICM)
District File No. W.44-M-3779(J)

PART 1

No. H-103162 Rank Private Name Norman Lorne MacNIVEN

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial 14th October 1944
Charge(s) 2 charges under Army Act Section 5(7)
Sentence 2 years detention
Date of Sentence 4th October 1944
Confirmation - (a) Authority Brig. I.J. Johnston, Commanding 11 Cdn. Inf. Bde
(b) Date 28th October 1944.

PART 111

REMISSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby remit ~~xxxxxxxxxxxxxxxx~~ ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ the balance of the sentence of detention as of the 24th day of October 1945.

Signed at Winnipeg, Man this 24th day of Oct. 1945.

R.O. Morton

(R.O.G. Morton) Brigadier, District Officer Commanding, Military District No. 10.
(Appointment)
To be signed by the Competent Authority or Superior Military Authority personally.

PART 1V

PROMULGATION

Remission(~~xxxxxxxxxxxxxxxxxxxx

APPENDIX 'G' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No. HQC55-M-1683(ICM)
District File No.

PART 1

No. H-103162 Rank Private Name Norman Lorne MacNIVEN

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial 4 October 1944
Charge(s) 2 charges under Army Act Section 5(7)
Sentence 2 years imprisonment without hard labour
Date of Sentence 4th Oct. 44.
Confirmation - (a) Authority I.J. Johnston, Brig. Commanding 11 Cdn. Inf. Bde.
(b) Date 28 Oct. 44.

PART 111

COMMUTATION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby (commute) the sentence to two years detention

Signed at Winnipeg, Man this 18 day of October, 1945.

R.O.G. Morton

(R.O.G. Morton) Brigadier, District Officer Commanding, Military District No. 10.
(Appointment)
To be signed by the Competent Authority or Superior Military Authority personally.

PART 1V

PROMULGATION

(commutation) promulgated and extracts taken at Winnipeg, Manitoba, this 18 day of October, 1945 (1)

W Shrop Capt. Adj.
Officer i/c Documents, No. 10 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART 11

No. H-103162 Rank Private Name Norman Lorne MacNIVEN

The sentence of 2 years imprisonment without hard labour awarded by Field General Court-Martial on the 4th day of October 1944 has been commutted to two years detention on the 18th day of October, 1945 by Brigadier R.O.G. Morton, District Officer Commanding, M.D. No. 10.

Unit No. 10 District Depot, CA.

Certified true Extract of Daily Orders Part 11 No. 250 para. 37 d/ 30 Oct. 45

Place Winnipeg, Man. Date 20 October 1945

Adjutant W Shrop Capt.

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. H103162 Pte MacNiven, N L Unit The Irish Regiment of Canada

Sentenced to Two (2) years imprisonment without hard labour on 4 Oct 44

Age on, and date of enlistment 9 Nov 42 Term of service 1 yr 11 mos

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date ....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date ....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into executive should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20619) 6/1,000/2/70 (50,000) 2/45 A.A. & Q.M.G. Gp.4/4 Forms/A3104/51

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	No remission. B.F. 21 Mar 45.	W. G. H. Roaf (W. G. H. Roaf) Brigadier Officer IC Cdn. Sec. G.H.Q. 1 Echn. 27 FEB 1945	
	NO REMISSION RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews) Brigadier A/D.A.G. C. M. H. Q. 9 APR 45.	
	BF 24 Sept 45	Nelson Capt for DOC MD 3 9 Aug 45	
	18/10/45 Sentence commutted to 2 years detention	R O G Morton (R.O.G.Morton) Brig D.O.C., M.D.No.10.	
	25/10/45 Sentence remitted as of 24th Oct. 1945.	R O G Morton (R.O.G.Morton) Brig. D.O.C., M.D.No.10.	

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. See attached. G S Horgan Capt. G S Horgan, A/Capt & A/Adjt The Irish Regiment of Canada (Signature of Officer making entry.)	27 Sep 44 28 Sep 44	
VIII.—Second Trial. (Signature of Officer making entry.)		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
19 Oct 44	I recommend that the sentence be NOT reduced	R C Clark, Lt-Col Comd The Irish Regiment of Canada

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
28 Oct 44	Recommend that the sentence be NOT reduced	Brig COMD. 31 Cdn Inf Bde

H103162 Private Norman Lloyd MacNiven

First Charge
Sec 5(7) AA

Misbehaving before the enemy in such a manner as to show Cowardice,
in that he,
in the field, on 27 Sep 44, when ordered to move with his section in an operational role, deserted his section.

Second Charge
Sec 5(7) A A

Misbehaving before the enemy in such a manner as to whow Cowardice,
in that he,
in the field, on 28 Sep 44, when ordered to help carry rations up to his Company, left the ration vehicles and hid in a house, refusing to rejoin the ration party.

CLEAR

ARMY MESSAGE

(INCOMING)

PLACE FROM | DATE & TIME

D Adm

VEL CV 59

87

WINNIPEG OCT 261135 OCT 26 1945

RECEIVED OCT 26 1945 3A

R.C. SIGS EST NATIONAL DEFENCE BLDG. OCT 26 1945 OTTAWA ARMY SIGNAL OFFICE

SECRETARY DND

OTTAWA

3468 D UNCLASS RETEL RANKS 1053 RESTRICTED REF AG 0267 DATED 18 OCT 45 RE H 103162 PTE MACNIVEN N L ADDRESSED CMDG THREE KINGSTON STOP REMISSION OF SENTENCE GRANTED EFF 24 OCT 45 STOP ADDSD SECRETARY NDHQ RPT TO CMDG THREE

CMDG TEN

261700R AK

261707

THIS IS AN ACTION COPY

IF HERE PLEASE COMPLETE BELOW AND RETURN TO ... WOODS

BLANK	TIME	SIGNATURE

Cont file pls
SLB
55-M-1653

83784

M.F.M. 244 300M-10-44 (5869)
H.Q. 1772-99-2100 K.P. 20293

COPY 1

CRAIN PRINTERS LIMITED-18

VER V CIA NRS 63 & 64

FROM COMMANDING THREE KINGSTON ONT 201945R

TO DOC MD NO 10 WINNIPEG MAN

TO SECTY DND OTTAWA ONT

GR 108 BT

KD 1// 223 RESTRICTED

RELET KS 674 (A) DATED 4TH OCT 45 STOP FOLLOWING WIRE RECIVED THIS HEADQUARTERS FROM DEFENSOR QUOTE ~~XXXX~~ RANKS 1053 RESRTITED REVIEW REF AG 0267 D/18TH OCT 45 REFERS H-103162 PTE MACNIVEN N L STOP CMER RECOMMENDS IMMEDIATE RELEASE STOP AG CONCURS STOP ACK UNQUOTE STOP THE ABOVE MENTIONED SUS WAS DESPATCHED UNDER ESCORT TO NO 10 DISTRICT DEPOT ON 11TH OCT 45 STOP REQUEST ACTION BE TAKEN BY YOUR HQS STOP ADDRESSED COMMANDING 10 REPEATED DEFENSR

202255R

BT 202233R WE B

70186

R.C.O.S.C. OCT 20 ARMY SIGNAL OFFICE

RECEIVED OCT 21 1945 M.I.N.

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

HQC 55-M-1683
Adm 3(a)

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE

PLACE OTTAWA, Ont DATE 20 Oct 45.

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario.

RANKS 1053 (RESTRICTED)

REVIEW REF AG 0267 D/18 OCT 45 REFERS

H-103162 PTE MacNIVEN N L (.) CMBR

RECOMMENDS IMMEDIATE RELEASE (.) AG

CONCURS (.) ACK

ADJUTANT GENERAL.

Infm copy to: AG
CMBR
JAG

GDB:mw

G D Butler Capt

for (A E Welford) Colonel
Adjutant General

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY: IMMEDIATE	TIME OF ORIGIN: 0905
SIGNED			

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

VER V CIA NRS 6 7 & 8

FROM COMMANDING THREE KINGSTON ONT 171210R

TO OFFICER COMMANDING NO 10 D D WINNIPEG MAN

TO DOC MD 10 WINNITPED MAN

TO SECTY DND OTTAWA ONT

GR 134 BT

KD 177 RESTRICTED RELET KS 674(A) DATED 4TH AND 6TH OCT 45 STOP FOLLOWING SUS WILL BE SOS FROM NO 89 MDB ON THE 11TH OCT 45 and WILL BE DESPATCHED UNDER ESCORT ARRIVING AT WINNIPEG 0930 HOURS 13TH OCT 45 FOR REMISSION OF SENTENCE AND DISCHARGE STOP H.103162 MACNIVEN N L STOP FORWARD ALL REGIMENTAL DOCUMENTS OF THIS SUS IMMEDIATELY DIRECT TO OC NO 10 D D STOP REQUEST COMMANDING TEN DETAIL AN ESCORT TO MEET THIS TRAIN AT TRAINSIDE ON ARRIVAL AS ESCORTS ARE PROCEEDING WESTWARD WITH OTHER SUS STOP ADDRESSED OC 2ND ECHELON CENTRAL BROCKVILLE REPEATED COMMANDING TEN OC NO 10 DD AND DEFENSOR.

BT 171505R WE B

C::::::::: AND DISCHARGE STOP

CR(c) PA on file
cos M 1683
Admin3(b)2

noted
JCS

DEPARTMENT OF NATIONAL DEFENCE
- Army -

TO: GR (C)

File Nos: KS 674(A)
AND PERSONAL FILES.

Kingston, Ontario, 4 October, 1945.

File PA on:

HQC 55-77-165 3

W.O.

Colonel,
D Adm.

Commandant, 89 Military Detention Barracks, BARRIEFIELD, Ont
AJAG, MD 3 Kingston, Ont,
Officer Commanding 3 District Depot, Kingston, Ont
District Paymaster MD 3 Kingston, Ont
District Medical Officer, MD 3 Kingston,
DAPM MD 3 Kingston, Ont
District Records Officer, MD 3, 2nd Echelon (Central) Brockville
DS & TO, MD 3 Kingston, Ont
DAQMG, MD 3, Kingston Ont,
Officer Commanding, 3 Ordnance Depot, RCOC, Kingston, Ont
OIC 2nd Echelon (Central) MPO 315, Brockville, Ont
Commandant, Ottawa Area Command, Ottawa, Ont

Officer Commanding, 33 Coy, C Pro C, Ottawa, Ont

SUS EX ITALY AND UNITED KINGDOM GO 131/44

89 Military Detention Barracks.

Under HQS 8536-6 Vol 2 Adm 3(b)2 dated 27 Apr 45 and HQS 8536-6 Vol 2 Adm 3(b)SC(A) dated 1 June 45 National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy and the United Kingdom to 89 Military Detention Barracks, Fort Henry, Barriefield, Ontario.

2. Under HQC 9039-1-1Adm 3 dated 15 June 45 National Defence Headquarters lays down the policy to be followed in the remission and suspension of sentence of soldiers under sentence in order that the situation in regard to accommodation at 89 Military Detention Barracks at Fort Henry may be alleviated.

3. Consequently it is considered the undermentioned soldiers under sentence who have served one-half their sentence should now be sent to their home District Depots for discharge and granted a remission of the unexpired portion of their sentence.

MILITARY DISTRICT No 1		Sentence	RECOM AS TO DISCH BY CMHQ	RECOM AS TO DISCH BY DOC MD 3
A.108375	Pte ASHLEY W	18 mos detn	RO 1029(8)	Some other para of RO 1029
A.44585	Pte CURTIS G W	2 yrs imp h.l.	RO 1029(8)	RO 1029(8)
A.117171	Pte EBARE D A	2 yrs imp	RO 1029(8)	Some other par of RO 1029
A.102094	Pte VIBLER WW	2 yrs imp	RO 1029(8)	Some other para of RO 1029
MILITARY DISTRICT No 2				
B.135241	Pte BLUE D	2 yrs imp h.l.	RO 1029(8)	Some other para of RP 1029
B.88114	TPR FISHER R	2 yrs imp h.l.	RO 1029(8)	RO 1029(8)
B.111780	Pte FERRANDO J A	18 mos imp h.l.	RO 1029(8)	Some other para of RO 1029
B.35629				
B.64				

B.55629	Pte LEDUC A J	2 yrs imp HL	RO 1029(8)	Some other para of RO 1029
B.64536	Pte LUCAS G E	2 yrs imp HL	RO 1029(8)	Some other para of RO 1029
B.77066	Pte McKLE S A	2 yrs imp	RO 1029(8)	Some other para of RO 1029
B.11068	Pte Parker R A	1 yr detn	RO 1029(8)	RO 1029(8)
B.83274	Pte STEELE S	18 mos imp HL	RO 1029(8)	RO 1029(8)

MILITARY DISTRICT No 4

D.138993	Pte BEAUCHAMP JA BG	2 yrs imp HL	RO 1029(8)	Some other para of RO 1029
D.58005	Pte BEYRIES R	2 yrs imp LH ign	RO 1029(9)	RO 1029(9)
D.118872	Pte DUFRESNE A	2 yrs imp	RO 1029(8)	Some other para of RO 1029
D.1546	Pte MORGAN C R	18 mos detn	RO 1029(8)	RO 1029(8)
D.59494	Pte PAGEAU JYB	10 mos imp HL	RO 1029(8)	Some other para of RO 1029
D.132971	Pte SCOTT JTJO	18 mos detn	RO 1029(8)	Some other para of RO 1029
D.141325	Pte ST. LOUIS E	2 yrs imp HL	RO 1029(8)	Some other para of RO 1029.

MILITARY DISTRICT No 5

E.101303	Pte CASISTA M	18 mos imp HL	RO 1029(8)	RO 1029(8)
D.23036	Pte FOURNIER J J	18 mos imp HL ign	RO 1029(9)	RO 1029(9)
E.5736	Pte JOBIN R	2 yrs imp HL	RO 1029(8)	RO 1029(8)
E.5187	Pte NICOL H	2 yrs imp HL	RO 1029(8)	RO 1029(8)
E.68004	Pte SYLVESTRE A	2yrs imp HL	RO 1029(8)	Some other para of RO 1029.

MILITARY DISTRICT No 8

F.51501	Pte BOUDREAU E W	2 yrs imp	RO 1029(8)	Some other para of RO 1029
F.78215	Pte DOUCETTE L S	2 yrs imp HL	RO 1029(8)	Some other para of RO 1029
F.91416	Spr FINLEY E J	11 mos detn	RO 1029(8)	RO 1029(8)
F.52562	Pte LAPIERRE G V	18 mos imp HL	RO 1029(8)	SOME other para of RO 1029
F.88270	Pte MacKAY J E	2 yrs detn	RO 1029(8)	RO 1029(8)

MILITARY DISTRICT No 7

G.2061	Pte ALBERT E	2 yrs imp	RO 1029(8)	Some other para of RO 1029
G.18413	Pte LAVIGNE A	18 mos imp	RO 1029(8)	Some other para of RO 1029
G.32262	Pte MacDONALD C A	2 yrs imp HL	RO 1029(8)	RO 1029(8)
G.22107	Pte PARKER V S	18 mos imp	RO 1029(8)	Some other para of RO 1029
G.4612	Pte RACKLEY R S	18 mos imp HL	RO 1029(8)	Some other para of RO 1029

MILITARY DISTRICT No 10

H .103162	Pte MacNIVEN N L	2 yrs imp	RO 1029(8)	Some other para of RO 1029

PACIFIC COMMAND

K.63078	Pte JEWELL CC	18 mos imp	RO 1029(8)	Some other para of RO 1029

MILITARY DISTRICT No 12

L.8870	Pte McNABB A R	15 mos detn	RO 1029(8)	RO 1029(8)
L.27779	Rfm NILSSON N C	2 yrr detn	RO 1029(C)	RO 1029(8)
L.106808	Pte WHITE R G	2 yrs imp HL	RO 1029(8)	Some other para of RO 1029.

MILITARY DISTRICT No 13

M.59036	Pte MacPHERSON J M	2 yrs imp HL	RO 1029(8)	RO 1029(8)
M.17258	Pte OSTBY B C	3 yrs PS	RO 1029(8)	Some other para of RO 1029.

4. The above soldiers will be despatched from 89 Military Detention Barracks to their home District Depots for discharge under suitable escort to be arranged by the DAPM, MD 3, such escort being provided from 89 Military Detention Barracks or 33 Coy, C Pro C.

5. It is requested that after arrival at the various home District Depots the GOC-in-C, Pacific Command, or District Officer Commanding concerned, will arrange the soldier's discharge. In this connection this Headquarters has shown opposite the name of the soldier to be discharged the recommendation as to how the discharge is to be carried out by CMHQ and directly opposite this the District Officer Commanding, MD 3, has made his own recommendation as to how such personnel should be discharged which in some cases does not agree with the recommendation of CMHQ.

6. The recommendation of the District Officer Commanding, MD 3, has been made after careful review of Army Form A3104, the Review Sheet, the conduct of the soldier under sentence while in detention, the seriousness of the offence committed while on Active Services and whether or not the soldier has been wounded in the Front Line or rendered effective service in the Front Line and that his offence while serious before the cessation of hostilities, the reason for exemplary punishment does not exist to the same extent now and it is felt that an injustice would be done by having such personnel discharged under RO 1029(B) and forfeit gratuities they have earned. However, according to instructions from National Defence Headquarters the exact paragraph of RO 1029 under which the soldier under sentence is to be discharged is at the discretion of the GOC-in-C, Pacific Command, or the District Officer Commanding where the discharge of the soldier under sentence is to be carried out.

7. In cases where the District Officer Commanding, MD 3, has recommended the discharge and remission of sentence where less than one-half of the sentence has been served it is considered after review of all the relevant circumstances that in the interests of justice such soldier should be discharged and sentence remitted. The suggestion from National Defence Headquarters which states that a soldier's sentence* has been taken as a guiding principle and not as a hard and fast rule, it being considered that the suggestion of National Defence Headquarters in these cases may be varied when circumstances so warrant.

8. In the case of soldiers who have been sentenced to discharge with ignominy this is considered a material part of the sentence of a judicial tribunal and therefore the District Officer Commanding, MD 3, while recommending a reduction in the length of sentence to be served concurs in the other part of the sentence under which such soldier is discharged with ignominy under RO 1029 para 9.

9. It is requested that after arrival at the various home District Depots for discharge the GOC-in-C, Pacific Command, and the District Officers Commanding concerned will arrange for the remission of sentence of these soldiers as set out under HQC 9039-1-1 Adm 3 dated 15 June 45 which allows remission of one-half the sentence and that such remission be made effective the date of discharge.

10. The AJAG, MD 3, will prepare the necessary Order of Release and forward it to the Commandant, 89 Military Detention Barracks.

11. The DS & TO, MD 3, will issue the necessary transportation.

* may be remitted after he has served one-half of his sentence

12. The above mentioned soldiers will cease attachment to 89 Military Detention Barracks and be struck off strength 3 District Depot to the various District Depots for discharge effective the date they are despatched to their home Distric Depots in accordance with instructions received from Nationa Defence Headquarters.

13. The Commandant, 89 Military Detention Barracks, will adivse this Headquarters when the above personnel are ready for despatch in order that the GOC-in-C, Pacific Command, and the various District Officers Commanding concerned may be advised of the arrival of this personnel at least forty-eight hours in advance.

14 The Officer in charge, 2nd Echelon (Central), Brockville, will be requested by wire to forward the documents of the above mentioned soldiers immediately to the various home District Depots.

15. In cases where Army Form A3104's and Review Sheets are not available at this Headquarters, National Defence Headquarters will be requested by wire to forward the same by Special Delivery to the GOC-in-C, Pacific Command, or the various District Officers Commanding concerned.

16. After sentence has been remitted and the soldier discharged the GOC-in-C, Pacific Command, and the various District Officers Commanding are requested to make the necessary entry in Army Form A3104 and forward direct to National Defence Headquarters, in care of Major Parlee, Administration Branch, National Defence Headquarters.

" W K MacGregor, Maj"

for (W. K. MacGregor) Major,
DAAG, MD 3

mu

Copies to: Secty - DND,
DOC, 1, 2, 4, 5, 6, 7, 10, GOC-in-C, Pac Comd, MD 12, Md 13, and OC District Depot 13.

HQC 55- M-1683 (CMBR-1)/ecb
12 Sep 45
Case No 78

PAGE 1.

REVIEW OF SENTENCE

1. No, Rank and Name: H.103162, Pte. MacNiven, N.L.

2. Unit at date of offence: Irish Regt of Canada - CMF

3. Charge: AA Sec 5(7) - W.O.A.S. - Behaving so as to show cowardice in the face of the enemy in that when ordered to move in an operational ~~move~~ role, deserted his section.

AA Sec 5(7) - W.O.A.S. - Behaving before the enemy in such a manner as to show cowardice, that when ordered to carry rations to his Coy in the line,, left ration vehicle and hid, refusing to join the ration party.

4. Place and Date of Trial: In the Field - Italy - 4 Oct 44

5. Finding: Guilty

6. (a) Sentence: 2 years' imprisonment W.O.H.L.

(b) Date of Sentence: 4 Oct 44

7. Date of Confirmation: 6 Oct 44

8. Date of Promulgation: 28 Oct 44

9. Being served at 89 MDB in MD 13

(N.B. - Discharged under RO 1029 ( ) for wef).

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 Case No _____

(In simple cases this sheet need NOT be used - See ITEM 12).

PRECIS OF PROCEEDINGS

10. (a) Prosecution: Proved case adequately.

(b) Defence: Accused testified? Yes xx

Under oath? Yes xxx

Accused claims that while on the road with rations that he was shelled and took cover in a nearby house, and that when ordered to leave the house said that he could not take it any more and went to the RAP for some pills. The following day accused was about to be taken back to the line when he told the N.C.O. he could not take it and was placed under arrest.

(c) Closing address by Defence in mitigation of punishment, etc. By accused

By Defending Offr

Accused's M.F.M.6 is clean. Has been in action for nine months and performed satisfactorily until the past few days when undergoing heavy shelling and mortaring seemed to have cracked up.

Case No----------

CONDUCT

11. (a) Prior to conviction: Excellent

Date of enlistment: 9 Nov 42

Date of enrolment: Age: Unknown

(b) After conviction: Good. Earned full remissions to date. Earliest date of release 3 Feb 46.

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12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

N.A.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC Reviewing Offr, etc).

CMHQ: To serve full sentence and to be discharged for misconduct.

RO: Release on 1 Nov 45.

Reviewed by [illegible] Capt

14. Recommendation of the Board

Immediate Release.

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Date OCT 11 1945

[illegible] Major
Secretary
Courts-Martial Board of Review

EN/EB

File: K.55-Mc-3947-C (DAPM)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

CONFIDENTIAL

KINGSTON, Ontario, 2 Oct 45.

CENTRAL REGISTRY Army
CONF. SEC.
OCT 9 1945
861
C55-Mc-1683
CMBR 10-9-45
CmBR

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

ATTENTION: Major W.A. Stilwell

H.103162 Pte. MacNIVEN, N.L.

Ref: HQC 55-M-1683 (CMBR) d/1 Oct 45.

2. The case of the marginally named soldier has been reviewed at this District Headquarters and arrangements are being made to have the marginally named soldier returned to his home District Depot for a remission of his sentence and ultimate discharge from the Canadian Army. This soldier will be despatched to his home District Depot during the month of October 45 in order that the above mentioned action may be carried out.

C Watts Major,
for (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

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DEPARTMENT OF NATIONAL DEFENCE
- Army -

EQC 55-M-1683 (ICM)

NDHQ Ottawa, Ont

25 Jul 1945

District Officer Commanding

Military District No 3

Kingston, Ont.

CONFIDENTIAL
F.G.C.M.

H.103162 Pte MacNIVEN Norman Lloyd

MDB 89
Ref

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford),
Major-General,
Adjutant-General.

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E.Q. C.55-M-1683
M.D. 10/MacNiven, NL/1

GS 31

FIELD GENERAL
MEMORANDUM - DISTRICT COURT-MARTIAL

No. H.103162 Name MacNIVEN, Norman LLoyd

Rank Pte Unit The Irish Regt of Can CAO

Charge (1) A.A. 5(7) Misbehaving before the enemy

(2) A.A. 5(7) Misbehaving before the enemy

Date of Crime (1) 27-9-44 ; (2) 28-9-44

Date of Arrest (Charge Signed 3-10-44

Orders for FG D.C.M. Lt Col Comd The Irish Regt of Can

Place and Date of Trial In the field; 4-10-44

Sentence Imprisonment 2 yrs.

Date of Confirmation 6-10-44

Date of Promulgation 28-10-44

Entered in Records of J.A.G. as No. 3647

Date 14-5-45

MEMO. [illegible]

Reviewed at CMHQ Balance of sentence remitted by Conf. Auth. 24-8-44

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[illegible]

for Judge Advocate-General

10M-1-45 (M-4629)

Quote No. H.Q.C.55-M-1683
(JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada
21st May 1945.

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial

H.103162 Pte. MacNIVEN N.L.

1. Receipt is acknowledged of your 10/MacNiven N L/1 dated 10th April 1945, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted.

Receipt is also acknowledged of A.F. A3104 in respect of the m/n F.G.C.M.

WBB:ELM

E.L.M.
Capt
for (R.J. Orde), Brigadier,
Judge Advocate-General.

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HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

7 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

H.103162 Pte MacNiven N.L.
SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 29 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of imprisonment

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

for (A E Walford) Major
Major-General
Adjutant-General

Encl. 3

BOMBER
CONFIDENTIAL.

AIR MAIL

Quote No. 10/MacNiven N L/1

CANADIAN MILITARY HEADQUARTERS

The Secretary,
Department of National Defence,
OTTAWA, Canada.

LONDON

10 Apr 45.

H.103162 Pte MacNiven, N. L.

6-55-M-1683

1. The m/n soldier is now serving a sentence of two years imprisonment without hard labour awarded by FGCM 4 Oct 44 for two offences under A.A.Sec 5(7). He has so far earned full remissions for good conduct while serving his sentence and the earliest date on which he should be released, if he continues so to do, is 3 Feb 46.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and SPO have examined this soldier, and in making the direction and recommendations herein their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the serious nature of the two offences of which this soldier has been convicted, and the necessity for exemplary punishment in such cases it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029, and it is so recommended. This soldier clearly refused to carry on in action. It is considered that he must have been aware that he would be severely punished for his offences and that such punishment would probably lead to discharge for misconduct.

6. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 4 Oct 44, original A.F.A3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E. G. Weeks) Major-General
In Charge of Administration
Canadian Military Headquarters.

Enc. 4.

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1/39a CMHQ 1000-76
40/P & S/805 (6739)

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS H.103162 Pte. MacNiven, N. L. of Ir RC was by Field General Court-Martial held in the field convicted of the offence(s) of misbehaving before the enemy in such a manner as to show cowardice (2 charges) and by a sentence signed on the 4th day of October 1944 sentenced to undergo imprisonment for 2 years

said sentence of imprisonment commencing on the aforesaid day, and such sentence has been confirmed by Comd, 11 Cdn Inf Bde as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 10th day of April 1945.

(Beverley Matchett) Brigadier
Deputy Adjutant General
Canadian Military Headquarters.

RECEIVED 28 NOV 1944

RECORDED AT CMHQ IN AB 160 (CFA96 (To Dep Dir AFAG) 40/P & S/14AB (2864))

FIELD GENERAL COURT-MARTIAL

Convened by Order of Col. R.C. Clark Comd Rm Lanc Regt dated Oct 3/44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H103/62	Pte		NORMAN LLOYD	MacNivin	Rm Lnk Regt of Canada

PROCEEDINGS REVIEWED 1 Dec 44

REVIEWING OFFICER, JAG/BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) Oct 4/44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

2D 39

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 10 00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(2), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	A/Maj.	N.H. SHAW	Rm Lnk Regt
Member	A/Capt.	G.J. WOOD	"
Member	Lieut.	R.M. WHICHER	4 Cndn A/Tk Regt.
Judge-Advocate		NONE.	
Prosecutor		NONE.	
Defending Offr	A/Capt.	R.J. LANCASTER	Rm Lnk Regt of Canada.

Questions by President: ~~Is the Prosecutor a lawyer? Ans~~ Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea ..... (1)

Pris to trial.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CFA96 (In lieu of AFA8)
4/P&R/1697 (3668)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H103162	Pte		NORMAN LLOYD	MacNivin	The Irish Regiment of Canada.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) Oct 3/44 endorsed by me, (~~or by an offr of my staff for me~~). "To be tried by Field General Court-Martial" fell

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified~~ offr.) fell

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto. fell

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ fell

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
A/Maj.	N. H. SHAW	The Irish Regiment of Canada.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A/Capt.	G. J. WOOD	The Irish Regiment of Canada
Lieut.	R. M. WHICHER	4 Canadian Armd Tank Regiment.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	None.	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	None.	

On Active Service in the Fd

in Italy (Country.)

Date Oct 3/44.

(Signed personally. RP 106(Fn 2)) H. C. Clark (Rank.)

Commanding The Irish Regiment of Canada Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

14

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 759.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

WB

Charge Sheet

The accused H 103162 Pte Norman Lloyd MacNiven, The Irish Regiment of Canada, a soldier of the Canadian Army on active service, is charged with:

First Charge
Sec 5-(7)
AA.

Misbehaving before the enemy in such a manner as to show cowardice in that he

on the 27th September 1944, when ordered to move with his section in an operational move, deserted his section.

J1

Pte. MacNiven.

Second Charge. Misbehaving before the
Sec 5 (7) enemy in such a
Army Act. manner as to show
Cowardice
in that he

on September 28, 1944, when ordered to help carry rations up to his company, left the ration vehicles and hid in a house, refusing to rejoin the ration party.

To be tried by F.G.C.M.

R C Clark 20

Oct 3/44. Cmd. Inf. Regiment of Canada

MEDICAL CERTIFICATE

" I certify that I have this ~~xxxxxxx~~ afternoon examined No H.103162.....

Rank PTE. Name. MACKIVEN N.L. Unit, THE IRISH REGT OF CANADA

and in my opinion HE is fit/~~unfit~~ to undergo trial by court martial.

Station IN THE FIELD.

Date 16 Oct '44

Francis Major
(Medical Officer)
7 Cdn Lt Fd Amb.

18

Mac Niven

Irish Witness for Prosecution. WWS (1)

C 65504 Cpl Graham J. L. P., Royal Irish Regiment of Canada, having been duly sworn, states:

~~that~~ I was on the 27 Sept 1944 acting as platoon sergeant of No 12 platoon, of which Pte MacNiven is a member. At that time the platoon, together with the rest of 'B' Coy had been withdrawn from Sans Souci to the river Uso and had consolidated for a further attack. At that time Pte MacNiven was with the platoon. Together with some other men he was in a little shed in getting over his

equipment when he moved off
and ordered him to follow along.
At the completion of the move, which
was a flanking movement on San Mateo,
Pte MacNeven was common into about
a platoon and a section of the company
was missing. Account for this by the
fact that we had been heavily attacked
with small arms on the way up and
everybody had scattered. The entire section
i.e. No 7 section to which Pte MacNeven
was attached, was missing but rejoined
the company by 12.00 hours the following
day. MacNeven, however, was
not with the section when it rejoined

the company. Enquiries from the section leader, Cpl Stunnell, who is now a casualty and could obtain no satisfactory explanation. I have not seen Mac Niven until yesterday, the 3rd of October when I sent him at Battalion Tac HQ.

There was no cross examination of the witness.

15

B42004 Second Witness for Prosecution. (4.)

Sergt. Cullaton A.C., The Irish Regiment WHS.
of Canada, having been duly sworn
states:

I am a platoon sergeant of the battalion
Scout platoon, and during the last operation
was stationed at Battalion Tac H.Q.
On the afternoon of Sept 28 I checked
the personnel at Tac HQ and found
3 "B" Coy men, among them Pte
MacNeiven. He had no explanation
of his presence at Tac H.Q. At
about 1630 hrs. a carrying party
was required to get rations into
"B" Coy. I detailed Pte MacNeiven and
two other B Coy men for this job and
ordered them to get on the rations

fire, which then fanned away. WWS.

The following morning I was walking up the road toward "B" Coy. when I saw Pte MacNeiven with 2 other men being taken up the road by a corporal of the Medical Section. They broke away and went into a nearby house. I went into the house and told MacNeiven to come up but he refused and said he couldn't take it. I accordingly took him and the two other men back to Tac HQ where they were placed under arrest. There was no shelling at the time they went into the houses.

The medical Corporal called to the house to Consider, and eventually W.B. took their warrant & left with the remainder of the parties.

There was no cross examination of the witness.

Third witness for prosecution (7)

B79259 Pte Golden F.J. The British HWS.
Regiment of Canada having been duly
sworn states:

I am the driver of the "B" Coy rations
pack which carries food to the men
in the lines. On Sept 28 about about
1630, I brought the pack up to Tacaltio
together with the stretcher bearers. Since it
was necessary to manhandle the rations
part of the way, I ordered the following
in charge of Tacaltio for a carrying
party. I was given a party of three
men, Pte MacNicoll being one of them.
We proceeded some distance along
the road, when shelling began on

short distance away. I stopped the
fire and we took cover. The accused
and his two companions went into
a nearby house. When the shelling
stopped I went into the house and
asked them to come along. The accused
said he would not come, he couldn't
do it. The storm then proceeded up to
"B" Coy and delivered the return having
made arrangements to pick the accused
and the other man up on our way
back. When we got back they were
no longer there. I saw Mac Nivin the
following day under arrest at Main
H.Q.

There was no cross examination of the witness

Fourth witness for the Prosecution. WWS. (9)

Capt. W. B. Spaffard, Medical Officer The Irish Regiment of Canada, having been duly sworn states:

On the evening of Sept 28 at about 2030 hrs. Pte MacNeice with two other soldiers came into the R.A.P. & said that they were too nervous to go up to the front. I explained that nervous cases were not evacuated but that I would see that they got an infinite sleep. They slept at the R.A.P. that night & the following morning I sent them to Tec HQ for transfer to their company. In my opinion Pte 9

MS. (10)

MacNicoll, therefore understanding reasons
why he came into the R.A.P., was
not a medical case. I examined him
the following morning and in my
opinion he was fit for duty.

There was no cross examination of the
witness.

Prosecution's case closed.

Defence WB. (11)

Fresh Witness

H 103162 Pte Norman Lloyd MacNivin, The Irish Regiment of Canada, having been duly sworn states;

On the 27 Sept, when the Company moved in, my section leader, Corporal Stewart told me to come along, and I told him I couldn't take it. Four of us stayed behind in a house. We stayed there until the house got hit, and then moved to another house. That house was sent back to Tac HQ. The following day I reported to the Officer in Charge of Tac HQ and told him

I had left all my equipment in the house when it was shelled. He sent me back to "A" Echelon to be re-equipped. I was re-equipped at A Echelon, and returned to Tac H.Q. - There I found 2 other men were detailed to the ration party to carry rations into the Company. We got down the road a bit when shelling started. Then two other men and I went into a nearby house. Later the jeep driver came into the house and called us, but we told him we couldn't take it. He went on and we returned to the R.A.P.

When we were Gerian Somme WWS. fields and told to stay there for the night and we would be looked at by the M.O. in the morning. The next morning the medical corporal and the sergeant of the scout platoon stated to take us back to the company. We told them we couldn't go on and were taken back to T.C. H.Q. The scout sergeant yelled at us that we could take it and faked a faint towards from a Tommy Gun. That is all.

Defence case closes.

5

Address of Defending Officer MB (54)

The accused has been in the army since Nov. 9/42. He came to this theatre and was with the unit when it first went into the lines in the middle of January 1944. Since that time he has been in the lines with this unit in all its actions. However, there had been no previous complaints as to his behaviour in the lines until the last few days, when the extremely heavy mortaring & shelling became too much for him to stand.

4

MFM 6
(AFB 122)
40/P&S/136 (3438)

NoH 10316 Name MacNiven, N.L. Sqn. Battery or Company | Corps CIC | Date of enlistment 9/11/42 | GC Badges NA | Service or Proficiency Pay NA

Date of last entry in Company Conduct Sheet NA | No and date of last drunk NA | Period not reckoning towards freedom from extra fine NA | Sheet No 1 | Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy from the Regimental books in my custody F C Whyte, Capt & Adjt The Irish Regiment of Canada					

Entered L. H. Smith a/Maj.

(PTO)

3

Certificate of Suspension of Rules of Procedure.

I certify that in the case of H 103162 Pte Norman Lloyd MacNeill, The Irish Regiment of Canada, that exigencies of the service, namely the fact that the regiment is engaged in active operations, prevents observance of R. P.s 4(c)(d)(E)(F) and (G) 5, 8, 14, 15, and 87(b)

Oct 3/44

R C Clark
Cmd. The Irish Regiment of Canada

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1) ans

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. ~~The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ Not

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Wish to give evidence on oath. Do you intend to call witnesses on your behalf? Ans. No Are they witnesses as to character only? Ans. —

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the Both charge(s), being subject to confirmation, will be promulgated later.(1)

Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~ As

(1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)~~ Ans. Not ans

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

ans E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. 1 and Ex. ..... respectively.(3) ans

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 3647 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 18 day of May 1943

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H103162 Pte MacNiven N. L.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd	Not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2. RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

Was present under sentence for ..... beginning on (date)* ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Two (2) years imprisonment without hard labour.

(Sgd) ..... Judge-Advocate, if any. Oct 4/44. Date awarded. (Sgd) H. H. Sparks President (RP 45, 50.) Maj.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding & sentence of the court

~~I direct that the accused~~ be not committed to prison or detention barracks until further orders (1)

(1. AA 57A. Delete if not used.)

(Sgd) H. Cleaf

Date 6 Dec 44 Commanding R. C. CLARE, LT.-COL. THE IRISH REGIMENT OF CANADA Confirming Officer.

Sentence Confirm the finding and sentence of the Court. Lt Johnston Brig.

28 Oct 44. COMD. 11 CDN INF BDE.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H103162 Pte. MacNiven, N L	28 Oct 44	F C Whyte, Capt & Adjt The Irish Regiment of Canada.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

H.Q.C. 55-M-1684

CONFIDENTIAL

N.F.B. 3018

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

MCDIARMID. DUNCAN HARVEY C.77978 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1684

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and note here "With Minute")		
				D. Adm.	NEW FILE C.R.		APR 20 1945
MAY 29 1945	28 5 45	P.A.	C.L.M.	JAB	passed	wof	7-5-45
JUN 25 1945	28.6.45	PA	wof	Admin	Per Disposition C.R. JUN 23 1945		
JUL 26 1945		PA		G. C. Iwi.			
SEP 12 1945	11 9/45	PA		W.G.Raw.	Per Disposition C.R. SEP 7 1945		
				CMBR	Per Disposition C.R. SEP 18 1945		
				AC		was	OCT 22 1945
OCT 27 1945	17.4.46	PA	GSB	Adm	Passed for	GSB	20.10.45
				JAB	With Papers C.R. NOV 19 1945	OK	
NOV 20 1945	22.11.45	PA	GSB	Adm	for your		20.11.45
NOV 22 1945							
FEB 15 1946	14/2/46	PA	GSB	Admin	Per Disposition C.R. FEB 13 1946		
MAR 21 1946				JAB	With Papers C.R. MAR 19 1946	OK	
MAR 20 1946	20-3-46	PA					
APR 17 1946	16/4/46	PA		Adm	Per B. F. APR 17 1946		14/3/46
MAY 23 1946	MAY 23 1946	PA	was	OAB	Per Disposition MAY 8 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C.77978 Pte Duncan Harvey McDIARMID IRC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date).~~ "WMWS" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 32 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for a term of four years.

(Sgd) "WMW Shaw Capt" 19 Jan 45 (Sgd) "D.M. Chisholm Major"
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation.

Date 20 Jan 45 (Sgd) "H.C. Clark" A/ Commanding 11 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

"I confirm the finding and sentence and I direct that a part of the sentence not exceeding two years shall be served in a military prison"

~~IT IS THE DIRECTION OF THE CONFIRMING OFFICER THAT DUNCAN HARVEY McDIARMID RECEIVE NO PAY~~
(1. AA 57A. Delete if not used.)

(Sgd) "E.C. Weeks" Major-General
IC Administration
Date 9 Feb 45 Commanding CANADIAN MILITARY HEADQUARTERS
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C-77978 Pte McDiarmid, D.H. Irish Regt of Canada	9 Mar 45	E.R. Crawford Capt 1st Cdn Reallocation Centre EA(CMA)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY
[illegible] SWORD
Capt
Cdn GHQ 2 [illegible]
11 Apr 45

RECORDED AT CMHQ IN AB 169 4X-106

FIELD GENERAL COURT-MARTIAL

CFAA8 (In lieu of AFA3) to P.&S.-1600 (2864)

Convened by Order of Brig I.S. Johnston, DSO BD Comd 11 Cdn Inf Bde dated

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.77978	Pte	Duncan Harvey	McDIARMID	IRC

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 19 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnm ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0945 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ "WMWS"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused:—Do you object~~ to ..... ~~as interpreter I—Ans.~~

~~The Interpreter is sworn.(1)—Do you object to~~ "WMWS" ~~as shorthand writer I—Ans. The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.M. Chisholm	CBH
Member	Capt	G.S. Bould	PLF
Member	Capt	P.F. Fisher	Perth
Judge-Advocate	Capt	W M W Shaw	H.Q. 5 Cdn Armd Div
Prosecutor	Capt	F. Whyte	IRC
Defending Offr	Lt	H.G. Herman	IRC

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea "WMWS" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

"WMWS" A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.) "WMWS"

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No Sir .....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on~~ "WANS" ~~charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

"WANS" B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is ~~(are)~~ not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

"WANS"

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

"WANS"

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans..... Do you intend to call witnesses on your behalf ?

Ans..... Are they witnesses as to character only ? Ans.....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(c).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No Sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes thru def offr.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C.77978 Private Duncan Harvey McDIARMID, The Irish Regiment of Canada, a soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE
Sec 12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

in that he

In the Field on the 11th December 1944 when his Company was in a forward area under enemy shell-fire with intent to avoid service in such area, absented himself without leave from approximately 0130 hrs. 11 December 1944 until surrendering himself to the Regimental Police at Mezzano at 1800 hrs. 14 December 1944 (Total absence 3 days, 16 hrs 30 mins.)

In the Field
10 January 1945

"R.C. Clark"
(R.C. Clark, Lt Col)
Comd The Irish Regiment of Canada.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

Field
15 Jan 45

"Ian S Johnston"
(I S Johnston) Brig
Comd 11 Cdn Inf Bde

"[illegible]"
"C"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA9)
40/PAS/1597 (2969)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.77978	Pte		Duncan Harvey	McDIARMID	IRC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on *(date)* 15 Jan 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ". "ISJ"

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).) "ISJ"

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ "ISJ"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D.M. Chisholm	CBH

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G.B. Bauld	PIP
Capt	P.F. Fisher	Perth

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	C.D. McQuarrie	HQ 11 CIB

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	W.M. W Shaw	HQ 5 C A Div

On Active Service in the Fd

in Italy (Country.) "Ian S. Johnston (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 15 Jan 45 Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.) "WdS" "DC"

CERTIFIED TRUE COPY OF MFM 6 MUST ACCOMPANY THIS FORM

The following is the correct form of medical certificate to be used for trial. The accused must be examined the morning of each day he is on trial and a Certificate obtained on each such day.

I certify that I have this morning examine No. C.77978 Rank Pte Name McDIARMID D H ..... and in my opinion he is fit to undergo trial by Court Martial

Station Field "undecipherable"
Date 19 Jan 45 "WMWS" (Medical Officer)

K.R. (Can) 577

On arraignment acst states his regtl number is "C"77978 Court amend charge sheet accordingly under provisions of RP 33.

Def Offr in mitigation:-

Very serious charge but acsd has preferred to plead guilty. Court have informed him fully of seriousness of charge & punishment. Joined voluntarily & has given 3 yrs service. Up to this offence has always been a good soldier & worked satisfactorily. In view of record & age of acsd & in view of his having just been transferred to a rifly Coy & being nervous under shell fire I ask Court for leniency.

No previous crimes so not too much to ask for leniency.

"WMW SHAW CAPT".

SUMMARY OF EVIDENCE

in the case of

B.77978 Private Duncan Harvey MCDIARMID, The Irish Regiment of Canada, a sodleir of the Canadian Army, placed on Active Service

Charge:

(1) When on Active Service Deserting His Majesty's Service.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS: M.53303 Sgt. Ferrier, H.N., The Irish Regiment of Canada, having been duly sworn, states:
"I am M.53303 Sgt. Ferrier, H.N. I am Platoon Sergeant of No. 14 Platoon of which the accused, Pte. McDiarmid is a member. On the 10 December 1944 at approximately 2330 hrs. "C" Company was ordered to advance from Mezzano to an assembly area. We did this and arrived at the assembly area at approximately 0030 hrs. 11 December 1944. During this move we were under enemy shell-fire. At 0130 hrs., 11 December 1944 we moved forward from our assembly area to pass through a bridgehead at the Lamone River, established by the Perth Regiment and prior to moving I checked the Platoon personnel and Pte McDiarmid was absent."

Officer taking the Summary questions the witness.

Q. When the Company left Mezzano was Pte McDiarmid Present?
A. Yes, Sir.
Q. When the Company arrived at the Assembly area was Pte McDiarmid Present?
A. I can not say definitely, Sir, Because Idid not check the platoon personnel until we left the assembly area at 0130 hrs., 11Dec1944.
Q. Therefore, Pte. McDiarmid absented himself between 2330 hrs., 10 Dec 1944 after leaving Mezzano and 0130 hrs 11 Dec. 1944 prior to leaving the assembly area?
A. Yes, Sir.
Q. Prior to leaving Mezzno was Pte. McDiarmid aware of the coming action.

Cont'd Summary of Evidence.

and the part "c" Company was to take in it?

A. I warned the Platoon prior to leaving Mezzano at which time Pte McDiarmid was present.

"H.M. Ferrier".

The accused declines to cross-examine the witness.

SECOND WITNESS: B.79052 Sgt. Crawford, N.L., The Irish Regiment of Canada, having been duly sworn, states:

"I am B.79052 Sgt. Crawford, N.L. of the Regimental Police. I was on duty at "A" Echelon at Mezzano when the accused, Pte McDiarmid, D.H. surrendered himself to me at 1800 hrs. 14 Dec 1944.

"Norman Crawford"

The accused declines to cross-examine the witness.

"A" "WMWS"

-2-

Question to the accused.

Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused.

"I have nothing to say,".

"D.H. McDiarmid"

I certify that rules of Procedure 4 (C) (D) (E) and (F) have been complied with. Taken down by me in the presence of the accused, in the Field this 10th day of January 1945.

"A Falzetta, A/Capt."
(A Falzetta) A/Capt.
The Irish Regiment of Canada
Officer detailed to take Summary of Evidence.

"A" "WMWS"

Substitude for AFB 296
or MFB 356

STATEMENT OF CHARACTER PARTICULARS OF SERVICE OF ACCUSED.

No.C.77978 Rank Pte Name McDiarmid D. H. Unit I R C

Age 30 Married or Single S No of Dependents Nil

Date of attestation 1 May 1942.....

Number of days in close arrest awaiting trial 32

Civil.....Military ...32.....Hospital Total 32

Dates of appointments, promotions, etc. (If any) Nil

Decorations N/A

In the Field 19 Jan 45..
Date.....,.....

"B" "WMWS" "F Whyte Capt & Adj"
Officer i/c Regt'l Books.

MFM 6
(AFB 122)
40/PAD/126 (3438)

No C77978 Name MCDIARMID DH | Sqn, Battery, or Company | Corps CIC | Date of enlistment 1/5/42 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				"NIL"					
				"F. Whyte Capt" Certified true copy.		"C"	"WMWS"		

(PTO)

INFO V LIII SRL 83

FROM CANSILIFHY 071735

TO CDR OZ E CHF

J66 REFTD REF YOUR CHGH/BJA/61 FROM PROCEEDINGS MODIFIED BY REVIEWED BY BGA 9 FEB 45 QUOTE I CONFIRM THE FINDING AND SENTENCE AND I DIRECT THAT A PART OF THE SENTENCE NOT EXCEEDING TWO YEARS SHALL BE SERVED IN A MILITARY PRISON UNQUOTE . THIS INFORMATION ALREADY SUPPLIED BY CABLE A1724 DATED 9 FEB 45

BT 072357 BA B

CC- READ " FINDING"

RD SRL 83 082XXXX 080085 SG E

CONFIDENTIAL

IN REPLY PLEASE QUOTE No.

K. 85- Mc-3948 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario. 16 March 46.

CENTRAL REGISTRY Army
CONF. SEC.
12699
MAR 18 1946
File 85-M-1684
Chgd. to
Referred to

The Secretary,
Dept. of National Defence,
OTTAWA, Ontario.

REMISSION OF SENTENCE
C-77978 Pte. McDiarmid, D.H.

Enclosed herewith, Remission of Sentence together with Army Form A-3104 in respect of the marginally named.

for W.C. Leach Maj
(G.A. McCarter) Brigadier,
District Officer Commanding.
Military District No. 3.

noted
JCR

/EC.
Encls.

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. C-77978 Pte McDIARMID DH Unit Irish Regt

Sentenced to Four years penal servitude on 19 Jan 45

Age on, and date of enlistment ..... Term of service DURATION

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20819) Wt.46672/276 500,000 2/45 A.& E.W.Ltd. Gp.699 Form A.3104/12

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	No Remission Return to Canada in Custody Under Sentence	(Beverley Matthews), Brigadier, A/ Deputy-Adjutant General, Canadian Military Headquarters 8 APR 1946	
11Mar46	REMIT WEF 12 MAR 46	(G.A.McCarter)Brig., DOC MD 3.	

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. 1st CHARGE Sec 12(1)(a) A.A. WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE, in that he, In the Field on the 11th December 1944 when his Company was in a forward area under enemy shell-fire with intent to avoid service in such area, absented himself without leave from approximately 0130 hrs 11 December 1944 until surrendering himself to the Regimental Police at Mezzano at 1800 hrs 14 December 1944 (Total absence 3 days, 16 hrs 30 mins.) Signature of Officer making entry.	11 Dec 44	19 Jan 45
VIII.—Second Trial. Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature

FORM FOR REMISSION, COMMUTATION OR
MITIGATION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-M-1684

District File No. K.55-Mc-3948-C

PART 1

No. C.77978 Rank Pte. Name McDIARMID, D.H.

Unit Irish Regiment of Canada

PART 11

Date of Trial : 19 Jan 45

Charge(s) : Desertion - AA Sec 12(1)(a)

Sentence : four years' Penal Servitude

Date of Sentence : 19 Jan 45

Confirmation - (a) Authority: Maj-Gen i/c Admin. CMHQ
(b) Date :

PART 111

R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence of the marginally named soldier after the 14th day of March, 1946, and direct that the accused be relieved of all consequences in respect thereof after the said 14th day of March, 1946, and that all records be amended accordingly.

Signed at Kingston, Ontario, this 11th day of MARCH 1946.

(G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No. 3.

PART IV

P R O M U L G A T I O N

Remission promulgated and extracts taken at Collin's Bay Penitentiary Collin's Bay, Ontario

this 15 day of MAR 1946

W. H. Craig
(Officer i/c Documents) Warden
Collin's Bay Penitentiary

(1)

(1) Unit, attachment and appointment to be stated

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART 11

No. Rank Name

Certified true extract of Daily Orders Part 11 of

No. Place Date

Adjutant

CERTIFICATE OF PROMULGATION AND RELEASE

I certify that this Remission of Sentence was communicated to C.77978 - Pte. McDIARMID, D.H. at the Collins Bay Penitentiary on the 15 day of March, 1946, and that the said C.77978 - Pte. McDIARMID, D.H. was released on that date.

W. T. Cowing
..... Warden.
Collins Bay Penitentiary.

HQC 55-M-1684
Adm 3(b)E

14 Feb 46

District Officer Commanding
Military District No 3
KINGSTON Ont

C.77978 Pte MCDIARMID D H

Ref this HQ letter numbered as above and dated 22 Nov 45.

2. Att hereto copy of letter which has been received from the m/n soldier. Your attn is invited to the postscript which has been added by the Warden, Collins Bay Penitentiary. This letter has not been ack and is fwd for any action you may deem necessary.

G.D.B.

(E G Weeks)
Major-General
Adjutant-General

GDB:sp

12th Feb 1946.

D of Admin.:

Attached letter for you pls. The only McDiarmid whose name appears on our list of SUS is C-77978 Pte D.H. McDiarmid, who was sentenced to four yrs penal servitude by court martial overseas on 19 Jan 45 -- file number H.Q.C. 55-M-1684.

ELM/6296

E.L. McCormack
Capt
for J.A.G.

File pls
GDB
13/2/46

CORRESPONDENTS ARE REQUIRED TO WRITE THEIR FULL NAME AND ADDRESS ON ALL LETTERS TO CONVICTS

COLLIN'S BAY PENITENTIARY

COLLIN'S BAY, ONT.

P.O. BOX 190, KINGSTON, ONT. DATE February 9th 1946

COLLIN'S BAY PENITENTIARY FEB 9 1946 CENSOR

Judge Advocate General
N.D.H. (Army)
Ottawa

Ex R. D. McDiarmid

Sir

I am writing to ask if you will please reconsider my case with a view of granting me release. up to the time of my crime, I had a clear sheet in my army record since I volunteered and was accepted May 1st 1942.

My family have always been held in esteem by the community in which they live and I can honestly say that my mistake was in a large way the result of my nervous condition caused by war service.

I have lost over ten pounds since coming here and I find myself in good health and always on edge.

I have stood by and seen the release of nearly all the boys I came with and I am anxiously waiting for the day when I can be home again with my folks I have never been in trouble before. In view of the fact that I have everything possible to lose by my mistake my gratuity and honorable discharge. I feel I have paid a very heavy price for my mistake. I am thirty-one years of age, am very anxious to rehabilitate myself as soon as is possible and look to the future.

Will you then please consider this appeal as presented with I hope your confidence in me to release me, and give me an opportunity to become a worthy citizen.

Yours Respectfully

Ex R. D. McDiarmid

NOTE

This convict is in good health and has gained five pounds in weight since admittance to penitentiary.

W. H. Craig
W. H. Craig,
Warden.

R.G 35-21-1684
Adm 3(a)3

OTTAWA, Ontario, 22 Nov 5

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

C.77978 Pte McDIARMID D H
Kingston Penitentiary

Ref letter herein d/24 Oct 45.

2. Attached hereto copy of letter which has been received from the m/n soldier. This letter has not been acknowledged and is forwarded for any action you may deem necessary.

G.B.B

(A. E. Walford)
Major-General
Adjutant-General

GDB/MA
Enc:

COPY

COLLINS BAY PENITENTIARY
COLLINS BAY ONT
PO BOX 190 KINGSTON ONT

DATE November 15/1945.

Sir:

I am writing to ask if you will please reconsider my case with a view of granting me release. Up to the time of my crime I had a clear sheet in my army record since I volunteered and was accepted May 1st 1942.

My family have always been held in esteem by the community in which they live and I can honestly say that my mistake was in a large way the result of my nervous condition caused by war service. I have never at any time been in trouble before.

In view of the fact that I have everything possible to lose, by my mistake, my gratuity and honourable discharge, I feel I have paid a very heavy price for my mistake.

I am thirty-one years of age, am very anxious about my future and seek to rehabilitate myself as soon as is possible.

Will you please consider this appeal as presented with I hope your confidence in me to release me, and give me an opportunity to become a worthy citizen.

Yours Respectfully

(sgd) Duncan H. McDairmid
C 77978

CORRESPONDENTS ARE REQUIRED TO WRITE THEIR FULL NAME AND ADDRESS ON ALL LETTERS TO CONVICTS

COLLIN'S BAY PENITENTIARY
COLLIN'S BAY, ONT.
P.O. BOX 190, KINGSTON, ONT.

4/

9915

DATE November 12 1945

C 55-M-1684

Sir.

I am writing to ask if you will please reconsider my case with a view of granting me release up to the time of my crime. I had a clear sheet in my army record since I volunteered and was accepted May 1st 1942.

My family has always been held in esteem by the community in which they live and I can honestly say that my mistake was in a large way the result of my nervous condition caused by war service. I have never at any time been in trouble before. In view of the fact that I have everything possible to lose, by my mistake, my virility and honorable discharge, I feel I have paid a very heavy price for my mistake.

I am thirty-one years of age, am very anxious about my future and able to rehabilitate myself as soon as is possible. Will you please consider this appeal as presented with I hope your confidence in me to release me, and give me an opportunity to become a worthy citizen.

Yours Respectfully

Duncan W. McDermid

C 77975

VER V CIA NR 2

FROM COMMANDING THREE KINGSTON ONT 261055R

TO SECTY DND OTTAWA ONT

GR 3[illegible]8 BT

KD 348 RESTRICTED

RELET HQC 55-M-1684 ADM 3(A) DATED 24 OCTOBER 45 REFERS

C77978 PTE MCDAIRMID D H ACKNOWLEDGED

BT 261318R WE

ATE C:::: PTE MCDIARMID

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO A.A.G. WOODS

BRANCH	TIME	SIGNATURE

RECEIVED OCT 26 1945 A.D.M.I.N. 2a

R.C.SIGS 637 NATIONAL DEFENCE BLDG OCT 26 1945 OTTAWA SIGNAL OFFICE

1707

26/10/45

68C

83579

705531

7

HQC 55-1-1684
Adm 3(a)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

AIR MAIL

OTTAWA, Ontario, 24 Oct 45

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

C.77978 Pte McDIARMID D H
CM Board of Review
Kingston Penitentiary

Ref telegram AG 0267 dated 18 Oct 45 review.

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation: -

"Release on 19 Apr 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be informed of action taken.

6. Ack by telegram requested.

(A. E. Walford)
Major-General
Adjutant-General

RDW/MR

HQC 65-M-1684 (CMBR-1)/ecb
15 Sep 45
Case No--------0880

PAGE 1.

REVIEW OF SENTENCE

1. No, Rank and Name: C.77978, Pte. McDiarmid, D.H.

2. Unit at date of offence: The Irish Regt of Canada - CMF

3. Charge: AA Sec 12(1)(a) : W.O.A.S., in a forward area under fire with intent to avoid service in such area was AWL for 3 days 10 hrs.

4. Place and Date of Trial: In the Field - Italy - 19 Jan 45

5. Finding: Guilty

6. (a) Sentence; Four years P.S.

(b) Date of Sentence: 19 Jan 45

7. Date of Confirmation: 9 Feb 45

8. Date of Promulgation: 9 Mar 45

9. Being served at Kingston Penitentiary in MD 3

(N.B. - Discharged under RO 1029 ( ) for
wef).

Case No ------

(In simple cases this sheet need NOT be used - See ITEM 1E).

PRECIS OF PROCEEDINGS

10. (a) Prosecution: Proved case adequately.

(b) Defence: Accused testified? ~~Yes~~ No

Under oath? ~~Yes~~ No

Pleaded guilty. Offered no defence.

(c) Closing address by Defence in mitigation of punishment, etc. ~~Xxxxxxxxx~~ By Defending Offr

Good record up to date. First time under fire, not having been in rifle coy before.

CONDUCT

11. (a) Prior to conviction: Excellent

Date of enlistment: 1 May 42

Date of enrolment: Age: 31

(b) After conviction: Good. Earliest date of release 19 Sep 47

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

N.A.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC Reviewing Offr, etc).

CMHQ: To serve full sentence and to be discharged for misconduct.

RO: Review on 1 Dec 45.

Reviewed by [illegible] Capt

---

14. ~~Decision~~ Recommendation of the Board:

Release on 19 Apr 46

OCT 22 1945

Date:----------194---.

[illegible] Maj

~~Chairman/Member~~/Secretary.

Central Mental Board of Review

DEPARTMENT OF NATIONAL DEFENCE
- Army -

HQC 55- M-1684 (ICM)
NDHQ Ottawa, Ont
26 Jul 1945

District Officer Commanding
Military District No 3
Kingston, Ont.

CONFIDENTIAL
F.G.C.M.

~~C.77978 - Pte MCDIARMID, Duncan Harvey~~

No 89 MDB Ref your 7144 d/15 Jun 45

2. Enclosed herewith:-

(a) AFA 3104

(b) Review sheet.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford),
Major-General,
Adjutant-General.

17

COPY

3

SECRET

KINGSTON ONT. 221715/JUN/45

A.C.(ACTION)

7144

SECRET

RELET HQS 8536-6 VOL 2 ADM 3(B)2 DATED 27 APRIL.

WARDEN KINGSTON PENITENTIARY ADVISED DAPM MD 3 ACCOM-
-MODATION AVAILABLE FOR FOLLOWING PERSONNEL.

C.122065 PTE LALONDE JA

C.79978 PTE MCDIARMID DH

C.65103 PTE SNOOKS CE

C.72224 PTE WAGG CC

C.4953 PTE WELLS KF

AUTHORITY REQUESTED TO COMMIT THE ABOVE SUS TO KINGSTON PENITENTIARY FROM NO. 89 MILITARY DETENTION BARRACKS. ADVISE.

CMDG 3.

33245/EA/222207Q/JUN 45

AR

16

Quote No. H.Q.C. 55-M-1684(JAG)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY-

OTTAWA, Canada

25 May 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court-Martial
C.77978, Pte. McDiarmid, D.H.

1. Receipt is acknowledged of your 10/McDirmid, DH/1 dated 8 Apr 1945, under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court-Martial. Your recommendation in this case has been noted. A.F. A3104 as also acknowledged.

E.F.M.
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

/B

1
15

H.Q. C.55-M-1684
N.D. 10/McDiarmid DH/1

GS

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. C.77978 Name McDIARMID ? DuncanHarvey

Rank Pte Unit The Irish Regt of C^n CAO

Charge A.A. 12(1)(a) WOAS, Desertion

Date of Crime 11-12-44

Date of Arrest 14-12-44 Charge Signed 10-1-45

Orders for ~~G~~F.C.M. Brig Comd 11 Cdn Inf Bde

Place and Date of Trial In the field; 19-1-45

Sentence Penal servitude 4 yrs.

Date of Confirmation 9-2-45

Date of Promulgation 9-3-45

Entered in Records of J.A.G. as No. 3646

Date 14-5-45

MEMO. Conf Auth directs that a part of the sentence not exceeding two years shall be served in a military prison. Balance of sentence remitted by Conf. Auth. 12.3.46

Reviewed at CMHQ

14

for Judge Advocate General

10M-1-45(M-4629)

HQS 8536-6 Vol 2
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE

CONFIDENTIAL

OTTAWA, Ontario

7 May 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

C.77978 Pte McDiarmid D.H.
SUS EX ITALY

This SUS is being returned from O/S in custody and is to be TOS No 3 DD and committed to No 89 MDB, in accordance with HQS 8536-6 Vol2, Adm 3, dated 24 Apr 45, which outlines the procedure for his disposal.

2. Enclosed herewith copy of CMHQ letter, Order of Transfer and Review of Sentence. It will be noted that he is serving a sentence of penal servitude

3. CMHQ has recommended that this SUS be ultimately discharged for misconduct under CARO 1029(8).

for (A E Walford) Major
Major-General
Adjutant-General

Encl. 3

3646

13

AIR MAIL

Quote No. 10/McDiarmid
DH/1

CANADIAN MILITARY HEADQUARTERS

BOMBER
CONFIDENTIAL

LONDON 8 Apr 45

Secretary,
Department of National Defence,
OTTAWA, Canada.

6-55-M-1684

C.77978 Pte McDiarmid, D.H.

1. The m/n soldier is now serving a sentence of 4 years penal servitude awarded by FGCM 19 Jan 45 for an offence under AA Sec 12(1)(a). The earliest date on which he should be released if he earns full remissions for good conduct while serving his sentence is 19 Sep 47.

2. This soldier was serving with the Cdn Forces in Italy at the time of his FGCM and his sentence has been served so far in that theatre.

3. Att hereto is a copy of the relevant portions of the Review Sheet used at CMHQ showing the date of this soldier's enlistment and his record of any previous army or civil offences.

4. A Neuropsychiatrist and SPO have examined this soldier, and in making the direction and recommendations herein, their findings and reports have been given full consideration. He is reported as being fit to undergo his sentence, but unsuitable for further combatant service.

5. In view of the serious nature of the offence of which this soldier has been convicted, and the necessity for exemplary punishment in such cases, it is considered that he should serve his present sentence in full and thereafter be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029, and it is so recommended. It is probable that this soldier has misconducted himself for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 19 Jan 45, original AFA 3104 in respect thereof on which this direction has been endorsed, and committal order. This soldier will be despatched to Canada direct from Italy.

(E. G. Weeks) Major General
In Charge of Administration
CANADIAN MILITARY HEADQUARTERS.

1/39a CMHQ 1000-76 40/P & S/803 (6739) ENC.4.

ORDER THAT A PERSON SUBJECT TO CANADIAN MILITARY LAW SENTENCED BY A COURT-MARTIAL OUTSIDE CANADA BE TRANSFERRED OR REMOVED TO CANADA TO UNDERGO SUCH SENTENCE OR THE BALANCE THEREOF.

WHEREAS C.77978 Pte McDiarmid D.H. of Ir R C was by Field General Court-Martial held in the field convicted of the offence(s) of deserting His Majesty's Service

and by a sentence signed on the 19th day of January 1945 sentenced to undergo penal servitude for 4 years

said sentence of penal servitude commencing on the aforesaid day, and such sentence has been confirmed by Maj-Gen i/c Admin, CMHQ. as required by law.

Now, therefore, I, the undersigned, a competent military authority, do hereby, in pursuance of the Army Act, and Order-in-Council PC 1304 of 4 Mar 44, and of all other Acts and powers enabling me in this behalf, order that the said soldier shall be, as soon as practicable, transferred and removed to Canada and there committed to such place or such several places to which he could have been committed to serve such sentence if he had been tried by a Court-Martial and sentenced in any place in Canada, as any other competent military authority in Canada may appoint in this behalf, there to undergo his sentence or the balance thereof according to law.

And for the above purpose, I, the undersigned, do hereby further, in pursuance of the above-mentioned Acts, Order-in-Council and powers, order that the said soldier be removed in military custody by Atlantic surface transport and by railway or such other route as may be practicable to Canada thence to be removed to such place as may be directed by competent military authority in Canada and that for such purpose he be delivered into the charge and custody of the Conducting Officer in charge of the appropriate draft who is hereby ordered to keep and convey the said soldier in custody en route to Canada and there to deliver him into military custody as may be directed by such competent military authority and for so doing this shall be sufficient warrant.

And I do hereby in pursuance of the above mentioned Acts, Order-in-Council and powers, with a view to the soldier's said transfer and removal, order the officer or non-commissioned officer in charge of any detention barrack, guard house or other place where a military convict, prisoner or detainee may be held in custody, and also the governor or chief officer of any prison, military or civil, to whom the said soldier is brought, to receive the said soldier, and detain him so long as appears reasonably necessary and to deliver him when required for the purpose of such transfer and removal, and for so doing this shall be sufficient warrant.

And I do hereby, in pursuance of the above mentioned Acts, Order-in-Council and powers, order the governor or commandant or chief officer of any penitentiary, prison or detention barrack, as the case may be, to whom the above soldier is brought, pursuant to the direction as aforesaid of competent military authority in Canada, to receive the soldier into his custody and detain him accordingly, and for so doing this shall be sufficient warrant.

Signed at Canadian Military Headquarters this 6th day of April 1945.

(Beverley Matthews) Brigadier
Deputy Adjutant General
Canadian Military Headquarters.

RECORDED AT CMHQ IN AB 160 4X-106

RECEIVED 6 FEB 1945 J.A. BRANCH C.M.H.Q.

CFA96 (in lieu of AFA31) 40/P & S/1096 (9504)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig I S Johnston, DSO., ED Comd 11 Cdn Inf Bde dated 15 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
77978	Pte		Duncan Harvey	MC DIARMID	IRC

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 19 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2G-119

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0945 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D M Chisholm	CBH
Member	Capt	G S Baird	PLF
Member	Capt	P F Neider	Arth
Judge-Advocate	Capt	W M W Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	F Whyte	2RC
Defending Offr	Lt	H G Herman	2RC

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) ~~There is no amendment to be made to the Charge Sheet.(3)~~ The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No, Sir .....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is (~~are~~) not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RP 33 [illegible]

"C"

CHARGE SHEET

The accused, E77978 Private Duncan Harvey MC DIARMID, The Irish Regiment of Canada, a soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE

SEC (2)(1)(a) ARMY ACT

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

in that he

In the Field on the 11th December 1944 when his Company was in a forward area under enemy shell-fire with intent to avoid service in such area, absented himself without leave from approximately 0130 hrs. 11 December 1944 until surrendering himself to the Regimental Police at Mezzano at 1800 hrs. 14 December 1944 (Total Absence 3 days, 16 hrs. 30 mins.)

In the Field
10 January 1945

R C Clark, Lt-Col
Comd. The Irish Regiment of Canada.

"To be tried by Field Genesl Court Martial".

Field
15 Jan 45

(I S Johnston) Brig
Comd 11 Cdn Inf Bde

9

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/ronk or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B 77978	Pte		Duncan Harvey	MC DIARMID	IRC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~XXXX~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 15 Jan 45 endorsed by me, (~~A Key Officer of a Corps or Arm~~) " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~(a) as unable to appoint (a) three Offrs to form the Court, (b) no Offr as President for the reasons shown attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	Major D.M. Chisholm.	CBH

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G.S. Bauld	PLF
Capt	P.F. Fisher	Perth

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	C.D. McQuarrie	HQ 11 CIB

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	W.M.W. Shaw	HQ 5 C A Div

On Active Service in the Fd

in Italy (Country.) — (Signed personally. RP 105 fn 2.) — Brig (Rank.)

Date 15 Jan 45 — Commanding 11 Cdn Inf Bde — Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAS6 (In lieu of AFAS) 40/P & S/1697 (4681)

(See overleaf for oaths and notes for use on trial.)

NOTE: CHECK WHETHER YOUR COPY OF MEDICAL REPORT ACCOMPANIES THIS FORM

[illegible] the following is the correct form of medical certificate to be used in cases in which a prisoner must be sent to a hospital or have medical aid and a certificate obtained on such subject.

C 77978

Pte McDiarmid D.H.

Sentence [illegible]

and in my opinion he is fit ~~unfit~~ to undergo trial by court martial.

Signature field.

Date 17 Jan 45

Capt

(Medical Officer)

(R.A.M.C.)

WOMAS

7

I

On arraignment acsd states his regtl number is "C" 77977. Court amend charge sheet accordingly under provisions of RP 33.

Def offr in mitigation:-

Very serious charge but acsd has preferred to plead guilty. Court have informed him fully of seriousness of charge & punishment.

Joined voluntarily & has given 3 yrs service. Up to this offence has always been a good soldier & worked satisfactorily.

In view of record & age of acsd & in view of his having just been transferred to a rifle Coy & being nervous under shell fire I ask court for leniency.

No previous crimes so not too much to ask for leniency.

W.M.W. Shaw
Capt.

6

SUMMARY OF EVIDENCE

in the case of

B77978 Private Duncan Harvey MC DIARMID, The Irish Regiment of Canada, a soldier of the Canadian Army, placed on Active Service.

CHARGE:

(1) When on Active Service Deserting His Majesty's Service.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS: M53303 Sgt. Ferrier, H.M., The Irish Regiment of Canada, having been duly sworn, States:
"I am M53303 Sgt. Ferrier, H.M. I am Platoon Sergeant of No. 14 Platoon of which the accused, Pte. McDiarmid is a member. On the 10 December 1944 at approximately 2330 hrs. "C" Company was ordered to advance from Mezzano to an assembly area. We did this and arrived at the assembly area at approximately 0030 hrs. 11 December 1944. During this move we were under enemy shell-fire. At 0130 hrs., 11 December 1944 we moved forward from our assembly area to pass through a bridgehead at the Lamone River, established by the Perth Regiment and prior to moving I checked the Platoon personnel and Pte. McDiarmid was absent."

Officer taking the Summary questions the witness.

Q. When the Company left Mezzano was Pte. McDiarmid present?

A. Yes, Sir.

Q. When the Company arrived at the assembly area was Pte. McDiarmid present?

A. I can not say definitely, Sir, because I did not check the platoon personnel until we left the assembly area at 0130 hrs., 11 Dec. 1944.

Q. Therefore, Pte. McDiarmid absented himself between 2330 hrs., 10 Dec. 1944 after leaving Mezzano and 0130 hrs. 11 Dec. 1944 prior to leaving the assembly area?

A. Yes, Sir.

Q. Prior to leaving Mezzano was Pte. McDiarmid aware of the coming action and the part "C" Company was to take in it?

A. I warned the Platoon prior to leaving Mezzano at which time Pte. McDiarmid was present. M Ferrier

The accused declines to cross-examine the witness.

SECOND WITNESS: B79052 Sgt. Crawford, N.L., The Irish Regiment of Canada, having been duly sworn, states:
"I am B79052 Sgt. Crawford, N.L. of the Regimental Police. I was on duty at "A" Echelon at Mezzano when the accused, Pte. McDiarmid, D.H. surrendered himself to me at 1800 hrs. 14 Dec. 1944. Norman Crawford

The accused declines to cross-examine the witness.

5

A. Witness

Question to the accused.

Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused.

"I have nothing to say."

Wm McDiarmid

I certify that rules of Procedure 4 (C) (D) (E) and (F) have been complied with. Taken down by me in the presence of the accused, in the Field this 10th day of January 1945.

A. Falzetta A/Capt.

A. FALZETTA, A/CAPT.
The Irish Regiment of Canada
Officer detailed to take Summary of Evidence

"A"
WMcDS

4

Substitute for AFB 126
or AFB 150

STATEMENT OF CHARACTER, PARTICULARS OF SERVICE OF ACCUSED

No. C77978 Rank Pte. Name McDiarmid D.H. Unit I.R.C.

Age 30 Married or Single S No of Dependents Nil

Date of Attestation 1 May 1942

Number of days in close arrest awaiting trial ~~24~~ 32

Civil ..... Military 32 ..... Total 32

Dates of appointments, promotions, etc. (if any) Nil

Decorations N)A

In the field ~~10~~ 17 Jan. 45

Date

B. Wmus

Officer i/c Regtl Books

Frederick Capt adj

3

No. 77978 Name [illegible] DIAMOND D H | Sqn, Battery, or Company | Corps J.T.C. | Date of enlistment 1/3/42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 48/PAM/138 (3488)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				"NIL"					

J. G. McDonald Capt
Certified True Copy.

(PTO)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed a free attitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, [illegible])

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No, Sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes three def offr.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 3646 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 17th day of Aug 1945

"C"

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: WMWS B77978 Pte Duncan Harvey McDIARMID, 2RC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

WMWS ~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 32 days, of which nil days were spent in hospital.(1)

(1. See RP 45(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for a term of four years.

(Sgd) W.M.W. Shaw Capt — Judge Advocate, if any.

19 Jan 45 — Date awarded.

(Sgd) D. M. Chisholm Maj — President. (RP 45, 46.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for Confirmation

Date 20 Jan 45 (Sgd) [illegible] A/Commanding 11 Corps Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence and I direct that a part of the sentence Not exceeding Two years shall be served in a Detention prison

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) Eus P. Weeks

(E.P. WEEKS) Major-General
i/c Administration
Commanding Lines of Communication

Date 9 FEB 1945

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Illegalities or irregularities such as would warrant withholding confirmation.

(J. M. E. L. Forbes) Lt. Col.
AJAG

FGCM:	19 Jan 45
	C-77978 Pte McDiarmid, D.H.
	Irish Regt of Canada.
CHARGE:	AA 12(1)(a)
FINDING:	Guilty
SENTENCE:	To suffer penal servitude for a term of four years.
RESERVATION:	Finding and sentence reserved for confirmation by Lt-col R.C. Clark, A/Comd, 11 Cdn Inf Bde - 20 Jan 45.
CONFIRMATION:	"I confirm the finding and sentence and I direct that a part of the sentence not exceeding two years shall be served in a military prison", Major-General E.G. Weeks, MGA, CMHQ - 9 Feb 45.

PROMULGATED AND EXTRACTS TAKEN
In the Field, ITALY

8 Mar 45
(Dated)

F B Crosse (Name)

Lieut (Rank)

Adjutant (for) (Appt)

2 Cdn Reallocation Centre (Unit)

H.Q.C. 55-1-1685 CONFIDENTIAL

H.F.B. 1078

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MORIN. ELEZEI D.616930 PTE.

CONFIDENTIAL
H.Q.C. 55-1-1685

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					All records for which referral cannot be expressed on one line, add minute to file and [illegible] with Minute.		
APR 29 1945					NEW FILE C.R.		APR 21 1945
				JAG.	With Papers C.R. MAY 14 1945		
MAY 17 1945				JCM	To note, [illegible]	mm	16-5-45
MAY 18 1945					PER B.F. MAY 29 1945		
MAY 28 1945							
JUN 5 1945	16/45	PA		JCM	With Papers C.R. JUN 4 1945		
JUL 25 1945	JUL 24 1945	PA		JCM			
				JAG.	With Papers C.R. JUL 26 1945		
AUG 1 - 1945				JCM	To file —	CJ	31-7-45
AUG 2 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. K.55-M-4435(JAG)

HG

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

KINGSTON, Ontario, 27 July 1945

CENTRAL REGISTRY Army
JUL 30 1945
K.55-M-1685
Chgd.
Referred to JAG

The Secretary
Department of National Defence,
OTTAWA, Ontario.

332456

Remission of Sentence
D.516930 Pte. Elezei MORIN,
No. 3 District Depot, C.A.

Herewith enclosed
Remission of Sentence in respect of the marginally
named soldier.

(F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

N.D. 23
1-10-44 (1769)
1772-161-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION
OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No.

District File No. K.55-M-4455(JAG)

PART I

No. D.616930 Rank Pte. Name Elezei MORIN

Unit No. 3 District Depot, C.A.

PART II

Date of Trial: 14 April, 1945.

Charge(s): A.A. SEC. 12(1)(a)
A.A. SEC. 24(2)

Sentence: DETENTION 6 MONTHS
STOPPAGES $78.12

Date of Sentence: 14 April, 1945

~~[illegible]~~:

~~[illegible]~~

PART III

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence of the marginally named soldier after the 21st day of July, 1945, and direct that the accused be relieved of all consequences thereof after the said 21st day of July, 1945, and that all records be amended accordingly.

SIGNED at Kingston, Ontario, this 23rd day of July 1945.

(F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

PART IV

PROMULGATION

Remission promulgated and extracts taken at Barriefield, Ont.

this 26th day of July 1945.

(J.A.M. Essery) A/Captain
Commandant
Military Detention Barracks No. 63.
Barriefield, Ontario.

(I)

(I) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D.616930 Rank Pte. Name MORIN, E.

Granted remission of the unexpired portion of his sentence after the said 21st day of July 1945 and to be relieved of all consequences thereof after the said 21st day of July 1945. All documents to be amended accordingly, by order of the D.O.C. M.D. No. 3.
AUTH: K.55-M-4435(JAG) d/24 Jul 45.

Certified true Extract of Daily Orders C.R. of M.D.B. No. 63.

No. 24 Place Barriefield, Ontario Date 26 Jul 45

(J.A.M. Essery) A/Captain
Commandant
Military Detention Barracks No. 63.
Barriefield, Ontario.

DEPARTMENT OF NATIONAL DEFENCE
- Army - 55-M-1685

NDC (ICM)

NDHQ 25 Jul 45 Ottawa, Ont

1945

CONFIDENTIAL
C.M.

District Officer Commanding,
Military District No 3,
KINGSTON, Ont.

D.616930 Pte Morin Elezei

K.55-M-4435.

Ref

2. Enclosed herewith:-

(a) MFM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

for (A E Walford)
Major-General
Adjutant-General

IN REPLY PLEASE QUOTE
No. K.55-M-4435 (DAPM)

EB

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

KINGSTON, Ontario, 2nd June, 1945.

319115

CENTRAL REGISTRY ARMY
CONF. B.C.
JUN 4 1945
File 6.55.M-1685
Chgd. to
Referred to J.G.M.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

REPORT ON CONDUCT
D.616930 Pte. MORIN, E.

Reference your H.Q.C. 55-M-1685 (IGM) dated 28th May, 1945.

2. Attached please find "Report on Conduct" for the marginally named soldier as requested in the above mentioned letter.

E H Watts Major,
for (F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

N.D. 23
30000M—10-44 (5789)
H.Q. 1772-101-23

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1685 (ICM)
OTTAWA, 28 Th. May, 194 5

Your File - K.55-M-4435

District Officer Commanding,
Military District # 3,
KINGSTON, Ontario.

D-616930, Pte. E. MORIN.

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in # 63 BARRIEFIELD Military Detention Barrack, under your command, a sentence of 6 Months detention awarded by a Standing Court-Martial on the 14 day of April 194 5

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC/IL

5M-2-45(M-4516)

HQC.55-M-1685 (JAG/D)

16 May 45

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

Standing Court-Martial

D.616930, Pte. Elezei MORIN
No. 3 D.D., C.A.

Receipt is acknowledged of your K.55-M-4435 (JAG) dated 12th May, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial., together with M.F.M. 288.

E L M
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

/AB

Noted
C.H. Clayton

L. H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
MAY 18 1945

5M-3-45(M-4664)

I.C.M. - L 4397

REVIEW OF SENTENCE

DATE MAY 18 1945

H.Q.C. FILE: 55- 17-1685

1. NO. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES Deserting from 17 Dec 44 arrested 3 April 45 - 3 mos. 17 dys.

8. PREVIOUS CONDUCT ~~ENLISTED~~ ENROLLED 8 April 42 AGE 24
nil Enlisted 20-1111111

9. STATEMENT OF ACCUSED On agricultural leave. On part of family farm. Applied for extension. Refused. Wrote second time. No answer. There was work to do so I stayed. Intended coming back this spring.

10. RECOMMENDATION

HQ

IN REPLY PLEASE QUOTE No. K.55-M-4 435(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, May 12, 1945.

313943

CENTRAL REGISTRY Army
CONF. SEC.
MAY 14 1945
File CJS-M-1685
Chgd. to
Referred to

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
D.616930 Pte. Elezel MORIN,
No. 3 District Depot, C.A.

Reference H.Q.C.55-M-1685 (JAG/D-6) dated 28 Apr 45.

2. Herewith returned proceedings of Standing Court-Martial held for the trial of the marginally named soldier, together with M.F.M.288 duly completed.

3. No further administrative action is considered necessary.

for R. O. Standish Capt
(F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

MEDICAL OFFICER'S REPORT

J. Wanless - Major
President, Standing Court-Martial

I certify that No. D.616930 Pte. Elezei MORIN

of 3 District Depot CA is in a good state of health,

and is fit to undergo Trial by Court martial.

J.M. Beach Capt. RCAMC
Medical Officer
No. 3 Medical Officer
No. 3 District Depot, C.A.

Capt. RCAMC

Station Kingston, Ontario.

Date 14th April 1945.

M. F. B. 246
50M—3-43 (254)
H.Q. 1773-89-490

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries, Kingston, Ontario,

on the 14th day of April, 1945, at 1000 hours,

for the trial of: D.616930 Private Elezei MORIN,
Number Rank Full Name

No. 3 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major J.F. Dowsley, R.D., Headquarters M.D. No. 3, C.A.

PROSECUTOR: Captain J. Goodman, Headquarters M.D. No. 3, C.A.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~

DEFENDING OFFICER: Capt. A.B. Smith, M.C., No. 3 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING:

Guilty of the first charge, and Guilty of the second charge except that he was deficient articles of clothing, equipment and regimental necessaries to the value of $66.56.

SENTENCE: To undergo detention for six months, and to be put under stoppages of pay until he has made good the sum of $11.56 in respect of the cost of apprehension and return to his unit, and until he has made good the value of clothing, equipment and regimental necessaries to the amount of $66.56.

Signed at KINGSTON, Ontario, this 14th day of April, 1945.

J.F. Dowsley Major
President
Standing Court-Martial

M.F.R. 1486
25M-6-44 (4828)
H.Q. 1772-38-2005

Extracts entered as No. 36949 in the record of Courts Martial kept in the Office of the Judge Advocate-General this 23rd day of April 1945.
R.E.A. Capt.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter ?~~

Answer:

Question to the accused. Do you object to C.28866 S.M.(WO.I) Lloyd Stringer, CMSC,CA, as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: Remanded for Standing Court-Martial, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Not Guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Not Guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

~~(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 55 (B) are here complied with.)~~

No 1

B2

CHARGE SHEET

President, Standing Court-Martial

The accused No.D.616930 Private Elezei MORIN, No.3 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army placed on active service is charged with:

FIRST CHARGE
SEC. 12 (1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

at Kingston, Ontario, on the 17th day of December 1944, absented himself from No.3-A District Depot, C.A., at 0001 hours on the said 17th day of December 1944, and remained so absent until apprehended by the military authorities at Maniwaki, Quebec, at 1100 hours on the 3rd day of April 1945, dressed in civilian clothes. Cost of return to unit $17.56.

SECOND CHARGE
SEC. 24 (2)
ARMY ACT

LOSING BY NEGLECT HIS CLOTHING
EQUIPMENT AND REGIMENTAL NECESSARIES

in that he

at Kingston, Ontario, on the 9th day of April 1945, was deficient the following articles to the value of $71.74.

Clothing Division "A"		
Caps W/Felton	1	1.05
Coats Waterproof Army	1	6.91
Gloves Woollen, prs.	1	.66
Greatcoats Drab	1	15.54
Mitts Pullover Leather prs.	1	.93
		25.09

Clothing Division "B"		
Blouses Battle Dress	1	6.50
Boots Ankle, prs.	1	5.82
Drawers Cotton Shorts, prs.	2	.84
Drawers Woollen, prs.	2	2.80
Jackets Khaki Drill	2	6.84
Jackets Serge Drab o/c	1	10.80
Jersey Pullover	1	1.65
Mufflers Khaki	1	.93
Puttees, prs.	1	.97
Shirts Undercotton	2	.86
Shirts Woollen	2	2.40
Trousers Khaki Drill, prs.	2	3.60
Trousers Khaki Drill Shorts, prs.	2	2.62
Trousers Serge Drab N.P.	1	4.33
		50.96

Clothing Division "C"		
Belts W/Leather Brown	1	.35
Brushes Boot Polishing	1	.21
Brushes Tooth	1	.09
Caps Comforter	1	.41
Forks Table	1	.08
Knives Table	1	.18
Pins Collar Safety	1	.06
Socks Black, prs.	2	.56
Spoons Table	1	.08
		2.02

Clothing Division "D"		
Badges Cap	1	.07

Section 1-A		
Belts W/Wet	1	.45
Bottles Water	1	.62
Braces Web L&R	2	.68
Carriers Cartridge	2	1.22
Carriers Water Bottle	1	.37
Helmets Steel	1	2.39
Packs Web	1	2.26
Pouches Basic	2	2.05
Straps Shoulder	2	.62
Straps Web Supporting	2	[illegible]
		11.2[illegible]

Section 2-A		
Respirator Complete	1	5.97
Wallet A/Gas	1	.27
		6.24

TOTAL	$95.66
Less 25%	23.92
TOTAL DEFICIENCIES	$71.74

(J.GOODMAN) Capt.,
Prosecutor Courts Martial
M.D.# 3.

KINGSTON, Ont.
11th April 1945.

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

First Witness for prosecution.

~~The Prosecutor proceeds to call witnesses~~

~~being duly sworn, is examined by the Prosecutor.~~

Question

The Prosecutor, in support of the charges, produces the following documents,-

M.F.B.375.

(M.F.B.375 is read, marked EXHIBIT "G", signed by the President and attached to the proceedings)

M.F.M.216.

(M.F.M.216 is read, marked EXHIBIT "H", signed by the President and attached to the proceedings)

M.F.B.1481.

(M.F.B.1481 is read, marked EXHIBIT "I", signed by the President and attached to the proceedings)

M.F.B.1481.

(M.F.B.1481 is read, marked EXHIBIT "J", signed by the President and attached to the proceedings)

M.F.B.1482.

(M.F.B.1482 is not accepted by the Court)

FIRST WITNESS FOR THE PROSECUTION) C.63544 B.Q.M.S. MacIVER, A., No. 3 District Depot, C.A., being duly sworn, is examined by the Prosecutor,-

Q. B.Q.M.S. MacIver, what is your unit?

No. 3 District Depot.

Q. And how are you employed in that unit?

I work in the Quartermaster Department at Courts of Inquiry and kit inspections.

Q. Do you know the accused?

Yes, sir.

Q. What is his name?

Morin, E.

Q. And how do you know him?

He was paraded to my office, sir, with an escort to have his kit checked against a M.F.B.375.

Q. And did you carry out such a check?

Yes, sir.

Q. And what date did you carry this check out?

On the 9th day of April, 1945.

Q. Is this the document you refer to as M.F.B.375? (Exhibit "G")

Thats right, sir.

Q. And as a result of that check what did you find?

I found him deficient a list of articles to the sum of $71.74, as follows,-

Caps winter melton 1
Coats waterproof Army 1
Gloves woollen prs 1
Greatcoats drab 1
Mitts pullover leather prs 1
Blouses battle dress 1
Boots ankle prs 1
Drawers cotton short prs 2
Drawers woollen prs 2
Jackets khaki drill 2
Jackets serge drab o.c. 1
Jersey pullover 1
Mufflers khaki 1
Puttees prs 1

Shirts undercotton 2
Shirts woollen 2
Trousers khaki drill prs 2
Trousers khaki drill shorts prs 2
Trousers serge drab n.p. 1
Belts waist leather brown 1
Brushes boot polishing 1
Brushes tooth 1
Caps comforter 1
Forks table 1
Knives table 1
Pins collar safety
Socks black prs 2
Spoons table 1
Badges cap 1
Belts w/web 1
Bottles water 1
Braces web L & R 2
Carriers cartridge 2
Carriers water bottle 1
Helmets steel 1
Packs web 1
pouches basic 2
Straps shoulder 2
Straps web supporting 2
Respirator complete 1
Wallets anti-gas 1

Making a total of $71.74, less 25%.

Q. That is the sum less 25%?

Yes, sir, $71.74

Q. And when did you make that check?

The 9th day of April, 1945.

Q. Have any previously mentioned articles since been returned?

No, sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q. Quarter, did you have the accused's clothing book to check off of or did you just check from the normal issue.

I checked from the M.F.B.375, Court of Inquiry. I didn't have the M.F.C.800 at all.

Q. Was there no M.F.C.800 or similar document of the accused to show what he was issued?

No, sir.

Q. What is the procedure when some of the things are returned later?

You mean previous?

Q. No, subsequent.

We give him credit for anything brought back.

Q. Did the accused explain to you he had left part of his kit at home to be sent for?

He may have, sir. I questioned him and he may have told me. It is possible.

Q. In the event he had an issue of coats waterproof, how would you go about giving credit to him?

If he is charged with coats waterproof on the list and brought it back in to me I would give him cash credit for it.

Q. Suppose he had never been issued, how would you prove that? Would we have to get his M.F.C.800?

The only thing we can give credit for is what is on the list.

The Prosecutor declines to re-examine.

The witness withdraws.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I apply to give evidence as a witness, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

FIRST WITNESS FOR THE DEFENCE) The Accused, D.616930 Private Elezei MORIN, No. 3 District Depot, C.A., being duly sworn, is examined by the Defending Officer,-

Q. You have heard the list read, Pte Morin, how many of those articles have you got at home? Do you have most of them at home?

Yes, sir.

Q. Have you taken any steps to get these back here?

I have, sir.

Q. What have you done?

I wrote a letter on Tuesday to home telling them to send my kit down here.

Q. Was that just last Tuesday?

Yes, sir.

Q. And there wouldn't be time to get here yet?

No, sir.

Q. Is there any article read out which have never been issued to you?

Only the rain coat.

Q. Coats waterproof actually never was issued to you?

No, sir.

Q. What were the circumstances under which you went absent? Were you actually on leave at the time or did you go away from duty?

I was on leave, sir.

Q. What sort of leave was it?

Agricultural leave.

Q. And you were working on a farm?

Yes, sir.

Q. Does the farm belong to your own family?

Yes, sir.

Q. And you have a personal interest in it?

Yes, sir.

Q. You do own part of that farm yourself?

I do, sir.

Q. And when agricultrual leave was up was it necessary to have further time to tend to matters?

Yes, sir.

Q. Did you take any steps to get an extension to that agricultural leave?

I did, sir.

Q. What result did you get?

I had an answer from No. 3 District Depot that Headquarters had refused to grant a further extension of leave.

Q. But you stayed to finish up your work?

Yes. I did write after that and expected an answer, but I didn't get an extension.

Q. You wrote a second time explaining more fully why you required leave?

Yes, sir, I waited and never got an answer. There was work to do at home so I stayed at home.

Q. What were your intentions when the work was finished?

I intended to come back this spring, sir.

Q. Then you did not at any time have the intention of leaving the Army for good?

No, sir, I never while I was away, sir. I always stayed at home until I was apprehended by the Provost.

Q. How long have you been in the Army?

About three years, sir.

Q. And have you had any crimes against you in that time?

Oh I have had a little crime.

Q. Any serious crimes?

No, sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q. On the 17th day of December, 1944, you were supposed to report back to Kingston, Ontario, is that correct?

Right, sir.

Q. And to No. 3A District Depot, C.A.?

Yes, sir.

Q. And did you report back?

No, sir.

Q. You were absent on that day?

Yes, sir.

Q. And the time was 0001 hours the 17th day of December, 1944, is that right?

Right, sir.

Q. And you remained absent until apprehended?

Right, sir.

Q. By the military authorities?

Yes, sir.

Q. At Maniwaki, Quebec.

Yes, sir.

Q. At 1100 hours the 3rd day of April, 1945?

Yes, sir.

Q. You were dressed in civilian clothes at the time?

Yes, sir.

Q. You say you intended to come back to the Army, is that right?

Yes, sir.

Q. And that you were on farm leave, or agricultural leave as you call it?

Yes, sir.

Q. And you applied for an extension of that leave?

I did, sir.

Q. It was turned down?

Yes, sir.

Q. As a matter of fact you applied twice?

Yes, sir.

Q. Once by letter?

Yes, sir.

Q. Once by wire?

Yes, sir.

Q. And you applied first by letter, is that right?

Yes, sir.

Q. And it was turned down?

Yes, sir.

Q. And then you applied for an extension by wire?

Yes, sir.

Q. And do you remember how long you asked for leave by wire?

Yes, sir.

Q. It was the 31st of December, 1944?

Yes, sir.

Q. And you stated in your wire that your farm, you were needed at that time to finish up work?

I asked for an extension for another two weeks, but I was unable to come down at the time.

Q. You wanted to finish up your work?

Yes, sir.

Q. You did not come back on the 31st of December at all?

No, sir.

Q. You did not come back on the 3rd day of April, 1945?

The 3rd day of April?

Q. You had to be apprehended?

Yes, sir, I had to be arrested?

Q. To be brought back?

Yes, sir.

Q. How much farm leave have you had?

Since 1942.

Q. You have had very little Army service at all?

No, sir.

RE-EXAMINED BY THE DEFENDING OFFICER

Q. Did you always come back from previous agricultural leave?

Yes, sir.

Q. And you always came back before?

Yes, sir.

The witness resumes his seat.

The Prosecutor declines to make a Closing Address.

The Defending Officer declines to make a Closing Address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Sir, my father was ill at the time. He is seventy years old and hardly able to work, and wasn't in very good physical condition at the time so I stayed to help him out a bit.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Exhibit "G" File [illegible] 443

President, Standing Court Martial

RECORD of the Declaration of a Court of Inquiry assembled at Kingston Ontario on the 10th day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D.616930 Private Elezei MORIN, No. 3-A District Depot, C.A.

DECLARATION

The Court declare that No. D.616930 (Reg'l No.) Private (Rank) Elezei MORIN, (Full Name) No. 3-A District Depot, C.A. (Unit) illegally absented himself without leave from No. 3-A District Depot, C.A. at Kingston, Ont. (Place) at 0001 hours on the 17th day of December 1944 that he is still so absent, and that on the 9th January 1945 he was deficient, and that he is still deficient of the following articles:—

Clothing Division "A"		
Anklets Web Prs.	2	1.48
Caps Winter Melton	1	1.05
Coats Waterproof Army	1	6.91
Gloves Woollen Khaki prs.	1	.66
Greatcoats Drab	1	15.54
Mitts Pullover Leather, prs.	1	.93
Overshoes, prs.	1	2.04
		28.61
Clothing Division "B"		
Blouses Battle Dress	2	13.00
Boots Ankle, prs.	2	11.64
Caps Field Service	2	1.40
Drawers Cotton Short, prs	2	.84
Drawers Woollen prs.	2	2.80
Jackets Khaki Drill	2	6.84
Jackets Serge Drab o/c	1	10.80
Jersey Pullover	1	1.65
Mufflers Khaki	1	.93
Puttees prs.	1	.97
Shirts Cotton Khaki	2	3.08
Shirts Undercotton	2	.86
Shirts Woollen	2	2.40
Shoes Canvas, prs.	1	2.29
Shoes Leather Black prs	1	4.94
Socks prs.	4	1.84
Trousers Battle Dress	2	13.10
Trousers Khaki Drill Ong	2	3.60
Trousers Khaki Drill Short	2	2.62
Trousers Serge Drab N.P.	1	4.33
		89.85
Clothing Division "C"		
Bags Kit	1	1.68
Belts W. Leather	1	.35
Blacking Tins	1	.05
Boot Dressing Tins	1	.05
Braces, prs.	1	.28
Brasses Cleaning	1	.04
Brushes Boot Polishing	1	.21
Brushes Button	1	.11
Brushes Cloth	1	.17
Brushes Hair	1	.39
Brushes Tooth	1	.09
Caps Comforter	1	.41
Forks Table	1	.08
Holdalls	1	.22

Clothing Division "C" (Cont'd)		
Housewives	1	.35
Knives Table	1	.18
Neckties Black	1	.19
Pins Collar Safety	1	.06
Socks Black prs	2	.56
Spoons Table	1	.08
		5.97
Clothing Division "D"		
Badges Cap	1	.09
Section "1-A"		
Belts Waist Web L.	1	.76
Bottles Water	1	.62
Braces L.R.	2	.68
Carriers Cartridge	2	1.22
Carriers Water Bottle	1	.37
Haversack Web	1	2.29
Helmets Steel	1	2.39
Packs Web	1	2.26
Pouches Basic	2	2.06
Straps Shoulder	2	.62
Straps Web Supporting	2	.28
		$ 14.15
Section "2-A"		
Respirator Complete	1	5.97
Wallet A/Gas	1	.27
		6.24
Section J-1		
Sheets Ground	1	2.38
TOTAL		$147.27
Less 25% CARO3464		36.82
TOTAL DEFICIENCIES		$110.45.

R. HIGGINSON Capt. (Name) No. 3-A District Depot, C.A. (Unit) President

Member (Name) (Rank) (Unit)

Member (Name) (Rank) (Unit)

Signed at Kingston Ontario

this 10th day of January 1945

Signature of Commanding Officer (J. ROBERTS) Lt.-Col., R.C.A. (Name) No. 3-A District Depot, C.A. (Unit)

Certified true copy R. O. Dulmage (R.O. DULMAGE) Capt. (Name) (Rank) (Unit)
(Signature of Officer having custody of original record)
Adjutant
No. 3-A District Depot, C.A.

M.F.D. 375
A.F.D. 115
(3038—10-41 (8320)
11 C. 1773-36-167

505 DOT Exhibit "H"

Donald Mayer
President, Standing Court Martial

1945 Jun 7-4-45

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPRENDENSION ~~[illegible]~~ SERVICE AUTHORITIES)

I, Major P.Gray (Number) (Rank) O.C. 33 Coy.C.Pro.Corps (Name) (Unit)

hereby certify that D.616930 Pte. Elizei MORIN (Number) (Rank) (Name in full)

of the 3 DistrictvDepot Kingston, Ontario (Unit and attachment, if any)

Strike out words not applicable was apprehended by ~~[illegible]~~ Lieut. Skillem, R.E. (Number) (Rank)

C.5065 Sgt.Danford J.R. (Name) 33 Coy.C.Pro.Corps (Unit or appointment)

at Maniwaki, Que (Place) at 1100 (Hour)

on the 3rd day of April 1945

Strike out words not applicable ~~[illegible]~~ (or absentee without leave), and that at the time of his arrest he was wearing ~~[illegible]~~ (dressed in civilian clothes).

Dated at Ottawa, Ontario this 5th day of April 1945

N.R.M.A.

P.Gray (P.Gray)Major
(Signature, Number, Rank, Unit or appointment)

O.C. 33 Coy.C.Pro.Corps

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

There are costs of apprehensions in this case

Corp Reg No. 85020

M.F.B. 1481
115w—10-43 (1206)
H.Q. 1772-39-1851

Exhibit I

J. Crowley, Major
President, Standing Court-Martial

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Major (Rank) P.Gray (Name) O.C. 33 Coy.C.Pro.Corps (Unit)

Strike out word not applicable — hereby certify that I (~~[illegible]~~) (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Ottawa, Ontario (Place) to Maniwaki, Que (Place)

and return to Ottawa, Ontario (Place) for the purpose of escorting

Full description of soldier being escorted — D.616930 (Number) Pte. (Rank) Elizei MORIN (Name in full)

No. 3 DIstrict Depot (Unit) Kingston, Ontario (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (~~[illegible]~~) (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
3 April 45	D.N.D. Vehicle # 55-591	
	Maniwaki, Que to Ottawa, Ontario	
	85 miles @ .06¢ per mile	5.10
	TOTAL	$ 5.10

Dated at Ottawa, Ontario this 5th day of April A.D. 1945

P.Gray (P.Gray)Major

Signature, rank, unit, attachment (if any) and appointment of officer (~~[illegible]~~) (authorizing transportation)

Strike out description not applicable — O.C. 33 Coy.C.Pro.C.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

M.F.B. 1481
(155m—10-43 (2206)
H.Q. 1977-39-1851

Exhibit "J"

President, Standing Court-Martial

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Captain (Rank) James SOUTTER, (Name) RCASC., H.Q. M.D.3. (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from Kingston, Ont. (Place) to Ottawa, Ont. (Place)

and return to Kingston, Ont. (Place) for the purpose of escorting

Full description of soldier being escorted — D-616930 (Number) Private (Rank) MORIN, E. (Name in full)

No.3 D.D. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation required~~) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
6-4-45	To transport warrant C937774 covering one return fare Kingston, Ont. to Ottawa, Ont. Escort	$ 4.29
6-4-45	To transport warrant C937775 covering one single fare Ottawa, Ont. to Kingston, Ont. Absentee	2.17
	TOTAL	$ 6.46

Dated at Kingston, Ont. this 6th day of April, A.D. 1945.

(Jas.Soutter)Captain,
Asst. D.S.& T.C., M.D. #3.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants ~~authorizing transportation~~)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation *and not* by an Officer "for" him.

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Y J.L. Donsley Major
President, Standing Court of Inquiry

A.F.B. 355
G.C.M. 1792.39-620
10M-8-40 (M19)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D.616030	Private	Elozai MORIN	No. 3 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field Service and General / Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For	Nil times	Nil times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 11 days in military custody, making a total of 11 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is / enrolment form attestation paper is 24 years

6. The date of his commission specified in his record of service is / enrolment attestation / enrolment form attestation paper is 9 Apr 42

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force / military decoration, or air force / military reward (or is in possession of or entitled to). State any air force / military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer had held the regimental rank of

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~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Chief Clerk

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

~~SCHEDULE~~

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

Chief Clerk

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th day of April 1945

A. R. Garrison Capt 4/4/1945 This Statement Defd C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Y signed by the president, and annexed to the proceedings.

6-M-493 LEG

P. Dawley, Major
President, Standing Court Martial

Precis of Evidence

No.D.616930 Private Elezei MORIN, No.3 District Depot, C.A.

CHARGES: 1. Desertion
2. Losing by neglect.

The following evidence is available to prove the
First Charge
Documentary 1. M.F.H. 375
2. M.F.M. 216
3. M.F.H. 1481 (2)
4. M.F.B. 1482.

Second Charge
Documentary 1. M.F.B. 375

Verbal: No.C.63544 BQMS A. MacIver, who will give evidence as to deficiencies and recoveries at kit inspection.

Notification of Trail

The above accused will be presented for Standing Court-Martial at The Armouries, Kingston, Ontario, at 1000 hours on the 14th day of April 1945.

May Capt. M. Goodman be nominated as prosecutor, please.

J. A. Higginson Capt.
(J.ROBERTS) Lt.Col., R.C.A.,
Officer Commanding,
No.3 District Depot, (CA).

KINGSTON, Ont.
10th April 1945.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(INCIDENTAL EXPENSES)

President, Standing Committee

Complete description

I, C.5065 Sgt Danford J.R. 33Coy. C. Pro.C.
(No.) (Rank) (Name) (Unit)

Strike out words not applicable

as (xxx) (commander of escort) consisting of myself and C.30871 Cpl.

Members of escort

Belanger E.

detailed to proceed from Ottawa, Ont. (Place) to Maniwaki, Que. (Place)

Name and description of soldier escorted

to return D.616930 Pte. MORIN Elizei

alleged to be a deserter or absentee without leave, to Ottawa, Ont. (Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
5 Apr 45 3 guards and 6 meals at Maniwaki while in civil custody.	6.00
Above has been submitted to D.S.&T.O. M.D. 3 on M.F.D. 811	
Total	$ 6.00

Not commander of escort according to MFM 216

Dated at Ottawa, Ont. this 5th day of April A.D. 1945

J.R. Danford (J.R. Danford) Sgt.
(Signature and rank of commander of escort)

33 Coy. C. Pro.C. xxx (Strike out description not applicable)

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of all incidental expenses properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.D. 1462
DSM—2-43 (8826)
H.Q. 17-21-30-120

HQC.55-M-1685 (JAG/D-6)
Your File K.55-M-4435

28 Apr 45

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

STANDING COURT-MARTIAL

D.616930, Pte. E. MORIN,
No. 3 D.D., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

REA. Capt.

REA/AB

for (R.J. Orde), Brigadier,
Judge Advocate-General.

THIS COPY FOR

H.Q. C.55-M-1665
M.D. K.55-M-4435

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D.616930 Name MORIN, Elezei

Rank Pte Unit No. 3 D.D. CA

Charge (1st) A.A. 12 (1) (a) - Desertion

(2nd) A.A. 24 (2) - Losing by neglect ...

Date of Crime (1) 17-12-44; (2) 9-4-45

Date of Arrest (1) 3-4-45 Charge Signed 11-4-45

Orders for D.C.M.

Place and Date of Trial The Armouries Kingston Ont 14-4-45

Sentence Det 6 mos; stoppages $78.12

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36949

Date 23-4-45

MEMO Balance of sentence remitted by Conf. Auth. 21-7-45

M.D. 3- No. 3 D.D.

Absent	Sentence
3½ mos	Det. 6 mos

R Elmglin Capt.

for Judge Advocate-General

10M-1-45 (M-4629)

No irregularities, except reason for rejecting M.F.B. 1482 is not stated, but same is attached to proceedings.

Passed.

27 Apr 45. REA Capt

K.55-M-4435

DEPARTMENT OF NATIONAL DEFENCE

- A r m y -

: Confidential :

KINGSTON, Ontario, 19th April, 1945.

The Judge Advocate-General,
Dept. of National Defence,
OTTAWA, Ontario.

6.55-M-1685

STANDING COURTS-MARTIAL

D.616930 Private Elezei MORIN,
No. 3 District Depot, C.A.

Herewith proceedings on the trial by Standing Court-Martial of the marginally named soldier.

J.E. Dowsley
(J.E. Dowsley) Major,
President of Standing Court-Martial.

Encl.

36949

H.Q.C. 55-M-1686

CONFIDENTIAL

CONFIDENTIAL H.Q.C. 55-M-1686

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT
STANDING COURT MARTIAL.

MACYSHON. MICHAEL. H-618159 PTE

CENTRAL REGISTRY	DATE	R.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
APR 27 1945					NEW FILE	C.R.	APR 23 1945
					With Papers on MAY 4 1945		
				JAG			
MAY 1 1945				JCM	To note, pls	MM	9-5-45
JUN 1 - 1945					PER B.F. JUN 2 1945		
					With Papers C.R. JUN 11 1945		
JUN 12 1945				JCM			
				JAY	With Papers C.R. JUL 7 - 1945		
JUL 5 - 1945					To note		3-7-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

W.44-M-5322 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

325678

Winnipeg, Manitoba.
27th June, 1945.

REGISTRY Army
DEF. SEC.
JUN 30 1945
File 55-M-1686
Chgd. to
Referred to

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

REMISSION OF SENTENCE

H-618159, Pte. M. MACYSHON.

Herewith, for custody, is Form of Remission of Sentence relative to the marginally-named, duly completed in accordance with C.A.R.O. 3974.

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

va
encs.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE
BY COURT-MARTIAL

N.D.H.Q. File No. HQC55-M-1686(JAG/D)
D.N.Q. File No. W.44-M-5322 (J)

PART I

No H-618159, Rank Private Name Michael MACYSHON,
Unit No. 10 District Depot, CA.

PART II

Date of Trial 18th April, 1945.
Charge (a) When on Active Service, deserting His Majesty's Service
Sentence six (6) months detention
Date of Sentence 18th April, 1945.
Confirmation (a) Authority } N/A Standing Court-Martial.
(b) Date }

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit ~~xxxxxxxxxxxxxxxxxx~~) the balance of the sentence of detention as of the 25th day of June, 1945.
Signed at Winnipeg, Manitoba, this 22nd day of June, 1945.

R O Morton
.....
(R.O.G. Morton) Brigadier, District Officer
(Remitting Authority) Commanding, M.D. #10.

PART IV

PROMULGATION

Remission ~~xxxxxxxxxxxxxxxxxxxxxxxx~~ promulgated and extracts taken at Winnipeg, Manitoba this 25th day of June, 1945.

W J Kropf Capt
Officer i/c Documents,
No. 10 District Depot, CA.

(Unit, attachment and appointment to be stated).

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No H-618159, ~~RANK~~ Private Name Michael MACYSHON
The sentence of 6 months detention
awarded by Standing Court-Martial on the 18th day of April, 1945,
has been remitted as of the 25th day of June, 1945,
on the 22nd day of June, 1945, by Brigadier R.O.G. Morton, District Officer Commanding, Military District No. 10.
Certified true Extract of Daily Order Part II, No. 151
dated the 25th day of June, 1945.

W J Kropf Capt
.....
Adjutant, No. 10 District Depot, CA.

(R.C. 3974)

IN REPLY PLEASE QUOTE
N.W. 44-M-5322 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CANADA

Winnipeg, Manitoba, 8th June, 1945

CENTRAL REGISTRY Army
CONF. SEC.
JUN 11 1945
File 55-M-1686
Chgd. to
Referred to

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

320789

H-618159, Pte. MACYSHON, M.

Reference H.Q.C.55-M-1686 (ICM)
dated 1st June, 1945.

2. Report on conduct enclosed therein is returned herewith.

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

va
enc.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

REPORT ON CONDUCT I.C.M. - B

Department of National Defence,
H. Q. C. 55- M-1686 (ICM)
OTTAWA, 18t. June 1945

To:- Commandant # 73 WINNIPEG Military Detention Barracks.

1. Soldier under sentence H-618159, Pte. M. MACYSHON.

2. PLEASE STATE:-

(i) Date of sentence

(ii) Sentence

(iii) Date you received soldier

(iv) (a) Can soldier read and write?

(b) Religion

(c) Married, Widower, Single

(d) What Army trade has soldier?

(v) (a) Conduct of soldier

(b) Industry of soldier

(c) Remission earned:-

(i) Number of days actually earned

(ii) Number of days obtainable to date

(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-

(a) Whether detention will seriously aggravate soldier's condition.

(b) Whether further confinement is likely to prove fatal.

(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence?

(b) Moral effect confinement has had?

(c) If returned to Army, is soldier likely to become a good soldier?

(viii) Date term will expire if all remission earned from now on.

This man has been boarded and given P5 in revised Pulhems profile established 7th June 1945

(A. E. Walford)
Major-General
Adjutant-General.

LHC/IL

5M-1-45(M-4515)

Signature [illegible]
Commandant.

Date of Report: 7 June 1945

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1686 (ICM)
OTTAWA, 18t June 194 5

Your File - W.44-M-5322

District Officer Commanding,
Military District # 10,
WINNIPEG, Man.
H-618159, Pte. M. MACYSHON.

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in # 73 WINNIPEG Military Detention Barrack, under your command, a sentence of 6 Months detention awarded by a Standing Court-Martial on the 18 day of April 194 5

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC/IL

5M-2-45(M-4516)

H.Q.C.55-M-1686 (JAG/D)

9 May 45

The District Officer Commanding,
Military District No. 10, Winnipeg, Man.

STANDING Court-Martial
H.618159 Pte. M. Macyshon,
No. 10 District Depot, C.A.

Receipt is acknowledged of your W.44-M-5322 (J) dated 1st May 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M.288.

E & M
Capt.
for (R.J. Orsis) Brigadier
Judge Advocate General.

Noted
L. H. CLAYTON
Lieut.-Colonel
Inspector of Courts Martial
MAY 11 1945

MM

5M-3-45(M-4664) I.C.M. - L 4747

REVIEW OF SENTENCE

DATE MAY 10 1945

H.Q.C. FILE: 55-17-1686

1. NO. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES A.W.L from 2 9 Jan. 45. awarded 7 April 45 2 Mo. 11 days.

8. PREVIOUS CONDUCT ~~ENLISTED~~ ENROLLED 20 Mar 44 AGE 20
Bathurst 24-11-44
5-1-45 A.W.L 5 days F.P. 5 days CB on 11-1-45

9. STATEMENT OF ACCUSED Subject to taking fits. Got homesick. Went home, telling parents on sick leave. Letter from officer. Father scolded me, telling me I'd done wrong. Afraid of Fathers punishment & afraid of Army punishment. Had fit since returned.
D.O.C. Wrongly graded P-5.

10. RECOMMENDATION

IN REPLY PLEASE QUOTE

No. W.44-M-5322 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

311667

Winnipeg, Manitoba, 1st May, 1945

CENTRAL CLERICAL Army
CONF. 55-M-1686
MAY 4 1945
File
Chgd. to
Referred to JAG

Judge Advocate-General,
Dept. of National Defence (Army),
OTTAWA, Ontario.

STANDING COURT-MARTIAL
H-618159, Pte. MACYSHON, M.

Reference H.Q.C.55-M-1686 (JAG/D-9) dated 26th April, 1945.

2. The proceedings of the marginally-noted Court-Martial, having been reviewed, is returned herewith for custody. M.F.M.288, duly completed in accordance with C.A.R.O. 4567, para. 7 B & C is also enclosed herewith.

(E.A. Fletcher) Major,
Assistant Judge Advocate-General,
M.D. No. 10.

vea
enc.

N.D. 23
2600M—10-44 (5769)
H.Q. 1772-101-22

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of H-618 159 (Number) Private (Rank) Michael MACYSHON (Name in full)

No. 10 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to undergo detention for six (6) months

on 18th day of April, 1945 at Winnipeg, Manitoba.

being served at No. 73 Military Detention Barracks, Winnipeg, Manitoba. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 20 years 3 months 30th November, 1944

YOB P U L H E M S

Medical grade or category 24 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To Adjutant-General, Department of National Defence, Ottawa (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~XXX~~ HHR committed to undergo his sentence, which I recommend should ~~XXX~~ be (~~XXXXXXXXXXXXXXXXXXXX~~) (reviewed on 30th May, 1945.) (date) for reasons given in paragraph X.

Place Winnipeg, Manitoba.

Date 1st May, 1945.

H H Rocke Brig. Adj.

(Confirming Authority)

(R.O.G.Morton) Brigadier, District Officer Commanding, Military District No. 10.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....

(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

2 2

M.F.M. 285
(Army Form A-3104)
10M—5-42 (330)
H.Q. 1772-39-2010

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
JUN 12 1945	No Suspension or Remission. No further Review	Adjutant-General for Superior Military Authority	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Sec. 12(1)(a) A.A. WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE: in that he at Red Deer, Alberta, at 0630 hours on the 29th day of January, 1945, absented himself from the A-20, Canadian Army Service Corps Training Centre, C.A., until he was apprehended in Winnipeg, Manitoba, by Military Authorities, at 0845 hours on the 7th day of April, 1945, wearing Military Uniform. H.J. Hansell Major (H.J. Hansell) Officer Commanding, No. 10 District Depot, C.A. Signature of officer making entry	29 Jan 45	18 Apr 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
19th April, 1945	There has been no opportunity to assess this man's ability, character, or usefulness as a soldier. H.J. Hansell Major (H.J. Hansell) Officer Commanding, No. 10 District Depot, C.A.	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
1st May 1945	It is believed this soldier, on medical examination, will be graded P-5. H.H. Rocke Lt.Col (R.O.G. Morton) Brigadier, District Officer Commanding, M.D. No.10,	

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Building No. 15, Fort Osborne Barracks, Winnipeg, Manitoba.

on the 18th day of April 1945 at 1015 hours,

for the trial of: No. H-618159 Private Michael MACYSHON
Number Rank Full Name

No. 10 District Depot, C.A.,
Unit Attachment, if any

PRESIDENT: Major W. H. August, District Headquarters, M.D. No. 10.

PROSECUTOR: Captain R. Carr, District Headquarters, M.D. No. 10,
Rank Full Name Unit Attachment, if any

~~PRISONER~~ DEFENDING OFFICER: Captain G. Pain, No. 10 District Depot, C.A.,
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, No. H-618159 Private Michael MACYSHON, No. 10 District Depot, C.A., is not Guilty of Desertion but is Guilty of Absence Without Leave on the charge.

WHE

SENTENCE: The Court sentence the accused, No. H-618159 Private Michael MACYSHON, No. 10 District Depot, C.A., to undergo detention for six (6) months.

WHE

Signed at Winnipeg, Manitoba, this 18th day of April 1945.

W.H. August Major
President, Standing Court-Martial.

M.F.B. 1486
25M-6-44 (48326)
H.Q. 1772-39-2196

Extracts entered as No. 36464 in the Record of Court-Martial kept in the Office of the Judge Advocate-General this 25 day of April 1945

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~Question to the accused.~~ ~~Do you object to~~

~~Answer~~

Question to the accused. Do you object to No. H-35618 S.M.(A/W.O.I) A. C. Bryant, District Headquarters, M.D. No. 10, acting as shorthand writer?

Answer: No, Sir.

The shorthand writer ~~and interpreter duly sworn~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or a General Court-Martial~~?

Answer: No, Sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B-2"

CHARGE SHEET

A A Lucas Major
President, S. C. M.

The accused, No. H-618 159 Private Michael MACYSHON, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service, is charged with:-

CHARGE: Sec. 12(1)(a) Army Act.

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

- in that he -

at Red Deer, Alberta, at 0630 hours on the 29th day of January, 1945, absented himself from the A-20, Canadian Army Service Corps Training Centre, C.A., until he was apprehended by the Military Authorities, in Winnipeg, Manitoba, at 0845 hours on the 7th day of April, 1945, wearing Military Uniform.

Winnipeg, Manitoba,
16th April, 1945.

R Carr.
(R. Carr) Captain,
Permanent Prosecutor,
Courts-Martial,
Military District No. 10.

GMG

C

Proceedings on Plea of Not Guilty

Question to the accused:

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

being duly sworn, is examined by the Prosecutor.

Question

By the Prosecutor: The Prosecution's evidence is solely documentary, Sir, and I would ask leave to file the documents in the order shown in the Precis, under the provisions of C.A.R.O. 5126. This documentary evidence consists of M.F.B. 375, and M.F.M. 216, relating to the accused.

M.F.B. 375 is read, marked "F", signed by the President, and attached to the proceedings.

M.F.M. 216 is read, marked "G", signed by the President, and attached to the proceedings.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I would rather make a statement, Sir.

(See Page "H" attached).

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, Sir.

The Defending Officer makes a closing address.

The Prosecutor makes a closing address.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

WTB

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. "About that A.W.L., Sir, I was sick and they sent for a Doctor, and they told me that if I had brought a Doctor's certificate showing that I was sick, I would have been let off."

Question to the accused. Do you wish to address the Court?

Answer. No, Sir.

(Defending Officer makes a statement in mitigation — see below).

"I would request, Sir, that the accused's youth and inexperience be taken under consideration."

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"F" Attaugore C-7A Major 654 12

President. S C M.

RECORD of the Declaration of a Court of Inquiry assembled at Red Deer, Alberta, on the 20th day of February 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H-618159, Pte. Michael Macyshon, No. 1 Company, A20 Canadian Army Service Corps Training Centre, C.A., Red Deer, Alberta.

DECLARATION

The Court declare that No. H-618159 (Regt'l No.) Private (Rank) Michael Macyshon (Full Name), No. 1 Company, A20 Canadian Army Service Corps Training Centre, C.A., (Unit) illegally absented himself without leave from A20 Canadian Army Service Corps Training Centre, C.A. at Red Deer, Alberta, (Place) at 0630 hours on the 29th day of January 1945, that he is still so absent, and that on the 31st January 1945 he was deficient, and that he is still deficient of the following articles:—

Clothing Div. "A"	Quantity	Vocabulary Rate	Less 25% CARO 3464
Caps Winter Melton Cloth	1	1.05	0.79
Gloves Woollen Khaki	1	0.66	0.50
Greatcoats Drab	1	15.54	11.66
Section "A.1"			
Braces W.E. Patt '37 Right	1	0.33	0.25
Haversacks W.E. Patt '37	1	2.27	1.72
Clothing Div. "B"			
Battle Dress Serge Blouses	1	6.50	4.88
Drawers Woollen	1	1.40	1.05
Shirts Khaki Cotton	1	1.54	1.16
Shirts Woollen	1	1.20	0.90
Shoes Leather Black prs	1	4.84	3.63
Socks Army prs	2	0.92	0.69
Trousers Battle Dress prs	1	6.55	4.91
Clothing Div. "C"			
Brushes Boot Polishing	1	0.19	0.14
Brushes Button	1	0.11	0.08
Brushes Shaving	1	0.42	0.32
Brushes Tooth	1	0.09	0.07
Combs Hair	1	0.04	0.03
Housewives	1	0.35	0.26
Neckties Black	1	0.19	0.14
Pins Collar Safety	1	0.06	0.05
Razors Safety	1	0.42	0.32
Socks Black prs	2	0.56	0.42
Towels Hand	1	0.31	0.23
			$34.20

Lieut. R.C. McGregor, President
(Name) (Rank) (Unit)
A20 C.A.S.C. T.C., C.A.

Member
(Name) (Rank) (Unit)

Signed at Red Deer, Alberta,

this 20th day of February 1945.

Member
(Name) (Rank) (Unit)

Signature of Commanding Officer (J.J. Burton-Willison) Colonel,
(Name) (Rank) (Unit)
Commandant, A20 C.A.S.C. T.C., C.A.

Certified true copy
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

(R.H. Lowe) Capt.,
Adjutant,
A20 Canadian Army Service Corps Training Centre, C.A.

M.F.D. 133
A.F.D. 115
10016—10-42 (8520)
H.Q. 1772-39-267

"A" W.A. Macdonald Major
President, S.C.M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major E.K. Carter, (Number) (Rank) Officer Commanding, No. 40 Coy. Cdn. Provost Corps, CA (Name) (Unit)

hereby certify that H-618159 (Number) Pte. (Rank) MACYSHON, Michael (Name in full)

of the R.C.A.S.C., (A-20 C.A.S.C.T.C.,) Red Deer, Alta. (Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~(surrendered to)~~ H-59187 Cpl. H-102714 L/Cpl. (Number) (Rank)

Larke, W.F.
Whitlew, R.D. (Name) No. 40 Coy. Cdn. Provost Corps, CA (Unit or appointment)

at 476 Stella Ave. Winnipeg, Man., at 0845 (Place) (Hour)

on the 7th day of April 1945

Strike out words not applicable } as a deserter ~~(or absentee without leave)~~, and that at the time of his arrest he was wearing military ~~clothing~~ uniform ~~(specify clothing)~~.

Dated at Winnipeg, Man., this 7th day of April 1945

Major
(Signature, Number, Rank, Unit or appointment)
(E.K. Carter) Officer Commanding,
No. 40 Coy. C. Pro. C., CA

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (5730)
H.Q. 1772-39-1936

"H" [illegible] Major
President, S.C.M.

VERBAL UNSWORN STATEMENT OF THE ACCUSED

Sir, I was twenty years of age when taken into the Army late part of November, 1944. I had three weeks of Basic training at Red Deer, Alberta, and am subject to taking fits, which can be proved by documents at the General Hospital. I have never left Winnipeg, and I have never been able to go out with the boys, like the others, and I never was able to go down swimming -- I stayed around home during my youth; and when I was taken down to Red Deer I went on a week-end and I got in a crazy mood, some sort of mood, homesick, Sir, bought a ticket for Winnipeg, came to 478 Stella Avenue, telling my parents that I was on sick leave, letting them find out from the Military officer, as I received a letter. My Dad scolded me, telling me the wrong I had made and I realized that.

On the one hand, Sir, I was afraid to come back and on the other hand I was afraid of Dad's punishment and I was afraid of the Army punishment. I have had a fit on Saturday, Sir, here in Custody Barracks. One of the Medical officers came down from the Hospital and checked me over.

That is about all, Sir.

WJB

Arthurgordi Major
President, S.C.M.

19

M.F.B. 355
SM-10-39 (2492)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-618 159	Private	Michael MACYSHON	No. 10 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	Absence Without Leave	1 times	Absence Without Leave	1 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act~~ ~~A.F.A. 73~~ ~~Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for..... beginning on the..... day of.....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service in~~ enrolment ~~attestation~~ paper is 20 years 8 months

6. The date of his ~~commission~~ specified in his ~~record of service~~ is enrolment ~~attestation~~ enrolment ~~attestation~~ paper 30th November, 1944

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to)~~. State any ~~air force~~ military decoration or reward. nil

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of.....~~

70

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Air Force

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Eighteenth day of April, 1946 Lieut. & A/Adj. (A.E. Fryers) No. 10 District Depot C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

..... Major
President S C M

M.F.M. 5
(A.F.B. 122)
500M—11-40 (8625)
H.Q. 1772-43-18

H-
No. 618159 Name MACYSHON Michael

Corps ~~R.C.A.S.C.~~ .I.C.

Date of enlistment 30 Nov 44 G.C. Badges

Service or Proficiency Pay

Sqn., Battery, or Company

Date of last entry in Company Conduct Sheet

No. and date of last drunk N/A

Period not reckoning towards freedom from extra fine N/A

Sheet No. One

Signature O.C. Company, etc. Sgd. Major Chester ~~for Officer Commanding, No. 10~~ District Depot C.A.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Red Deer, Alta.	5 Jan 1945	Pte		A.W.L. From 1200 hrs 5 Jan 45 to 1315 hrs 10 Jan 45 (Absent 5 days 1hr. 15 min)	Documentary	5 days C.B.	11 Jan 45	Major G.T. Crofton	Forf. 6 days pay FRAI 149(1)

CERTIFIED TRUE COPY

D.H.T. Evans Captain
(D.H.T. Evans)
Officer i/c Records
No. 10 District Depot, C.A.

(P.T.O.)

PRECIS OF EVIDENCE

H-618 159 Private Michael MACYSHON, No. 10 District Depot, CA. an N.R.M.A. soldier of the Canadian Army, placed on Active Service.

CHARGE: DESERTION

TO PROVE THE CHARGE THE FOLLOWING EVIDENCE IS AVAILABLE

Documentary: M.F.M. 216

M.F.B. 375

NOTICE

TAKE NOTICE: that I propose to present No. H-618 159 Private Michael MACYSHON, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service, the accused, for trial by Standing Court-Martial, at 1015 hours, Wednesday, the 18th day of April, 1945, in Building No. 15, Fort Osborne Barracks, Winnipeg, Manitoba.

Winnipeg, Manitoba,
16th April, 1945

Major
(H.J. Hansell)
Officer Commanding,
No. 10 District Depot, C.A.

TRIAL OF: H-618 159 Private Michael MACYSHON

No.10 District Depot, C.A.

I, H-618 159 Private Michael MACYSHON

No.10 District Depot, C.A., desire ~~do not desire~~

an Officer assigned to defend me at my trial by Court-Martial.

M. Macyshon

Winnipeg, Manitoba,
16th April 19 45

5

MEDICAL OFFICER'S REPORT

I certify that No. H-618 159 Pte. Macyshon, M.

of #10 Dist. Depot, C.A. is in a good state of health,

and fit to undergo Trial by Court martial.

R H Hillman Lt.
Medical Officer RCAMC
No. 10 District Depot, C.A.

Station Winnipeg, Man.

Date 18 Apr 45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

HQC.55-M-1686 (JAG/D-9)
Your File W.44-M-5322

26 Apr 45

District Officer Commanding,
Military District No. 10,
WINNIPEG, Man.

STANDING COURT-MARTIAL

H.618159, Pte. MACYSHON, Michael
No. 10 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

RJM/AB

(R.J. Orde), Brigadier,
Judge Advocate-General.

- - - -

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

W.44-M-5322 (J)

Winnipeg, Manitoba.
18th April, 1945.

Judge Advocate-General,
Department of National Defence (Army),
OTTAWA, Ontario.

L. 55-M-1686

STANDING COURT-MARTIAL

No. H-618159 Pte. MACYSHON, Michael
No. 10 District Depot, C.A.,

Herewith, for review, are the proceedings of the marginally-noted Standing Court-Martial.

Major,
President,
Standing Court-Martial.

ACB.
Enc.

36964

THIS COPY FOR H.QC.55-M-1686
M.D. W.44-M-5322

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. H.618159 Name MACYSHON, Michael

Rank Pte Unit No. 10 D.D. CA

Charge A.A. 12(1)(a) Desertion

Date of Crime 29-1-45

Date of Arrest 7-4-45 Charge Signed 16-4-45

Orders for D.C.M.

Place and Date of Trial Bldg No. 15, Fort Osborne Bks. Winn. Man.; 18-4-45

Sentence Det 6 mos

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36064

Date 24-4-45

MEMO Balance of sentence remitted by Conf. Auth. 25-6-45 Guilty A.W.L.

M.D. 10 - No. 10 D.D. CA

Absent	Sentence
2 mos 11 days	det 6 mos

for Judge Advocate-General

10M-1-45(M-4629)

Read — no comments

H.Q.C. 55-1-1687 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MAZEROLLE. AURELE JOSEPH F-56711 PTE.

-A-L-CPL-

CONFIDENTIAL
H.Q.C. 55-1-1687

CENTRAL REGISTRY	DATE	P.A. OR S.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 27 1945					NEW FILE	C.R.	APR 25 1945
				JAG	With Papers C.R. MAY - 8 1945		
MAY 7 1945	7/5	pa		DCM	To note, pl.	MM	5-5-45
MAY 3 1945	9/5/45	P.A.		JAG	Put to check B.F. Card		7/5/45
				CRC	With attached minute	EKM	9/5/45
NOV 20 1945		cancelled		JAG	With Papers C.R. NOV 24 1945		
DEC - 4 1945	5-12-45	P.A.		JAG	With Papers C.R. DEC 1 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-M-1687 (JAG/D6)

3 Dec 45

The Commander,
Camp Borden Military Camp,
CAMP BORDEN, Ontario.

~~Standing~~.....Court-Martial.
F-56711, Pte. (A/Cpl.) A.J. MAZEROLLE,
A-19 C.A.S.C.T.C., C.A.

Receipt is acknowledged of your 40-M-6138(AJAG) dated November 29th 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E L M

for (R.J. Orde), Brigadier,
Judge Advocate-General.

/KB

8M-5-45(M-96)

File No. C.B. 40-M-6138 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Camp Borden,
Camp Borden, Ontario,
29 NOV 45.

The Secretary,
Dept. of National Defence,
OTTAWA, Ont.

12464
DEC 1 1945
File
Objects
Referred to AG.

STANDING COURT-MARTIAL

F-56711, Pte. (A/Cpl) A. J. MAZEROLLE,
A-19 C.A.S.C.T.C., C.A.

Reference HQC 55-M-1687 (JAG/D-8), d/27 Nov 45.

2. Returned herewith for custody the proceedings of the marginally-noted Standing Court-Martial.

3. No administrative action is considered necessary in this case.

A.H. Bruce Maj

for (A.C. Spencer)
Major-General
Commander - Camp Borden

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Camp Borden, Ontario,

on the 22nd day of November, 1945 at 0930 hours,

for the trial of: F-56711 Pte. (A/Cpl) Aurele, Joseph, MAZEROLLE,
Number Rank Full Name

A/19 C.A.F.C., T.C., C.A.
Unit Attachment, if any

PRESIDENT: Major J. C. A. Campbell, President Courts-Martial, Camp Borden, C.A.

PROSECUTOR: Capt. H. Rotenberg, Prosecutor Courts-Martial, Camp Borden, C.A.
Rank Full Name Unit Attachment, if any

DEFENDING OFFICER: Lieut. F. E. Doyle, A-19 C.A.F.C.T.C., C.A.
Rank Full Name Unit Attachment, if any

FINDING:

The Court find that the accused is guilty of all the charges.

SENTENCE:

The Court sentence the accused to undergo detention for sixty days.

Extracts entered as No. 41476 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 26 day of Nov 19 45

Signed at Camp Borden, Ontario, this 22nd day of November, 1945.

J.C.A. Campbell, Major
(J.C.A. Campbell), President, Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~*Question to the accused.* Do you object to ~~ ~~as interpreter ?~~

Answer:

Question to the accused. Do you object to No.B-142054, CSM(WO II)(S.M.(W.O.I)) A.R. Bartleman, Headquarters, Camp Borden, C.A., as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter if any~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Guilty, sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. Guilty, sir.

~~*Question to the accused.* Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

Answer.

(The accused having pleaded guilty to all the charges, the provisions of Rule of Procedure 35 (B) are here complied with.)

B 2
J.C. Campbell Capt
Pros Secy. 5

CHARGE SHEET

1st CHARGE
SEC 40
ARMY ACT

The accused, F-56711 Pte. (A/Cpl) Aurele, Joseph, MAZEROLLE, of A/19 C.A.S.C., T.C., C.A., Camp Borden, Ontario, a G.S. Soldier of the Canadian Army placed on Active Service is charged with:

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he,

At Camp Borden, Ontario, on the 18th day of November, 1945 used without lawful authority, Public Property, D.N.D. Vehicle No. 70-848.

2nd CHARGE
SEC 11
ARMY ACT

NEGLECTING TO OBEY STANDING ORDERS

In that he,

At or near Camp Borden, Ontario, on the 18th day of November, 1945 carried a civilian in D.N.D. Vehicle No. 70-848, contrary to para 17(c) of Standing Orders for Drivers of M.T. Vehicles & Universal Carriers & Motorcyclists (1944), which directs that civilians will NOT be carried in Canadian Military Vehicles.

3rd CHARGE
SEC 11
ARMY ACT

NEGLECTING TO OBEY STANDING ORDERS

In that he,

At or near Camp Borden, Ontario, on the 18th day of November, 1945 drove D.N.D. Vehicle No. 70-848 over Highway No. 90 at a speed in excess of 40 miles per hour contrary to para 4(i) of Standing Orders for Drivers of M.T. Vehicles & Universal Carriers & Motorcyclists (1944), which directs that the maximum speed will not exceed 40 m.p.h. for passenger vehicles under any condition.

Camp Borden, Ontario,
21st November, 1945.

A Currie
(A. Currie) Lt.-Col.,
Commandant,
A/19 C.A.S.C. T.C. CA

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to all the charges is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. Yes, sir.

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

FIRST WITNESS FOR THE DEFENCE (CHARACTER)

Capt. J. I. DOLAN, A-19 C.A.C.C.T.C., C.A., being duly sworn is examined by the Defending Officer:-

Q- I would like to ask you to explain to the Court in your own words your findings as to the character of the accused, Cpl. Mazerolle, outlining his ability as a workman, and his conduct in the shops, if you will, sir, please.

A- The accused, Mazerolle, came to us actually in May of this year, on trial as to his ability in his trade as a body repair man, was subsequently taken on strength of the Company on the 1st of June this year, and has been with us until this time. He was taken on as a body repair man, and was left in that Department, but by virtue of discharges, so on and so forth, it was found necessary to use him in other Departments. He has developed equally as well as a blacksmith and welder as a body repair man, with the result that in the early part of October he was recommended for his two hooks, which he is now wearing. He put them up on the 6th of November. As a workman he is tops in his trade. He is thoroughly dependable insofar as the day's work is concerned.

Q- Is it true, sir, that Mazerolle will be greatly missed while undergoing detention?

A- The circumstances are that he is one of two men in that Department, and the other, by virtue of his priority point score is recommended for release, and it would leave us without a man in that Department.

----- The Prosecutor declines to cross-examine.

----- The Witness withdraws.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir, through my Defending Officer.

---- The Defending Officer makes a Final Address.

(See document marked "P").

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

M.F.B. 355
H.Q. 1772-39-620
(5M-8-40 (M19)

13

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F-56711	Pte. (A/Cpl)	Aurele, Joseph, MAZEROLLE	A-19 CASC TC

1. The following is a fair and true summary of the entries in the Field Service [redacted] Conduct sheets of the accused, exclusive of convictions by a Court-Martial [redacted] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	A.W.L.	1 times	A.W.L.	5 times
[redacted]				

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [redacted]

Previous convictions of the accused by a court-martial [redacted] of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. [redacted]. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and [redacted] days in military custody, making a total of [redacted] days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 33 years - 5 months

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 14 Apr 43

7. [redacted]

8. [redacted]

9. The accused is in possession of or entitled to [redacted] military decoration C.V.S.M. [redacted] military decoration or reward.

10. [redacted]

124

11. (~~In the case of an officer.) The accused holds in the Royal Canadian Air Force~~ [redacted] ~~rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 17 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number F-56711 Rank Pte. (A/Cpl) Name Aurele, Joseph, MAZEROLLE of A-19 C.A.S.C., T.C., C.A. ~~Regiment~~

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
S.C.M.	23 Apr 45 Camp Borden, Ont.	A.W.L.	45 days Det'n	15 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this [redacted] 22nd day of November 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked .....signed by the presiding and annexed to the proceedings.

ADJUTANT, A-19 C.A.S.C., T.C., C.A.

No. F-56711 Name Mazerolle, A.J. Sqn., Battery, or Company | Corps RCASC | Date of enlistment 14 Apr 43 | G.C. Badges "Z" | Sheet No. 1

No. and date of last drunk | Period not reckoning towards freedom from extra fine

Signature of Company Officer

M.F.M. 6 (A.F.S. 123) 250M-12-42 (7557) H.Q. 1773-39-1942

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Halifax, N.S.	19Jun 43	Pte.		A.A.Sec.15(1) ABSENTING HIMSELF WITHOUT LEAVE, from 0600 hrs 19 Jun 43 until 0200 hrs. 22 Jun 43		7 days pay	23 Jun 43		Auto Forf. 7 days P&A
Halifax, N.S.	29Oct 43	Pte.		A.A. Sec15(1) ABSENTING HIMSELF WITHOUT LEAVE from 2300 hrs 29 Oct 43 until 11 Nov 43		15 days pay	11 Nov 43		Auto Forf. 13 days P&A
Halifax, N.S.	12Dec 43	Pte.		A.A. Sec15(1) ABSENTING HIMSELF WITHOUT LEAVE, from 2300 hrs. 12 Dec 43 until 1100 hrs 13 Dec 43	TAKEN FROM M.P.M.	3 days pay	14 Dec 43		Auto Forf. 1 days P&A
Camp Borden, Ont.	5Sep 44	L/Cpl		A.A.Sec.15(1) ABSENTING HIMSELF WITHOUT LEAVE, from 1200 hrs 5 Sep 44 to 0945 hrs 11 Sep 44 (Absent 5 days, 21 hrs, 45 mins)	L/Cpl. Van Every, L.M.	Severe Reprimand	11 Sep 44	Col.G.R. Elliot	Auto Forf. 6 days P&A

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden Ont.	27Mar 45	Pte.		A.A.15(1) ABSENTING HIMSELF WITHOUT LEAVE, from 1200 hrs 27 Mar 45 until apprehended at 0600 hrs 16 Apr 45 (Absent 19 days, 18 hrs.) Under close arrest whilst awaiting trial.	Documentary	45 days det'n	23 Apr 45	S.C.M.	Forf 20 days P&A for absence 7 days P&A unde close arrest Total FOP 72 dys
Camp Borden Ont.				15 days remission of sentence 23 May 45 Pt. 11 115 d/31 May 45					

THIS IS A CERTIFIED TRUE COPY

(J.P. Ennis) Lieut.,
A.19 C.A.S.C.T.C.,
Officer having custody of
original record.

NdF-56711 Name Mazerolle, A.J. Sqn., Battery, or Company | Corps RCASC | Date of enlistment 14 Apr 45 | G.C. Badges | Tradesmen's Rates of Pay | M.F.M. 6 (A.F.B. 122) 500M—11-41 (3498) H.Q. 1773-39-1403

No. and date of last drunk | Period not reckoning towards freedom from extra duc | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden, Ont.	30 Aug 45	Pte.		A.A.Sec.15(1) ABSENTING HIMSELF WITHOUT LEAVE, from 1200 hrs, 30 Aug 45 to 0900 hrs, 2 Sep 45	Sgt. Moffat W.K.	5 days pay	4 Sep 45	Lt-Col W.J. Cooper	Auto forf 3 days pay. Award 5 days. Total 8 dys

THIS IS A CERTIFIED TRUE COPY

(J.P. Ennis) Lieut.,
A.19 C.A.S.C.T.C., C.A.,
Officer having custody of
original record.

(P.T.O.)

EXHIBIT "F"

J G Campbell Maj
Pres Secy

FINAL ADDRESS BY THE DEFENDING OFFICER:-

I would just like to add, sir, that Cpl. Mazerolle is very industrious type. I know for a fact myself he works nights and week ends on his own to earn a little more money to send home to his family. He has a mother and father over sixty, and he has eight younger brothers and a sister, so he helps out considerably. I do feel, sir, in this case he is more or less a victim of circumstances. This little escapade has been influenced by others.....

COURT:

There is no evidence on that.

DEFENDING OFFICER: (Continuing)

Outside of that, and the fact that he is planning to get married at the first of the year, sir, I think that is all that can be said on his behalf, and I would ask that as much leniency be shown as possible.

JGC

JGC

MEDICAL OFFICER'S REPORT

gcc

I certify that No. F56711 Cpl. Mazerolle, A.V.

of A-19 CASC.TC. (CA) is in a Good state of health,

and Fit to undergo trial, by court martial.

W.G. Harding Lieut.

(W.G.HARDING) R.C.A.M.C.,

Medical Officer att. A19 CASC (A) T.C.

Station: Camp Borden, Ont.

Date: 22 Nov 45

H.Q.C.55-M-1587 (JAG/D-8)
Your C.M.40-M-6138

27 Nov 45

The Commander,
Camp Borden Military Camp, Ont.

STANDING COURT-MARTIAL

F.56711 Pte. (A/Cpl) Aurela Joseph Mazerolle,
A.19 C.A.S.C.,T.C.,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(E.G. Adams) Brig.
Judge Advocate General.

MO/MM

8M-7-45(M-188)

GS

THIS COPY FOR

H.Q. 55-M-1687
M.D. 40-M-6138

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. F-56711 Name MAZKEOLLE Aurela, Joseph,

Rank Pte. (A/Cpl) Unit A/19 C.A.S.C., T.C. C.A. Camp Borden

Charge AA 40 Conduct to the Prejudice

AA 11 Neg. Standing Orders

AA 11 Neg. Standing Orders

Date of Crime 18-11-45 (2) 18-11-45 (3) 18-11-45

Date of Arrest Charge Signed 21-11-45

Orders for D.C.M.

Place and Date of Trial Camp Borden 22-11-45

Sentence Detention 60 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 41475

Date 26-11-45

MEMO

~~Xxxx~~ Camp Borden

A/19 CASC, T.C. Camp Borden

Sentence

Detention 60 days

10M-8-45(M-189)

W R Ewart

for Judge Advocate-General

26 Nov 45
Passed

C.B. 49-M-6138 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, Camp Borden,
Camp Borden, Ontario.
22 NOV 45.

NOV 24 1945
C.55 M-1687

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
F-56711, Pte.(A/Cpl) A. J. MAZEROLLE,
A-19 C.A.S.C.T.C., C.A.

Herewith proceedings of the m/n trial by Standing Court-Martial, for registration and custody, please.

J C A Campbell major

(J. C. A. Campbell), Major,
President,
Standing Court-Martial.

4175

H.Q.C. 55-M-1687(JAG/D)

4 May 45

The Commander Camp Borden Military Camp,
Camp Borden, Ontario.

Standing Court-Martial
F56711, Pte. (A/L/Cpl) A.J. Mazerolle,
A-19 C.A.S.C.T.C., C.A.

Receipt is acknowledged of your CR 40-M-0138
dated 29th April 194 5, under cover of which you
returned to this office for custody the proceedings
of the marginally noted Standing Court-Martial.

E.F.M. Capt
for (R.J. Orde) Brigadier,
Judge Advocate-General.

Noted
L.H. Clayton
L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
MAY 7 1945

/B

811

File No. C.B. 40-M-6138 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

310532

Headquarters, Camp Borden,
Camp Borden, Ontario,
29 APR 45.

GENERAL REGISTRY Army
SECRET
MAY 2 1945
C55-M-1687
Chgd. to
Referred to JAG

The Secretary,
Dept. of National Defence,
OTTAWA, Ont.

STANDING COURT-MARTIAL
F.56711, Pte.(A/L/Cpl) A.J. MAZEROLLE,
A-19 CASCTC, CA.

Reference HQC 55-M-1687 (JAG/D-8),d/26 APR 45.

2. Returned herewith for custody the proceedings of the marginally-noted Standing Court-Martial, in which no review of sentence is recommended.

3. No administrative action is considered necessary in this case.

(A.C. Lochhart)
Major-General
Commander, Camp Borden.

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Camp Borden, Ontario,

on the 23rd day of April, 1945 at 1445 hours,

for the trial of: No. F-56711 Private (A/L/Cpl.) Aurele Joseph MAZEROLLE,
Number Rank Full Name

A-19 Canadain Army Service Corps Training Centre, C.A.,
Unit Attachment, if any

PRESIDENT: Major J. C. A. Campbell, President Courts-Martial, Camp Borden, C.A.

PROSECUTOR: Capt. J. A. Mullin, Prosecutor Courts-Martial, Camp Borden, C.A.
Rank Full Name Unit Attachment, if any

DEFENDING OFFICER: Major B. F. LeVay, A-19 C.A.S.C.T.C., C.A.
Rank Full Name Unit Attachment, if any

FINDING:

The Court find that the accused is guilty of the charge.

SENTENCE:

The Court sentence the accused to undergo detention for forty-five days.

Signed at Camp Borden, Ont., this 23rd day of April, 1945.

J. C. A. Campbell, Major
(J. C. A. Campbell), President, Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 36996 in the Record of Courts Martial kept in the office of the Judge Advocate-General this 25 day of Oct 1945

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~*Question to the accused.* Do you object to as interpreter?~~

Answer:

Question to the accused. Do you object to No. B-142054, Cpl.(C.S.M.(A/W.O.II) A.R. Bartleman, Headquarters, Camp Borden, C.A., as shorthand writer?

Answer: No, sir.

The shorthand writer ~~[illegible]~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No, sir.

The accused is arraigned upon ~~[illegible]~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~[illegible]~~ charge against you, which you have heard read?

Answer: Guilty, sir.

~~*Question to the accused.* Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B 2
J C Campbell may ?
Pres sem.

CHARGE SHEET

The accused, No. F-56711 Private (A/L/Cpl.) Aurele Joseph MAZEROLLE, A-19 Canadian Army Service Corps Training Centre, C.A., Camp Borden, Ontario, a G.S. soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Camp Borden, Ontario, on the 27th day of March, 1945, absented himself without leave from A-19 Canadian Army Service Corps Training Centre, C.A., from 1200 hours on the said 27th day of March 1945, until he surrendered to Military Authorities at Camp Borden, Ontario, at 0600 hours on the 16th day of April 1945, wearing military uniform.
Costs of apprehension and return to his corps; NIL.

Camp Borden, Ontario
19th day of April 1945.

(M.L. Brennan) Colonel
Officer Commanding
A-19 C.A.S.C. T.C. C.A.
Camp Borden, Ontario

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge.

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

JCLC

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir, through my Defending Officer.

----- The Defending Officer makes a Final Address.

(See document marked "F".)

JCLC

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

11

J. A. Campbell Major
Pres. Scre

TSM 43 (145)
H.Q. 1773-39-539
A.F.B. 294

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F-56711	Private (a/L/Cpl)	MAZEROLLE, A.J.	A-19 CASE TC CA

1. The following is a fair and true summary of the entries in the Field ~~Regimental~~ Conduct sheets ~~Regimental~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Military~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	One AWL	times	4 AWL's	times
~~XXX~~ nil		~~XXXX~~ nil		~~XXXX~~ nil
~~XXX~~ nil		~~XXXX~~ nil		~~XXXX~~ nil
~~XXX~~ nil		~~XXXX~~ nil		~~XXXX~~ nil

~~[illegible]~~ nil

~~[illegible]~~ nil

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~[illegible]~~ nil ~~[illegible]~~ nil ~~[illegible]~~ nil ~~[illegible]~~ nil ~~[illegible]~~ nil

3. The accused is not under sentence at the present time. ~~[illegible]~~ nil Nil ~~[illegible]~~ nil ~~[illegible]~~ nil

4. The accused has been in confinement awaiting trial on the present charges, for NIL nil days in civil custody, and ~~[illegible]~~ 87 nil days in military custody, making a total of ~~[illegible]~~ 78 nil days in custody, of which NIL nil days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ nil attestation paper 33 years, 10 months

6. The date of his ~~[illegible]~~ nil specified in his ~~[illegible]~~ nil attestation paper 14 April 1943

7. ~~[illegible]~~ nil ~~[illegible]~~ nil

8. ~~[illegible]~~ nil ~~[illegible]~~ nil ~~[illegible]~~ nil

9. The accused is in possession of or entitled to ~~[illegible]~~ nil military decoration, or ~~[illegible]~~ nil military reward (or is in possession of or entitled to). State any ~~[illegible]~~ nil military decoration or reward. C.V.S.M.

10. ~~[illegible]~~ nil ~~[illegible]~~ nil ~~[illegible]~~ nil ~~[illegible]~~ nil

[redacted] Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Air Force Unit

Name..... of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		Nil		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of April 45 [signature]

ADJUTANT, A/19 C.A.S.C., T.C., C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

M.F.M. 6

Reg. No. F.56711 Name Mazerolle, A.J. Corps RCASC Date of Birth

Date of Attestation or enrolment 14 Apr 43.

Sheet No. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order disposing with trial	By whom awarded	Remarks
Halifax N.S.	19 Jun 43	Pte.		A.A.Sec.15(1) ABSENTING HIMSELF WITHOUT LEAVE, from 0600 hrs 19 Jun 43 until 0200 hrs 22 Jun 43.		7 days Pay	23 Jun 43		Auto. forf 7 days P & A
Halifax, N.S.	29 Oct 43	Pte.		A.A.Sec.15(1) absenting himself without leave from 2300hrs 29 Oct 43 until 11 Nov 43.		15 days Pay	11 Nov 43		Auto forf. 13 days P&A
Halifax N.S.	12 Dec 43.	Pte.		A.A.Sec.15(1) ABSENTING HIMSELF WITHOUT LEAVE, from 2300hrs. 12 Dec 43 until 1100hrs 13 Dec 43.		3 days Pay	14 Dec 43		Auto forf. 1 days P&A

(P.T.O.)

M.F.M. 6—500M—6-44 (3286)
H.Q. 1779-29-1633

Place	Date of offence	Rank	Corps of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order disposing with trial	By whom awarded	Remarks
Camp Borden 5 Ontario. Sep 44		L/Cpl.		A.A.Sec.15(1) ABSENTING HIMSELF WITHOUT LEAVE, from 1200hrs. 5 Sep 44 to 0945 hrs 11 Sep 44, (Absent 5 days, 21 hrs. 45 mins)	L/Cpl. Van Every, L.M.	Severe Reprimand	11 Sep 44	Col. G.H. Elliott	6 days P&A Auto forf.

Certified True Copy

ADJUTANT, A/19 C.A.S.C., T.C., C.A.

EXHIBIT "F"

FINAL ADDRESS BY THE DEFENDING OFFICER:

The accused, L/Cpl. Mazerolle, is well known to me. In the spring of 1944 he did his training under me in No. 1 Company, A-19. After he completed his training, he was posted to the M.T. Company as a driver-instructer, which gave him the stripe that he is wearing now. During the entire length of his training with me, he had no charge against him whatsoever. He was what we can call a good average soldier. I believe his trouble started after he was in static employment, when he started receiving news from home that his eleven brothers and sisters were too much of a burden for his father, who is quite aged.

L/Cpl. Mazerolle has two brothers, one in Holland, one in Italy. He told me that his frequent, I should say frequent because he already has four charges against him, were due to the fact that he had an opportunity to do a little extra to make money to send home to take care of the younger members of the family. This is what happened the last time, where he was away nineteen days. He worked in a garage in Toronto at ninety cents an hour, and he has sent the entire proceeds of his working home. He came back on his own in military uniform, and now that he has paid his father's debts, he wishes to go and join his brothers overseas as fast as possible.

I make a very strong appeal to the Court not to give this man any detention, but to revert him to the rank of private, the put him on the next draft, and grant him his wish. This lance corporal realizes that he should have never done such a thing, take the law in his hands, but on the other hand, I believe that he was motivated by some higher motives than usual. He didn't go on a binge; he was toiling day and night to make a little extra money for a very large family. He throws himself on the mercy of the Court.

His pulhems are M-2, S-2, and one across otherwise.

MEDICAL OFFICER'S REPORT

Gsc

I certify that No. F-56711 L/Cpl. MAZEROLLE, A.J.

of A-19 C.A.S.C. T.C. is in a Good state of health,

and Fit to undergo Trial by Court martial.

Medical Officer
(F.Wiener) Capt. RCAMC.
M.O. Att. A19 C.A.S.C. T.C.

Station CAMP BORDEN, Ont.

Date 23 Apr 45

M. F. B. 246

4074—9-44 (5437)
H.Q. 1772-39-460

H.Q.C.55-M-1687 (JAG/D-8)
Your File - C.B.40-M-3138

26 Apr 45.

Commander,
Camp Borden Military Camp,
Camp Borden, Ontario.

STANDING COURT-MARTIAL

F-56711, Pte. (A/L/Cpl.) A.J. MAZEROLLE
A-19 C.A.S.C.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

MO/ET

C.B. 40-M-6138 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

Headquarters, Camp Borden,
Camp Borden, Ontario.
23 APR 45

P.55-M-1687

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
F-56711, Pte. (A/L/Cpl.) A. J. MAZEROLLE,
A-19 C.A.S.C.T.C., C.A.

Herewith proceedings of the m/n trial by Standing Court-Martial, for registration and custody, please.

J.C.A. Campbell Major

(J.C.A. Campbell),
~~xxxxxxxxxxxxxxxx~~ Major,
President,
Standing Court-Martial.

36996

THIS COPY FOR

H.Q. C.55-M-1687
M.D.G.R. 40-M-6138

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. F.56711 Name MAZEROLLE, Aurele Joseph

Rank Pte Unit A.19 C.A.S.C.T.C. CA

Charge A.A. 15(1) A.W.L.

Date of Crime 24-3-45

Date of Arrest 16-4-45 Charge Signed 19-4-45

Orders for D.C.M.

Place and Date of Trial Camp Borden ; 23-4-45

Sentence Det 45 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 36996

Date ~~25/4~~ 25-4-45

MEMO

Borden - A 19 CASCTC CA

Absent	Sentence
21 days	Det 45 days

for Judge Advocate-General

10M-1-45(M-4629)

25 April 45

Passed - no irregularities noted.

H.Q.C. 55-1-1688

CONFIDENTIAL

M.F.R. 1018
DM—4-43 (9625)
H.Q. 801-1-49

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MCCANN. JEAN CHARLES E-610111 PTE.

CONFIDENTIAL
H.Q.C. 55-1-1688

CENTRAL REGISTRY	DATE	P.A. OR D.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and cross here "With Minute")		
MAY 2 1945				J. A. G.	NEW FILE C.R.		APR 26
				J.A.G.			
MAY 10 1945							
MAY 11 1945				JCN	To note, pls	N.N.	9-5-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1688 (JAG/D)

9 May 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

~~STANDING~~ Court-Martial

E.610111 Pte. Jean-Charles McCann,
Les Fus. du St.Laurent, C.A.
Attached No. 5 District Depot,C.A.

Receipt is acknowledged of your ~~Q.39-M-3278 (JA)~~ dated 4 May 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E L M
Capt.
for (R.J.Orde), Brigadier
Judge Advocate-General.

MM

Lieut. L. H. CLAYTON
Lieut.-Colonel.
Inspector of Courts-Martial
MAY 10 1945

12082 IN REPLY PLEASE QUOTE No. Q. 39-M-3278 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

QUEBEC, P.Q., 4 May 45.

THE SECRETARY,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY
CONF. SEC.
MAY 8 1945
File CJS-M-1688
Copied to
Answered to JOJ

STANDING COURT-MARTIAL
E-610111 Fte. Jean-Charles McCann
Les Fus. du St-Laurent,CA,
(Att. No.5 D.D.,CA).

1. Reference HQC. 55-M-1688 (JAG/D-4) dated 1 May 45.

2. The proceedings of the m/n SCM are returned herewith for custody.

3. MFM 288 is not attached hereto as the OC No.5 D.D. does not wish to recommend a revision of the sentence.

JAC/C.

(Edmond BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

NAT. DEF. B. AD
H.Q. 1772-10-767

A

1

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue au Dépôt Régional No. 5, A.C., Lauzon, P. Q.,

le 24 ème - - - jour de l'avril, - - - - - - - - 19 45, à 1011 - - - - heures,

pour le procès de E-610111, - Soldat Jean-Charles McCANN,
Matricule Grade Nom et prénoms

Les Fusiliers du St-Laurent, A.C., att. au Dépôt Rég. No. 5, A.C.
Unité Détachement, le cas échéant

PRÉSIDENT: Major Armand SYLVESTRE, Président Permanent, C.M.P., Q. G., R. M. No. 5.

PROCUREUR: Capt. Pierre TASCHEREAU, Procureur Permanent, Q. G., R. M. No. 5.
Grade Nom et prénoms Unité Détachement, le cas échéant

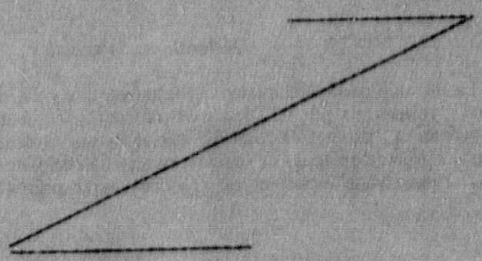
~~AUDITEUR~~
~~AX~~ OFFICIER DÉFENSEUR: Capt. G.A.W. WELLS, Regt. de Lévis, A.C., att. D. D. 5, A.C.
Grade Nom et prénoms Unité Détachement, le cas échéant

VERDICT:

" LA COUR DECLARE LE PREVENU :

Mat. E-610111, - Soldat Jean-Charles McCANN, Les Fusiliers du St-Laurent, A.C., attaché au Dépôt Régional No. 5, A. C.,

COUPABLE DU CHEF D'ACCUSATION. "



SENTENCE:

" LA COUR CONDAMNE LE PREVENU :

Mat. E-610111, - Soldat Jean-Charles McCANN, Les Fusiliers du St-Laurent, A.C., attaché au Dépôt Régional No. 5, A.C.,

à la détention pendant quatre-vingt-dix (90) jours. "

-o-o-o-o-o-o-o-

Signé à LAUZON, P. Q., - - - - - ce 24ème - - jour de l'avril, - - - - 194 5.

A. Sylvestre - Major,
Président de la cour martiale permanente.
Q. G., R. M. No. 5.

M.F.B. 1486A
5M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 37011 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 26th April 1945

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question à l'accusé.~~ ~~Vous opposez-vous à être jugé par un interprète ?~~

~~Réponse:~~

Question à l'accusé. Vous opposez-vous à E-21035, S.M. A/W.O. I, Gaston Vidal, - - - - comme sténographe ?

Réponse: Non, monsieur. (Le mat. E-21035, S.M. A/W.O. I, Gaston Vidal, 5ème Détachement C.C.M.E.M., A.C., 5ème Région Militaire, A.C., est le sténographe ~~et interprète officiels~~ dûment assermenté.)

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ~~ou une cour martiale~~ ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~premier~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: " NON COUPABLE. "

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef ~~d'accusation, les prescriptions de la Règle de procédure 33 (B) sont observées.~~

" B-2 "

ACTE D'ACCUSATION

L'accuse E-610111 soldat Jean-Charles McCANN, Les Fusiliers du St-Laurent, A.C., attache au Depot Regional No.5 A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF
Art. 12(1)(a)
Army Act.

D'AVOIR EN ACTIVITE DE SERVICE, DESERTE
LE SERVICE DE SA MAJESTE

en ce que,

a Valcartier, P.Q. a 0800 heures le 27 decembre 1944, il s'est absente sans permission du Regiment Les Fusiliers du St-Laurent, A.C. , jusqu'a ce qu'il soit apprehende par les autorites militaires, a Sillery Cove, P.Q. a 1645 hrs, le 9 avril 1945, en tenue civile.

Lauzon, P.Q.
21 avril 1945

(PIERRE TASCHEREAU) Capitaine,
Procureur Permanent District Militaire No.5 A.C.

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le président procède à l'appel des témoins~~

~~Aucun témoin n'est interrogé par le procureur~~

- LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE : -

1o. M.F.B. 375, Déclaration d'une Cour d'Enquête tenue à Lauzon, P. Q., le 14 février, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " F ", signé par le Président et versé au dossier.)

2o. M.F.M. 216, certificat d'appréhension signé à Québec, P. Q., le 10 avril, 1945, par le Major J. G. LeBlanc, O.C., 36 Coy. C. Pro. C., se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " G ", signé par le Président et versé au dossier.)

-o-o-o-o-o-o-o-o-o-o-o-o-o-o-o-

- LA POURSUITE N'A PAS DE TEMOINS A APPELER. -

-o-o-o-o-o-o-o-o-o-o-o-o-o-o-o-

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Non, monsieur; d'aucune manière.

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non, monsieur.

- LE PROCUREUR ET L'OFFICIER DEFENSEUR SOUMETTENT LA CAUSE TELLE QUE PROUVÉE. -

~~*Question à l'accusé.*~~ ~~Avez-vous uniquement un témoin à l'appui de votre réputation?~~

~~*Réponse*~~

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Non, monsieur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

RECORD of the Declaration of a Court of Inquiry assembled at Lauzon, P.Q. on the 14th day of Feb 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Regimental Necessaries, or Clothing of No. E/610111 PTE McCANN J.C. F.S.L.

DECLARATION.

The Court declare that No. E/610111 Pte McCANN J.A. Fus du St-Laurent illegally absented himself without leave from Fus. du St-Laurent at V'lcartier at 0800 hours on the 27th day of December 1944 that he is still so absent, and that on the 14th Feb 45 he was deficient, and that he is still deficient of the following articles:-

ARTICLES		VALUE	ARTICLES		VALUE
Anklets web	2	1. 48			
C p milton	1	1. 05			
Gloves woollen	1	66			
Greatcoat	1	15. 55			
Glove mechanic	1	75			
Battle dress blouse	2	13. 00			
" " trousers	3	19. 65			
Boot ankle	2	11. 64			
C p field service	1	70			
Drawers woollen	2	2. 80			
Jackets sweather	1	1. 37			
Puttees strap	1	97			
Shirts khaki cotton	2	3. 08			
" woollen	2	2. 40			
Shoes canvas	1	2. 29			
Shoes leather black	1	4. 84			
Socks woollen	2	92			
Bag kit	1	1. 27			
Belt waist leather	1	35			
Braces	1	28			
Brass button stick	1	04			
Brush button	1	11			
" cloth	1	17			
" hair	1	39			
" tooth	1	09			
Comb hair	1	04			
Fork table	1	08			
Knive table	1	18			
Brush boot	1	21			
Neeties black	1	19			
Pin collar safety	1	06			
Razor safety set	1	42			
Socks black	3	84			
Towels hand	2	62			
Badge cap	1	09			
Frog bayonet	1	18	TOTAL		88. 19
Case pistol	1	99	75 %		66. 14
Pouches arm pistol	1	45			

(J.A.M. CARON) - Major DD 5 .....President

(J.U.G. GIRARD) - Capt., DD. 5 .....Member

(Y. LORTIE) - Lieut. D.D. 5 .....Member

Signed at Lauzon, P.Q.

this 14th day of February 1945.

Signature of Commanding Officer (Jean La Fontaine)
Col. M.C., DC No.5 D.D.

Certified true copy
(Signature of Officer having custody of original record)
RECORDS OFFICE
No.5 District Depot
Lauzon, Que.

N.B. 375

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major, J.G. LeBlanc (Number) (Rank) O.C. 3c Coy., C. Pro. C. (CA) (Name) (Unit)

hereby certify that E-810111 (Number) Pte. (Rank) J.C. McCAIN (Name in full)

of the D.D. 5 (CA) (Unit and attachment, if any) Lauzon

President R.M.P.

Strike out words not applicable } was apprehended by (~~surrendered to~~) E-80217 D-57912 (Number) L/Cpl. Cpl. (Rank)

A/G. Ouellet
C. Routin (Name) 3c Coy., C. Pro. C. (CA) (Unit or appointment)

at Sillery Cove, P.Q. (Place) at 1645 (Hour)

on the 9th day of April 19 45

Strike out words not applicable } as a ~~[illegible]~~ absentee without leave), and that at the time of his arrest he was ~~wearing military [illegible] uniform~~ (dressed in civilian clothes).

Dated at Quebec, P.Q., this 10th day of April 19 45

(J.G. LeBlanc)-Major,
(Signature, Number, Rank, Unit or appointment)
O.C. 3c Coy., C. Pro. C. (CA)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

"Y"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Lieutenant Colonel.

Number	Rank	Name	Regiment (or unit)
E610111	Pte.	McCANN. J.C.	NRMA Regt. de Hull.

1. The following is a fair and true summary of the entries in the field. ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of ..... 19.....~~

4. The accused has been in confinement ~~awaiting~~ trial on the present charges, for ..... ~~days in civil custody, and~~ 14 days in military custody, making a total of 14 days in custody, ~~of which ..... days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 25years. 7months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 21-3-41.

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24th day of April. 1945.

G. La Roche Capt.
Officer ic Records.
5.DD Lauzon. P.Q.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

19

"Z"

No. 610111 Name McCANN. J.C. Sqn., Battery, or Company } Corps Le.Regt. de M. Date of enlistment } 21-3-41. G.C. Badges } Tradesmen's Rates of Pay } Character

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. 1. Signature O.C. Company, etc. } nil.

M.F.M. 6 (A.F.B. 122) 5036—11-41 (2498) H.Q. 1772-39-1652

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified True Copy.
G. La Roche
G. La Roche Capt.
Officer ic Recordd.
5. D LAUZON. P.Q.

(P.T.O.)

RESUME DE LA PREUVE

Proces de E-610111 soldat Jean-Charles McCANN, Les Fusiliers du St-Laurent, A.C., attache au Depot Regional No.5 A.C.

ACCUSATION: 1. DESERTION

pour confirmer l'accusation la preuve ci-apres est disponible:

DOCUMENTAIRE:

1.- M.F.B. 375

2.- M.F.M. 216

LAUZON, P.Q.

(JEAN LA FOMAINE) Colonel, M.C.
Commanding No.5 District Depot, CA

CERTIFICAT DU MÉDECIN MILITAIRE

Je certifie que le matricule E610 111 Pte McCann J.G.

de D D H S est dans un bon état de santé

et est apte à subir son procès devant une cour martiale.

H. Perkins maj
Médecin militaire

Medical Inspection Room
D.D. M.D. No. 5
APR 24 1945
LAUZON, P.Q.

Poste Layn Guard Room

Date 24 avril 1945

M. F. B. 246A
5M—11-43 (35548)
Q.G. 1772-59-150

H.Q.C.55-M-1688 (JAG/D-4)
Your File - Q.39-M-3278

1 May 45

District Officer Commanding,
Military District No. 5,
Quebec, Que.

STANDING COURT-MARTIAL

E/610111, Pte. Jean Charles McCANN
Les Fusiliers du St-Laurent, C.A.,
(Att. to No.5 D.D., C.A.)

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

/ET

IN REPLY PLEASE QUOTE
No. Q:39-M-3278

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Quebec, P.Q., April 24th. 1945.

C.55-M-1688

THE JUDGE ADVOCATE GENERAL,
Dept. of National Defence,
Ottawa, Ont.

STANDING COURT-MARTIAL
E/610111, Pte. Jean Charles McCANN,
Les Fusiliers du St-Laurent, C.A.,
(Att. to No.5 D.D., C.A.)

Please find enclosed herewith the proceedings of the m/n Standing Court-Martial, which are forwarded to you pursuant to C.A.R.O. 4565 (11)(a).

A. Sylvestre

(ARMAND SYLVESTRE) - Major,
Permanent President S.C.M.

N.D. 23
3 M.R.—11-43 (2979)
H.Q. 1773-101-23

31011

THIS COPY FOR H.Q. C.55-M-1633
M.D. Q:39-M-3278

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. E.610111 Name McCANN, Jean-Charles

Rank Pte Unit Les Fus. du St.Laurent CA,att. No 5 DD CA

Charge A.A. 12(1)(a) Desertion

Date of Crime 27-12-44

Date of Arrest 9-4-45 Charge Signed 21-4-45

Orders for D.C.M.

Place and Date of Trial No. 5 D.D. CA, Lauzon,PQ; 24-4-45

Sentence Det 90 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 37011

Date 26-4-45

MEMO

M.D. 5 - No. 5 D.D.CA

Absent	Sentence
3½ mos	det 90 days

for Judge Advocate-General

10M-1-45(M-4629)

no irregularities noted.
27.4.45 JOHN

H.Q.C. 55-M-1689

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MARLEAU. RICHARD. C-614955 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1689

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add memo to file and enter here "With Minute")		
MAY 4 1945				G.	NEW FILE	C.R.	APR 27 1945
MAY 26 1945					With Papers B.R. MAY 24 1945		
MAY 29 1945				DCM	To note, pl.	MM	26-5-45
JUN 4 1945					PER B.P. JUN 4 1945 With Papers C.P. JUN 11		
JUN 12 1945	7/7/45			DCM			
				JAB	With Papers C.A. OCT 19 1945		
OCT 21 1945	23/4/45	PA		JMPR	To note	EKM	20-10-45
OCT 23 1945	MAY 7	PA	was	DRB	For Revocation C.P. APR 15 1946		
MAY 7 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-M-1389
(JAG/D-6)

OTTAWA, 20 October, 5

District Officer Commanding
Military District No 3
KINGSTON, Ontario

C-814955, Pte Richard MARLEAU
No 9 District Depot, CA

Receipt is acknowledged of your K.55-M-2843 (JAG) dated 17 Oct 1945, under cover of which you forwarded to this office for custody MFM 288, together with form of remission, in respect of the m/n soldier.

EAM
for (R.J. Orde) Brigadier
Judge Advocate General

/jm

IN REPLY PLEASE QUOTE

HG

No. K.55-M-2843(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CENTRAL REGISTRY Army
CONF. ...
OCT 18 1945
File 3797
Chgd. No. 55-M-1689
Referred to JAG.

KINGSTON, Ontario, 17 Oct 1945

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Remission of Sentence
C.614955 Pte. Richard MARLEAU,
No. 9 District Depot, C.A.

Herewith enclosed Remission of Sentence in respect of the m/n, together with M.F.M.288.

H. P. Duck Capt

(F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

N.D. 25
3000M—10-44 (5769)
H.Q. 1772-101-23

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CSM.

NDHQ File No.
District File No. T-20-M-23646

PART I

No. C-614955 Rank Pte. Name Richard MARLEAU
Unit No. 9 District Depot, C.A.

PART II

Date of Trial 20th April 1945
Charge(s) (1) Desertion (AA Sec. 12(1)(a)
(2) Losing by Neglect etc. (AA Sec. 24(2)
Sentence Imprisonment with Hard Labour - 7 months - Stoppages $75.23
Date of Sentence 20 Apr. 45 Discharge with Ignominy
Confirmation - (a) Authority : N/A
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act ~~[illegible]~~, do hereby remit ~~[illegible]~~ the balance of Imprisonment with Hard Labour awarded the above-noted soldier, effective the 20th day of September 1945.

SIGNED at TORONTO, Ontario,
this 14th day of September
1945.

Arthur E Potts
(A.E. Potts)
Major-General
D.O.C. M.D. 2.

PART IV
PROMULGATION

Remission ~~[illegible]~~ promulgated ~~[illegible]~~ at Burwash Industrial Farm
this 20th day of September 1945

W H McDaniel
~~[illegible]~~
The Superintendent
Burwash Industrial Farm.

(1) Unit, attachment and appointment to be stated.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. Rank Name
The sentence of
awarded by Court-Martial on the
194 has been
on the 194 by
Unit
Certified true Extract of Daily Orders Part II of
Place Date

Adjutant

[x] Strike out and initial words not applicable.

PTO

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

C 614955 Pte. MARLEAU, R.

Granted remission of the unexpired portion of his sentence affective the 20th Day of Sep 45 of sentence of 7 mos imprisonment with hard labour and to be disch with ignominy awarded by S.C.M. on 20 Apr 45.

Certified true extract of Daily Orders Part II of No. 9 (OTTAWA) District Depot, Lansdowne Park, Ottawa, Ontario No. 43 dated 5 Oct. 45.

(J.T. Grimes) Capt. & Adjt.,
No. 9 District Depot, C.A.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of C 614955 (Number) Pte. (Rank) Richard MARLEAU, (Name in full) No. 9 District Depot, C.A.,

Sentenced to seven months imprisonment with hard labour and to be discharged with ignominy and stoppage of pay of $75.23 for kit deficiencies

on 20th April 1945 at Lansdowne Park, Ottawa, Ontario,

being served at ~~Carleton County Jail, Ottawa~~ Industrial Farm, Burwash, Ontario,
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 years 4 months - 21 January 1943

Medical grade or category Pulhems profile 23 - 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To Adjutant General, Ottawa, Ontario.
Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be ~~XXX~~ committed to undergo his sentence, which I recommend should (~~XX~~) be ~~XXXXXXX~~ (put into execution) (~~XXXXXXX~~) for reasons given in paragraph X.

Place Kingston, Ontario,

Date 27th May, 1945

F.L. Armstrong, Brigadier,
District Officer Commanding,
Military District No. 3.
Confirming Authority

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority

M.F.M. 268
(Army Form A-2108)
1536—6-43 (641)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be posted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
JUN 1 2 1945	B.F. for Review on 1/4/45	L. H. Taylor Lt. Col. Adjutant-General Superior Military Authority	
Oct.45	Remit. wef. 20th. Sep. 45	D.O.C., M.D.3	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
DESERTION: 2 Feb 1943 until 12 April 1945	2 Feb 1943	20 Apr 1945
LOSING BY NEGLECT, etc, value of $75.23	do	do

W.V.B. Riddell Capt

(W. V. B. Riddell) Captain & Adjt.,
No. 9 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

.....
Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
11 May 1945	Conduct good. Has had no training. Ability and usefulness as a soldier are nil. No recommendation.	H. Taylor (H. Taylor) Lt. Col., Officer Commanding, No. 9 District Depot, CA

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
22 May 1945	I do not intend to review this sentence.	F.L. Armstrong, Brig. District Officer Commanding, M. D. #3.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

HQC 55-M-1689 (ICM)
NDHQ Ottawa, Ontario
~~1 Aug 45~~ 1945

CONFIDENTIAL
C.M.

~~District Officer Commanding~~
~~Military District No 3,~~
KINGSTON, Ontario

C 614955 Pte. R. MARLEAU,
Ref
K 55-M/2843

2. Enclosed herewith:-

(a) MFM 288

(b) most recent report on conduct.

3. Your attn is directed to provisions of CARO 5913 which must be strictly followed.

4. Pursuant to AA 57A, GO 245/45 and the said CARO, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

5. Copy of CM proceedings will be forwarded upon request.

6. In the event that the soldier under sentence has been transferred to another District or Command these documents will be transmitted by the recipient to the appropriate authority.

for (A.E. Walford)
Major-General
Adjutant-General

MEDICAL OFFICER'S REPORT

3

I certify that No. C-614955 Pte Marleau R.

of No9 District Depot. C.A. in a good state of health,

and fit to undergo Trial by Court martial.

J.L. Cavanagh

Medical Officer
J. L. Cavanagh, Major, R.C.A.M.C.
M.O. att. No9 D.D.

Station Lansdowne Park, Ottawa, Ont.

Date 20th Apr. 45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1773-99-480

I.C.M. - C

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

H. Q. C. 55- M-1689 (ICM)
OTTAWA, 2 Rd. June 1945

The Superintendent,
Burwash Industrial Farm,
BURWASH, Ontario.
C-614955, Pte. R. MARLEAU.

1. Herewith "Report on Conduct" form in respect of this soldier who is serving, in your institution, a sentence of 7 Months imprisonment with hard labour awarded by a Standing Court-Martial on the 20 day of April 1945

2. Please complete said form and forward same BY RETURN MAIL addressed to the Secretary, Department of National Defence, Ottawa, Ontario.

F. Dalton
Deputy Minister (Army).

LHC/IL

IM-5-45(M-74)

HQC.55-M-1689 (JAG/D)

26 May 45

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

Standing Court-Martial

C.614955, Pte. R. MARLEAU
No. 9 D.D., C.A.

Receipt is acknowledged of your K.55-M-2843 (JAG) dated 23rd May 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M. 288.

E.L.M.
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

/AB

Noted
L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
MAY 28 1945

5M-3-45(M-4664)

I.C.M. - L 4479

REVIEW OF SENTENCE

DATE MAY 28 1945

H.Q.C. FILE: 55-M-1649

1. NO. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES Deserting from 2 Feb. 43 awarded 12 months 2 yrs. 2½ mos.

8. PREVIOUS CONDUCT ~~ENLISTED~~ ENROLLED 21 Jan. 43 AGE 21
not

9. STATEMENT OF ACCUSED Mother sick. she supposed owed a lot of debts as father died. is hospital before, stayed home to help her.

10. RECOMMENDATION

HQ IN REPLY PLEASE QUOTE No. K.55-W-2843(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, May 23, 1945.

316581

CENTRAL REGISTRY Army
CO F. S. C.
MAY 24 1945
File C55-M-1689
Chgd. to
Referred to JAG

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
C.614955 - Pte. H. MARLEAU,
No. 9 District Depot, C.A.

Reference H.Q.C.55-M-1689 (JAG/D-6) dated 4 May 45.

2. Herewith returned proceedings of Standing Court-Martial held for the trial of the m/n soldier, together with M.F.M.288 duly completed.

3. No further administrative action is considered necessary.

(F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

NAT. DEF. D. AR.
ZSOOM 4-AC-4420
H.Q. 7171-39-267

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No. 2 Tourist Lodge, Lansdowne Park, Ottawa, Ontario,

on the 20th day of April, 1945, at 1005 hours,

for the trial of: C-614955 - Pte. RICHARD MARLEAU,
Number Rank Full Name

No. 9 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Col. L. P. Sherwood, V.D.

PROSECUTOR: Lieut. (A/Capt.) J. D. C. Boland, Headquarters, M. D. No. 3, CA.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Lieut. D. Jette, No. 9 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused, C-614955, Pte. Richard Marleau, No. 9 District Depot, C.A., guilty of both charges.

DO #155
7 5/45

SENTENCE: The Court sentence the accused, C-614955, Pte. Richard Marleau, No. 9 District Depot, C.A., to be imprisoned with hard labour for seven months and to be discharged with ignominy from His Majesty's service and placed under stoppages of pay until he has made good the sum of $75.23 in respect to deficiencies of clothing, equipment and regimental necessaries.

Signed at Ottawa, Ontario, this 20th day of April, 1945.

L P Sherwood
(L. P. Sherwood) Col.
President, Standing Court-Martial
Military District No. 3.

M.F.R. 1886
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 37042 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 28th day of April 1945.
Pte A Cut.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to Lieut.D.Jatte,No.9 District Depot, C.A., as interpreter ?

Answer: No, sir.

Question to the accused. Do you object to B-4233 - C.S.M. (W.O.II) F. A. Luet, No. 3 Detachment, C. M. S. C., C.A., as shorthand writer ?

Answer: No, sir.

The shorthand writer and interpreter (if any) are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Guilty, sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. .....

(The accused having pleaded guilty to the second charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B2
L Pitchard
Pers Sec-in

CHARGE SHEET

The accused, No. C 614955 Pte. Richard MARLEAU, No. 9 District Depot, C.A., a N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE
Sec. 12(1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

at Lansdowne Park, Ottawa, Ontario, at 2200 hours on the 2nd Feb 1943, absented himself from No. 3 District Depot, C.A., until apprehended by civil authorities at Hawthorne, Ontario, at 1925 hours on the 12th April 1945, dressed in civilian clothes.

SECOND CHARGE
Sec. 24(2)
ARMY ACT

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT
AND REGIMENTAL NECESSARIES

in that he

at Ottawa, Ontario, on the 17th April 1945, was deficient of the following articles, viz:-

		C.A.R.O. 4559	Less 25% C.A.R.O. 3464
CATALOGUE SECTION "A"			
Anklets, web, prs.	1	.74	.56
Dressing, F.F.	1	.22	.17
Gloves, woollen, prs,	1	.66	.50
Greatcoats, drab,	1	15.54	11.66
Caps, winter, melton,	1	1.05	.79
Mitts, pullover, leather,	1	.93	.70
CATALOGUE SECTION "B"			
Battle Dress, blouses,	2	13.00	9.76
Battle Dress, trousers,	2	13.10	9.82
Boots, ankle, prs,	2	11.64	8.74
Cap, field service,	1	.70	.53
Shoes, canvas, prs.	1	2.29	1.72
Socks, woollen, prs,	4	1.84	1.40
Drawers, woollen, prs,	2	2.80	2.10
Mufflers, khaki,	1	.93	.70
Shirts, woollen,	2	2.40	1.80
Shirts, W.L.S.	2	3.08	2.32
Shirts, W.S.S.	2	2.50	1.88
CATALOGUE SECTION "C"			
Bags, kit,	1	1.27	.95
Blacking, tins,	1	.05	.04
Bootdressing, tins,	1	.05	.04
Bootlaces, prs,	1	.03	.02
Braces, prs.	1	.28	.21
Brasses, button,	1	.04	.03
Brushes, boot polishing,	1	.21	.16
Brushes, button,	1	.11	.08
Brushes, cloth,	1	.17	.13
Brushes, hair,	1	.39	.29
Brushes, shaving,	1	.42	.32
Brushes, tooth,	1	.09	.07
TOTALS:		$ 76.53	$ 57.49

(continued on page two)

PAGE TWO (continued from page one)

CHARGE SHEET

C A S E O F:

C 614955 Pte. Richard MARLEAU, No. 9 District Depot, C.A.

		C.A.R.O. 4559	Less 25% C.A.R.O. 3464
BROUGHT FORWARD		$ 76.53	$ 57.49
CATALOGUE SECTION "C" (continued)			
Cap, comforter,	1	.41	.31
Combs, hair,	1	.04	.03
Holdalls, khaki,	1	.22	.17
Housewifes,	1	.35	.26
Knives, table,	1	.18	.14
Razors, safety, sets,	1	.42	.32
Spoons, table,	1	.08	.06
Towels, hand,	2	.62	.46
CATALOGUE SECTION "J-1"			
Sheets, ground,	1	2.38	1.79
CATALOGUE SECTION "A-1"			
Bags, ration,	1	.04	.03
Belts, WE 37,	1	.76	.57
Bottles, water,	1	.62	.47
Braces, left,	1	.35	.26
Braces, right,	1	.33	.25
Carriers, waterbottle,	1	.37	.28
Haversacks, WE 37	1	2.29	1.72
Helmets, steel,	1	2.39	1.79
Pouches, Basic,	2	2.06	1.54
Straps, shoulder,	2	.62	.46
Straps, web, supporting,	2	.28	.20
Tins, mess, rect.	1	.57	.43
Packs, WE 37	1	2.26	1.70
CATALOGUE SECTION "A-2"			
Respirator, A.G., complete,	1	6.00	4.50
T O T A L S:		$ 100.17	$ 75.23

(R. Taylor) Lt. Col.,
Officer Commanding,
No. 9 District Depot, C.A.

Lansdowne Park,
Ottawa, Ontario,
18th April 1945.

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. The Prosecutor, Lieut. (A/Capt.) J. D. C. BOLAND, Headquarters, Military District No. 3, C.A.,

being duly sworn, ~~examined by the Prosecutor~~ states:

Question I am Capt. J. D. C. Boland, Headquarters, M. D. No. 3.

I recognize the accused to be C-614955, Pte. Marleau, R., now of No. 9 District Depot, C.A., sir.

I have the following documents to present with respect to the charge against the accused: I present M.F.B. 375 dated the 1st day of March, 1943, sir.

---M.F.B.375 is received, read, marked EXHIBIT "F", signed by the President and attached to the proceedings.

I present M.F.M.216 dated the 12th of April, 1945.

---M.F.M.216 is received, read, marked EXHIBIT "G", signed by the President and attached to the proceedings.

The documents which I have just presented to the Court refer to the accused, No. C-614955, Pte. Marleau, R., now of No. 9 District Depot, C.A., sir.

---The Defending Officer declines to cross-examine.

---The witness resumes his seat.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence as a witness, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. Yes, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. Yes, sir.

FIRST WITNESS FOR DEFENCE

The accused, C-614955 - Pte. RICHARD MARLEAU, No. 9 District Depot, C.A., being duly sworn, is examined by the Defending Officer:

Q. Pte. Marleau, can you tell what happened before you were taken into the Army?

A. Before joining the Army my father used to work in Cornwall. He worked in the milling factory. He fell and was four months in the hospital. He came back home and was sent back to the hospital for two months. And then he went back to the hospital for two more months at Shawville. They gave him a pension but cut it in two, he only received half his pension. I was the only sone. I am the only support of the family. After that he fell sick again and came back to Ottawa to the Ottawa General Hospital. When it came to pay the hospital bill the county paid the fee at the hospital and my father died. The burial was paid by myself, then a civilian. My mother was getting a small pension and then since we had a lot of debts. Creditors would send a bill, that they were going to seize the furniture and so forth. And they tried to cut off the pension to my mother so they would be paid. After that I was called into the Army around the 21st January, 1943. When I went home on leave my mother was sick. When I joined the Army I asked that my mother be given the monthly allowance and I was told that if my mother was working she couldn't get anything. I told them that my mother was making ten to fifteen dollars a month working in morning washing clothes. When I came back again she was sick and that's when I decided to stay home and work to help her. I have six sisters at home who do not work, they are too young to work. I went away so that I was being able to pay all the debts caused by my father's

illness.

CROSS-EXAMINED BY THE PROSECUTOR:

Q. Pte. Marleau, did you go absent without leave at Lansdowne Park, Ottawa, Ontario, at 2200 hours on the 2nd February, 1943?

A. Yes.

Q. And at that time you were on strength of No. 3 District Depot, C.A.; is that not correct?

A. Yes.

Q. And you remained absent from that time until you were apprehended by civil authorities at Hawthorne, Ontario, at 1925 hours on the 12th April, 1945, dressed in civilian clothes; is that correct?

A. Yes, sir.

Q. And you didn't receive leave from the Army during that time, did you?

A. No.

Q. What type of work did you do while you were absent?

A. I was working on a farm and working in a blacksmith shop.

Q. And where was this farm?

A. I worked at several farms, the nearest place near Hawthorne.

Q. And where was your home at the time you joined the Army?

A. Casselman.

Q. And how far is that from Hawthorne?

A. 28 miles.

Q. And where was the blacksmith shop where you worked?

A. At Moose Creek.

Q. And how far is that from Casselman?

A. Eleven miles from Casselman.

Q. And while you worked you were in civilian clothes; is that not correct?

A. Yes.

Q. And how much money were you making on the farm?

A. It all depends, some times $3.50 a day and some times $2.50.

Q. And sometimes less than $2.50?

A. Some times less.

Q. And how much did you make working in the blacksmith shop?

A. $3. a day.

Q. And did you send any of that home to your mother?

A. Everything that I could leave at home.

Q. When you were in the Army did you assign anything to your mother?

A. I was supposed to give it to her myself.

Q. Did you assign any money out of your Army pay to your mother?

A. Every penny I could give them I gave them myself, I gave the money myself to my mother.

Q. How old are your sisters?

A. Fifteen years old and down; the oldest sister is fifteen.

Q. And how old are your brothers?

A. No brothers.

Q. How much pension was your mother receiving?

A. $20. a month for her and $20. for the kids.

Q. $5. for each child. And, Pte. Marleau, you didn't have any intention of returning to the Army, did you?

A. I was to come back to the Army when all my debts were paid and my mother well enough to go back to work.

Q. And that might have been quite a distance in the future; is that not correct?

A. Yes.

Q. And until that was done you didn't intend to return to the Army?

A. No.

---The Defending Officer declines to re-examine.

QUESTIONED BY THE COURT:

Q. When you received notice to report for medical examination did you make application for deferment?

A. Yes; two times.

Q. On either occasion was the deferment granted?

A. No the extension was never granted because I asked for it too late.

Q. Where were you living when you were called up?

A. Casselman.

Q. What is the nature of your mother's illness?

A. She is too weak. It is a weakness.

Q. What is your mother's age?

A. 46.

---Neither the Defending Officer nor the Prosecutor have any questions to put to the witness arising out of the examination by the Court.

---The witness resumes his seat.

SECOND WITNESS FOR DEFENCE

Mr. J. O. GOUR,
Casselman, Ontario,
being duly sworn, is examined by the Defending Officer:

Q. What is your occupation in civilian life?

A. I am a general merchant, you need for construction, farming, feeds, of everything, hardware, farmer implement, I am the beer warehouse man for the district of Prescott. I got very large farm, up to now about -- over 700 acres, and I am chairman of flax mill that I built in 1939.

Q. Mr. Gour, do you know the accused?

A. I know him well.

Q. Can you point him in the Court?

A. (indicates accused) This young boy.

Q. What do you know of this young man?

A. I see this boy, this man, was born when I was there, about 21 year, going on 22. This man was working at the flax mill where I was chairman and I also when I was working manager of it. He was one of our good workers on the Flemish knife. Not more than ten per cent of the men will stay on this job, the quit the job. The flax mill was on a high priority, one of the highest priorities, we have more than any munition plant, and I have here from Lord Dollard from Bri sh Ministry Office from Great Britain that he will prove you how the necessity was of that flax mill, always, why we had so high priority. He get men to work and we had exemption for any of our boys who was in shape with the law to work at that flax mill but it happened I heard about it that he was called for Kingston, here, think he was just leaving when I heard he was not postponement or not having the words back. There was the Secretary of that flax mill, Mr. Mayor, I don't think he don't have reason and neither this young fellow and I asked my Secretary yesterday: "Did you have the exemption for this young

guy?" And yesterday night he said, "I have got it." And he said, "We have thrown away plenty of these exemption when he left". They were exempt to work at that important mill and when they quit we report to Selective Service that these guys were exempt for working in the mill and after working for a little while they quite and we report it right away and the department look for them. He was a very good boy for his mother. His mother is widow with lots of child, I don't know how many. He was a very good boy. Gave money to help raise his sister. And his mother had a mother's allowance from the government, an allowance, but with the small allowance she had help from his boy. He was one of our good little boy in our town. He was a good work and to be good for his mother and sister and I am sure he is only boy at home.

CROSS-EXAMINED BY THE PROSECUTOR:

Q. Mr. Gour, has Marleau worked with you since February, 1943?

A. I don't remember the date but since he quit I never see him back, I never heard about him.

Q. Have you been in Casselman since 1943?

A. Myself?

Q. Yes?

A. Yes, sir.

Q. And you have not seen the accused in Casselman since he left?

A. I never see him. I never seen him. I heard by his mother. I never heard it before, it was for a long time he was in the Army and so far I heard about it and with the business I have got. Mr. Mooney was our chairman

and he was for recruiting and I sent gift to my boys overseas. I am not man here to exempt somebody who is not fair but I never heard about.

---The Defending Officer declines to re-examine.

QUESTIONED BY THE COURT:

Q. You said that after Marleau left the mill notice came that he was exempt; is that correct?

A. My clerk, Mr. Mayor, yesterday says -- I talked him about that because I know by myself that when he quite that it was a delay for not receiving his exemption and therefore when I not receive his exemption I have to let that man go or were I don't want to keep any man in the mills or in my employ without require --

Q. But the mill made application for his exemption?

A. Yes. Well, you see, I am chairman but I have four business.

Q. The business made application for his exemption?

A. Yes.

Q. And the exemption had not arrived when he was due to report?

A. Yes.

Q. But the exemption arrived later on; is that correct?

A. It is correct that Mr. Mayor told me yesterday night, the clerk, the treasurer, my treasurer after all, that he had it and I said, "If you had it, get it." And this morning he bring me a letter because he is more acquainted that mill -- I go some time half an hour a day, some day three or four days till. He said he had it.

Q. Did the business ever apply to the Army to

have the accused released?

A. No; he had gone off, he is in the Army and we need some in the Army and therfore he was gone. Could be we never applied back.

---Neither the Defending Officer nor the Prosecutor have any questions to put to the witness arising out of the examination by the Court.

---The witness withdraws.

---The Prosecutor makes a closing address.

---The Defending Officer makes a closing address.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the second charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

---The Prosecutor has no statement to make on the second charge.

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. All I have to say is when I left I left all my clothing on my bed right here in Lansdowne Park.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

---The Prosecutor presents to the Court M.F.B.355.

---The document [redacted] read to the Court by the President, [redacted] marked "Y" [redacted], signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir; through my Defending Officer.

BY THE DEFENDING OFFICER: The only thing I have to say, sir, is that leniency be granted to this man due to the nature of his family. That is all I have to say, sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

RECORD of the Declaration of a Court of Inquiry assembled at Lansdowne Park Ottawa, Ontario on the 1st day of March 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C-614955, Pte. MARLEAU, Richard, No.3 District Depot, C.A.

DECLARATION

The Court declare that No. C-614955 Pte. MARLEAU, Richard. C.A. No.3 District Depot, Lansdowne Park, Ottawa, Ontario.

illegally absented himself without leave from No.3 District Depot, C.A., Lansdowne Park, Ottawa, Ont. at 2200 hours on the 2nd day of Feb 1943, that he is still so absent, and that on the 1st March 1943 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
			Brought forward		51.40
Anklets,web,prs.	1	.59	Shirts,khaki cot,w/ss	2	1.88
Badges,wors."CANADA"prs	4	.16	Bags,kit,	1	.78
Battle dress trousers,	2	8.08	Blacking,tins,	1	.05
blouses,	2	7.88	Bootdressing,tins,	1	.05
Boots,ankle,prs.	2	8.18	Bootlaces,prs.	1	.03
Caps,field service,	1	.53	Braces,prs.	1	.32
Dressing,1st.fld.	1	.22	Brasses,button,	1	.02
Gloves,woolen,khaki	1	.44	Brushes,Boot polishing	1	.19
Greatcoats,drab,	1	12.92	Button,	1	.11
Shoes,canvas,prs.	1	1.91	Cloth,	1	.27
Socks,prs.	4	1.12	Hair	1	.26
Sheets,ground,	1	1.83	Shaving,	1	.42
Caps,winter melton	1	.80	Tooth,	1	.09
Drawers,woolen,prs.	2	1.80	Caps,comforter,	1	.33
Mitts,pullover leather	1	.57	Combs,hair,	1	.04
Mufflers,khaki,	1	.65	Holdalls,	1	.19
Shirts,woolen,	2	1.80	Housewives,	1	.35
Shirts,khaki cot.w/l.s.	2	1.92	Knives,table.	1	.18
Carried forward -		51.40	Carried forward -		56.96

ARTICLES		VALUE	ARTICLES	VALUE
Brought forward:		56.96		
Razors,safety,sets,	1	.39		
Spoons,table,	1	.07		
Towels,hand,	2	.46		
Bags, ration,	1	.03		
Belts,waist,WE37	1	.77		
Bottles,water,	1	.47		
Braces,lefts,	1	.36		
rights,	1	.35		
Carriers,waterbottle,	1	.34		
Haversacks,	1	1.61		
Helmets,steel,	1	1.79		
Pouches,basic,	2	2.24		
Straps,shoul.Haversack	2	.68		
Straps,web supporting	2	.26		
Tins,mess,rect.	1	.43		
Packs,	1	1.60		
Respirators,AG comp.	1	4.90		
Total:		73.71		

Signed at Ottawa, Ontario this 1st day of March 1943

W.A. Stewart, Capt., No.3 District Depot, C.A — President

E.R. Code, Lieut., No.3 District Depot, C.A. — Member

W. Stewart 2/Lieut., No.3 District Depot, C.A — Member

Signature of Commanding Officer G.D. Gillie, Lt.-Col., O.C., No.3 District Depot, C.A.

Certified true copy

Signature of Officer having custody of original record

(W.A. Pewtress) Capt & Adjt.,
No.3 District Depot, C.A

M.F.R. 375
A.F.R. 115
(M.S.) 4-43 (5000)
H.Q. 1773-20-347

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1941, and in General Order No. 127 1942.

APPREHENSION BY ~~[illegible]~~ SERVICE AUTHORITIES)

I, Major P. Gray (Number) O.C. 33 Coy. C. Pro.C. (Rank) (Name) (Unit)

hereby certify that C.614955 Pte. Richard MARLEAU (Number) (Rank) (Name in full)

of the District Depot 9, Ottawa, Ont. (Unit and attachment, if any)

Strike out words not applicable

was apprehended by ~~[illegible]~~ Constable G. Pepin (Number) (Rank)

R.C.M.P. Ottawa, Ont. (Name) (Unit or appointment)

at Hawthorne, Ont. (Place) at 1925 (Hour)

on the 12th day of April 19 45

Strike out words not applicable

as a deserter ~~[illegible]~~ (dressed in civilian clothes). and that at the time of his arrest he was ~~[illegible]~~ and on 12th day of April 45 was taken into military custody by 33 Coy.C.Pro.C. on arrest.

Dated at Ottawa, Ont. this 12th day of April 19 45

(Signature) (P. Gray) Major
(Number, Rank, Unit or appointment)
O.C. 33 Coy. C. Pro.C.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

No costs of apprehension in this case.

M.F.M. 216
136M—2-44 (3730)
H.Q. 1772-26-1936

Y Washington Gold C. 29.

M.F.R. 188
75M—[illegible] (143)
H.Q. 1172-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C 614955	Pte.	Richard MAULEAU,	No. 9 District Depot, C.A.

~~1. The following is a fair and true summary of the entries in the Field Service and General~~ Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
~~For~~	~~times~~	~~times~~

Number of instances of gallantry or distinguished conduct none

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 78 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence beginning on the~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 8 days in military custody, making a total of 8 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record certificate~~ enrolment form ~~attested paper~~ is 21 years 7 months

6. The date of his ~~enrolment~~ enrolment form specified in his ~~record certificate~~ enrolment form ~~attested paper~~ is 21 Jan 1943

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~military~~ reward ~~(or is in possession of or entitled to). State any military decoration or reward.~~

~~10. The accused is a warrant officer. The accused before he was made a warrant officer had held the regimental rank of~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~

Permanent Force
unit
.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of April, 1945

(D.A. McBadger) Captain
Officer i/c Records,
No. 9 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

HQC.55-M-1689 (JAG/D-6)
Your File PCO: M-4

4 May 45

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

STANDING COURT-MARTIAL
C.614955 - Pte. H. MARLEAU
No. 9 District Depot, C.A.

Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. It is noted that the Defending Officer acted as Interpreter at the trial. This is neither proper nor desirable. In this case, however, the accused was found guilty of both the charges and it is not considered that any injustice was caused by the Defending Officer acting as interpreter.

3. The proceedings, subject to the foregoing comments, are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565, paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde), Brigadier,
Judge Advocate-General.

REA/AB

CANADA

IN REPLY PLEASE QUOTE
No. FCO: M-4.

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Ottawa, Ontario, 24th Apr., 1945.

c.55-M-1689

Judge Advocate General,
Department of National Defence (Army),
Ottawa, Ontario.

Standing Court-Martial
C-614955 - Pte. R. Marleau
No. 9 District Depot, C.A.

Herewith record of proceedings of the trial of the M/n by Standing Court-Martial, together with M.F.B.246.

L P Sherwood

(L. P. Sherwood) Colonel,
President S. C. M.,
Military District No. 3.

N.D. 23
3 M.—11-43 (1979)
H.Q. 1772-101-23

3904

THIS COPY FOR H.Q.C.55-M-1689
M.D. PCO: M-4

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. C.614955 Name MARLEAU, Richard

Rank Pte Unit No. 9 D.D. CA

Charge (1) ~~R.A.~~ A.A. 12(1)(a) Desertion

(2) A.A. ~~R.4(2)~~ 24(2) Losing by nelgect...

Date of Crime (1) 2-2-43; (2) 17-4-45

Date of Arrest (1) ~~18~~ 2-4-45 Charge Signed 18-4-45

Orders for D.C.M.

Place and Date of Trial No. 2 Tourist Lodge, Lansdowne Park, Ottawa; 20-4-45

Sentence Imprisonment W.H.L. 7 mos; discharge with ignominy; stoppages $75.23

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 37042

Date 28-4-45

MEMO Balance of sentence remitted by Conf. Auth. 20.9.45

M.D. 3 - No 9 DD CA

Absent	Sentence
2 yrs	discharge with ignominy
2½ mos	imprisonment W.H.L 7 mos

R. Langlois Capt.
for Judge Advocate General

10M-1-45 (M-4629)

No irregularities, except that Defending Officer acted as Interpreter at trial. But accused was found guilty of both the charges.

Passed.

3 May 45. R.E.A. Capt.

H.Q.C. 55-[illegible]-1890 CONFIDENTIAL

H.Q.R. [illegible]
[illegible]-4-48 (9620)
H.Q. 301-1-49

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MARTELL. OMER C-432489 PTE.

CONFIDENTIAL
H.Q.C. 55-[illegible]-1890

CENTRAL REGISTRY	DATE	F.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(Purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
MAY 4 1945	[illegible]	[illegible]	[illegible]	[illegible]	NEW FILE	C.R.	APR 27 1945
				J.A.G.	With Papers C.R. MAY 7 1945		
MAY-12-1945 NOV 12 1945	[illegible]	[illegible]	[illegible]	D.C.M.	To note [illegible]	[illegible]	10 5-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1690 (JAG/D)

10 May 45

The District Officer Commanding,
Military District No. 3, Kingston, Ont.

.....~~STANDING~~.....Court-Martial

C.432489 Pte. O. Martell,
No. 9 District Depot, C.A.

Receipt is acknowledged of your K.55-M-4977 dated May 4 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.A.M.
Capt.
for (R.J.Orde), Brigadier
Judge Advocate-General.

MM

Noted
A.H. CLAYTON
Deut.-Colonel
Inspector of Courts-Martial
MAY 11 1945

HG

IN REPLY PLEASE QUOTE No. K.55-M-4977(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

312321

KINGSTON, Ontario, May 4, 1945.

CENTRAL REGISTRY Army
MAY 7 1945
File C55-M-1690
Chgd. to
Referred to

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
C.432489 - Pte. O. MARTELL
No. 9 D.D., C.A.

Reference H.Q.C.55-M-1690 (JAG/D-6) dated 3 May, 1945.

2. Herewith returned proceedings of Standing Court-Martial held for the trial of the marginally named soldier.

3. No further administrative action is considered necessary.

(F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

MEDICAL OFFICER'S REPORT

I certify that No. C-432489 Pte Martel O.

of No9 District Depot, C.A. is in a good state of health,

and fit to undergo Trial by Court martial.

J.V. Cavanagh

Medical Officer
J.V. Cavanagh, Major. R.C.A.M.C.
M.O. att. No9 D.D.

Station Lansdowne Park, Ottawa, Ont.

Date 20th Apr. 45.

M. F. B. 246

5651—12-43 (3222)
H.Q. 1772-99-400

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No. 2 Tourist Lodge, Lansdowne Park, Ottawa, Ontario,

on the 20th day of April, 1945, at 1110 hours,

for the trial of: C-432489 - Pte. OMER MARTELL,
Number Rank Full Name

No. 9 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Col. L. P. Sherwood, V.D.

PROSECUTOR: Lieut. (A/Capt.) J. D. C. Boland, Headquarters, M.D. No. 3, CA.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Capt. W. M. Cameron, No. 9 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused, C-432489 - Pte. Omer Martell, No. 9 District Depot, C.A., not guilty of desertion but guilty of absence without leave on the first charge and guilty of the second charge.

SENTENCE: The Court sentence the accused, C-432489, Pte. Omer Martell, No. 9 District Depot, C.A., to undergo detention for ninety days and to be placed under stoppages of pay until he has made good the sum of $5.51 in respect to deficiencies of clothing and regimental necessaries.

Signed at Ottawa, Ont., this 20th day of April, 1945.

L P Sherwood
(L. P. Sherwood), Col.
President, Standing Court-Martial
Military District No. 3.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2250

Extracts entered as No. 37017 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 27th day of April 1945.
Adm. Cpt.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to ..... as interpreter ?

Answer: .....

Question to the accused. Do you object to B-4233 - C.S.M. (W.O.II) F. A. Luet, No. 3 Detachment, C. M. S. C., C.A., as shorthand writer ?

Answer: No, sir.

The shorthand writer and ~~interpreter (if any)~~ are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Guilty, sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. .....

(The accused having pleaded guilty to the second charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B2
Otherwood
Per SC-m

CHARGE SHEET

The accused, No. C 432489 Pte. Omer MARTELL, No. 9 District Depot, C.A., a N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE
Sec. 12(1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

at Bedford, N.S., at 2359 hours on the 10th February 1945 absented himself from Le Regt. de St. Hyacinthe, C.A., until surrendering to Military authorities at Ottawa, Ontario, at 2300 hours on the 11th April 1945 dressed in Military Uniform.

SECOND CHARGE
Sec. 24(2)
ARMY ACT

LOSING BY NEGLECT HIS CLOTHING
AND REGIMENTAL NECESSARIES

in that he

at Ottawa, Ontario, on the 18th April 1945, was deficient of the following articles, viz:-

		C.A.R.O. 4559	Less 25% C.A.R.O. 3464
CATALOGUE SECTION "A"			
Overshoes, 2 buckle, prs.	1	1.36	1.02
CATALOGUE SECTION "B"			
Shoes, leather, black, prs.	1	4.84	3.63
Socks, Army, prs.	1	.46	.35
CATALOGUE SECTION "C"			
Sticks, button,	1	.04	.03
Brushes, shoe, blacking,	1	.14	.11
Brushes, Button,	1	.11	.08
Pins, collar safety,	1	.06	.04
Socks, black, prs.	1	.28	.21
Bootdressing, tins,	1	.05	.04
TOTALS:		$ 7.34	$ 5.51

(R. Taylor) Lt. Col.,
Officer Commanding,
No. 9 District Depot, C.A.

Lansdowne Park,
Ottawa, Ontario,
18th April 1945.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

The Prosecutor, Lieut. (A/Capt.) J. D. C. Boland, Headquarters, Military District No. 3, C.A.,

being duly sworn, ~~is examined by the Prosecutor~~ states:

Question

I am Capt. J. D. C. Boland, Headquarters, M. D. No. 3.

I recognize the accused to be C-432489, Pte. Martell, O., formerly of the Regiment de St Hyacinthe, now of No. 9 District Depot, C.A.

I have the following documents to present with resepct to the charge against the accused: I Present M.F.B.375 dated 9th of March, 1945.

---M.F.B.375 is received, read, marked EXHIBIT "F", signed by the President and attached to the proceedings.

I present M.F.M.216 dated the 12th of April, 1945.

---M.F.M.216 is received, read, marked EXHIBIT "G", signed by the President and attached to the proceedings.

The documents which I have just presented to the Court refer to the accused C-432489, Pte. Martell, O., now of No. 9 District Depot, C.A.

---The Defending Officer declines to cross-examine.

---The witness resumes his seat.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence as a witness, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. .....

FIRST WITNESS FOR DEFENCE

Th The accused, C-432489 - Pte. OMER MARTELL, No. 9 District Depot, C.A., being duly sworn, is examined by the Defending Officer:

Q. Pte. Martell, would you like to make a statement to the Court upon the charge upon which you are in front of the Court of desertion?

A. Sir, I didn't do it, it is up to you if you want to.

Q. I mean, do you want to make the statement to the Court:

A. You can make the statement if you want. Well, sir, I didn't went back to it because I didn't have no chance in that unit. I was there, I tried to get transfer but they never want to give me so that's why I didn't come back. I tried to sign active to go overseas but they wouldn't let me. I was paraded with three of my friends and we were in Newfoundland for three months and I was with friends there from Ottawa and they separated me and they ride me as hard as they can and when I seen I had a chance not to go back to them I didn't went back to them.

Q. Are you a tradesman in the Army?

A. Yes, sir.

Q. What trade?

A. I used to be a driver mechanic in the Army, sir.

Q. Did the Regiment de St. Hyacinth have many motor mechanics on their establishment there with them?

A. Yes, sir.

Q. When surrendering yourself to the Provost Corps did you have any intentions to return to the Regiment de St. Hyacinthe?

A. No, sir; because I was going back to the Army because I never liked the Regiment de St. Hyacinthe because

I am from Ontario and all the rest of them are from Quebec and they don't like Ontario people. I don't know why but they never did.

Q. Were you ever in hiding while you were absent without leave?

A. No, sir.

Q. Did you ever wear civilian clothes while you were absent without leave?

A. No, sir.

Q. Did you work at all while you were absent without leave?

A. No, sir. I made enough money in Newfoundland so that I didn't have to work when I was on leave.

CROSS-EXAMINED BY THE PROSECUTOR:

Q. Pte. Martell, were you stationed at Bedford, Nova Scotia, in February, 1945?

A. February? Yes, sir.

Q. And did you absent yourself without leave from Bedford, Nova Scotia, at 2359 hours on the 10th February, 1945, from the Regiement de St. Hyacinthe?

A. Yes, sir.

Q. And did you remain absent until surrendering yourself at 2300 hours at Ottawa, Ontario, on the 11th April, 1945?

A. Yes, sir.

Q. You were not given leave during that period?

A. No, sir.

Q. Were you on leave in February, 1945, when you went absent?

A. They gave me leave on the 2nd of February to the 10th. I was supposed to report over there on the 10th

of February.

Q. And what kind of a leave was that? Was that an embarkation leave?

A. Yes, sir.

Q. And your category was such that you could proceed overseas; is that not correct?

A. I don't know, sir.

Q. You are not denying that your category was of such or pulhems were such that you could proceed overseas as an infantry reinforcement?

A. The only thing I know, when I was on sick parade the doctor said I had to get different boots and they gave me the leave and I went home.

Q. And the Regiment de St. Hyacinthe were infantry; is that not correct?

A. Yes, sir.

Q. And they have since proceeded overseas; is that not correct?

A. Yes, sir.

Q. And you told the Defending Officer that you didn't intend to return to the Regiment de St.Hyacinthe?

A. Not to the Regiment de St. Hyacinthe but to the Army.

Q. And the reason you surrendered yourself to the military authorities in Ottawa was because you thought the war was almost over?

A. No; I knew I was absent without leave long enough, I wouldn't go back to the Regiment de St. Hyacinthe.

Q. And if you hadn't gone absent without leave you would have been overseas now?

A. I guess so, I don't know.

Q. What did you do when you were absent?

A. I didn't work. I went running around because I couldn't work.

Q. Anything else you did?

A. No, sir.

Q. Nothing that you know of?

A. No, sir.

---The Defending Officer declines to re-examine.

QUESTIONED BY THE COURT:

Q. Where is your home?

A. 203 Carruthers Street in Ottawa.

Q. You mentioned Newfoundland?

A. Yes, sir.

Q. What unit were you with in Newfoundland?

A. St.Hyacinthe, sir.

---Neither the Defending Officer nor the Prosecutor have any questions to put to the witness arising out of the examination by the Court.

---The witness resumes his seat.

---The Prosecutor makes a closing address.

---The Defending Officer makes a closing address.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the second charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

---The Prosecutor has not statement regarding the second charge.

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

---The Prosecutor presents to the Court M.F.B.355 and M.F.M.6.

---These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir; through my Defending Officer.

BY THE DEFENDING OFFICER: Sir, consider the present reinforcement policy and seeing that Pte. Martell was A.W.L. for only sixty days and considering that the Regiment de St. Hyacinthe has now gone overseas and that there is no possibility of him returning there and him making another biff in the Army, I would ask the Court to be lenient when passing sentence.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

RECORD of the Declaration of a Court of Inquiry assembled at Bedford, N.S.

the 9th day of March. 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C 432489 Pte. Martell, Omer Le Reg't de St. Hyacinthe C.A.

DECLARATION

The Court declare that No. C-432489 (Reg't'l No.) Pte. (Rank) Martell, Omer (Full Name) Le Reg't de St. Hyacinthe C.A. (Unit) illegally absented himself without leave from le Reg't de St. Hyacinthe C.A. at Bedford N.S. (Place) at 2359 hours on the 10th day of February 1945, that he is still so absent, and that on the 9th March. 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
1 Blouse Battle Dress		6.66	1 Caps Winter Melton		1.05
1 Boots Ankle	Prs.	5.82	1 Pins Collar Safety		.06
1 Caps Field Service		.70	1 Overshoes (2 Buckles)	Prs.	1.32
1 Greatcoat Drab		15.54	1 Shirts Cotton Khaki		1.54
1 Shoes Canvas	Prs.	2.29	1 Shoes Leather Black	Prs.	4.84
3 Socks	Prs.	1.38	1 Socks Black	Prs.	.28
1 Trousers Battle Dress		6.55	1 Blacking Tins		.08
1 Brass Cleaning		.04			
1 Brush Shoe Blacking		.14			
1 " Button		.11	Total.....		48.80
1 Combs Hair		.04			
1 Forks Table		.08			
1 Towels Hand		.31			

Signed at Bedford, N.S. this 9th day of March. 19 45

Trinque L.P. (Name) Lt. (Rank) Le Reg't de St. Hyacinthe (Unit) Member

Rienzeau R. (Name) C.S.M. (Rank) Le Reg't de St. Hyacinthe (Unit) Member

Signature of Commanding Officer (G.R.C. Robertson) Lt.-Col R. de St.Hyacinthe (Rank) (Unit)

Certified true copy (R. Lavoiette) Capt. (Rank) Adjt. R. de St.Hyacinthe, (Unit) (Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
20034—1-44 (3576)
H.Q. 1771-30-237

13.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127 1942.

(~~APPREHENSION~~ SURRENDER TO SERVICE AUTHORITIES)

I, Major P. Gray (Number) O.C. (Rank) 33 Coy. C. Pro.C. (Name) (Unit)

hereby certify that C.432489 (Number) Pte (Rank) Omer MARTELL (Name in full)

of the Regt de St. Hyacinthe, Bedford, N.S. (Unit and attachment, if any)

Strike out words not applicable ~~apprehended by~~ surrendered to) G.45407 (Number) Sgt. (Rank)

O'Neill G.D. (Name) 33 Coy. C. Pro.C. (Unit or appointment)

at Ottawa, Ont. (Place) at 2300 (Hour)

on the 11th day of April 19 45

Strike out words not applicable as a ~~DESERTER~~ absentee without leave), and that at the time of his arrest he was wearing military (~~EXTRA~~) uniform ~~[illegible]~~.

Dated at Ottawa, Ont. this 12th day of April 19 45

Active Army

(Signature, Number, Rank, Unit or appointment) (F. Gray) Major

O.C. 33 Coy. C. Pro.C.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 215
150M—2-44 (5730)
H.Q. 1772-39-1936

No costs of apprehension in this case.

Reg. No. 102325

M.F.R. 358
75M-5-42 (145)
M.F.R. 1775-99-420
M.F.R. 396

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C 432489	Pte.	Omer MARTELL,	No. 9 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service or General Regimental and Battery~~ ~~Conduct Sheets~~ ~~of the Army~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Act~~ of summary awards under Section 47 of the ~~Army~~ Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For absence without leave	one	times	for absence without leave	two times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct / none
or,
~~There are no entries in the conduct sheets of the accused.~~
NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.
~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ ~~A.F.A. 73~~

3. The accused is not under sentence at the present time.
~~The accused at the present time is under sentence ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 9 days in military custody, making a total of 9 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment form is 26 years 4 months ~~attested paper~~

6. The date of his ~~enrolment~~ specified in his ~~record of service~~ enrolment form is 19 Feb 1942 ~~attested paper~~

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to wear ~~the Force~~ military decoration, or military reward ~~(or is in possession of or entitled to). State any air force or military decoration or reward.~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the rank of .....~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....

Permanent Force

unit

.....dated....., and in his regiment (or corps) the rank .....

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of April 1945

M. K. McFadgen Captain,
Officer i/c Records,
No. 9 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

15.

No. C 432489 | Name Martell, Omer | Sqn., Battery, or Company SP | Corps Le Regt de St. Hyacinthe C.A. | Date of enlistment 19 Feb 42 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 500M—11-69 (3520) H.Q. 1772-48-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. one | Signature O.C. Company, etc. (sgd) J.A.Myers Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sussex, N.B.	7 Apr 43	Pte.		AA 15 AWL from 1800 hrs 7 Apr 43 until 1800 hrs 8 Apr 43 -Absent 1 day	C.S.M.Messier	Forfeiture of 5 days pay	9 Apr 43	Major J.A. Myers	Auto forfeiture of 1 days pay
Botwood, Nfld	24-4-44	Pte		A.W.L. from 24-4-44 to 2200 hrs 25-4-44-Absent 1 day - A.A.Sec 15(1)	Documentary	2 days pay	13-5-44	Lt.Col. R. Hamel	1 dy pay auto

CERTIFIED TRUE COPY
D.A. McFadgen Capt.
(D. A. McFadgen) Captain
officer i/c Records,
No. 4 District Depot, C.A.

(P.T.O.)

HQC.55-M-1690 (JAG/D-6)
Your File PCO: M-5

3 May 45

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

STANDING COURT-MARTIAL

C.432489 - Pte. O. MARTELL
No. 9 D.D., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

REA Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

REA/AB

IN REPLY PLEASE QUOTE
No. FCO: M-5

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Ottawa, Ontario, 24th Apr., 1945.

c.55 - M - 1690

Judge Advocate General,
Department of National Defence (Army),
Ottawa, Ontario.

Standing Court-Martial
C-432489 - Pte. C. Martell
No. 9 District Depot, C.A.

Herewith record of proceedings of the trial of the m/n by Standing Court-Martial, together with M.F.B.246.

L P Sherwood

(L. P. Sherwood) Colonel,
Presdient S. C. M.,
Military District No. 3.

N.D. 23
3 Mil.—11-43 (3976)
H.Q. 1772-101-23

31017

THIS COPY FOR: H.Q.C.55-M-1690
M.D. PCO: M-5

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. C.432489 Name MARTELL, Omer

Rank Pte Unit No. 9 D.D. CA

Charge (1) A.A. 12(1)(a) Desertion

(2) A.A. 24(2) Losing by neglect

Date of Crime (1) 10-2-45; (2) 18-4-45

Date of Arrest (1) 11-4-45 Charge Signed 18-4-45

Orders for D.C.M.

Place and Date of Trial No. 2 Tourist Lodge, Lansdowne Park, Ottawa; 20-4-45

Sentence Det 90 days; stoppages $.5.51

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. ~~3710~~ 37017

Date 27-4-45

MEMO (1) Guilty A.W.L.; (2) ~~Guilty~~

M.D. 3 - No. 9 D.D. CA

Absent	Sentence
2 mos ~~2~~/day	det 90 days

B. Elmghin Capt.

for Judge Advocate-General

10M-1-45(M-4629)

No irregularities.
Passed.
30 May 45. REA
Capt.

H.Q.C. 55-M-1691 CONFIDENTIAL

W.P.R. 208
1551(—) 43 (1945)
H.Q. 301-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MARTIN. HERMIL MARC G-601935 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1691

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 30 1945					(If space for which referred cannot be covered on one line, add minute to file and enter here "With Minute")		
					G NEW FILE	D.R.	APR 27 1945
					Papers rec. MAY 8 1945		
MAY 1 0 1945				Jay			
MAY 1 0 1945			DHL	2CM	To note, gh	M.M.	

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-M-1691 (JAG/D-8)

9 May 45

District Officer Commanding,
Military District No. 7,
St. John, N.B.

Standing Court-Martial

G-601935 Pte. Hermil Marc MARTIN
No. 7 District Depot, C.A.

Receipt is acknowledged of your J/38-M-1662 (JAG) dated 30 April 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.A.M. Capt.
for (R.J.Orde) Brigadier,
Judge Advocate-General.

/ET

Hetled
L.H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
MAY 10 1945

311963

REPLY PLEASE QUOTE No. J/38-M-1662 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

SAINT JOHN, N.B., 2 May 45.

CENTRAL REGISTRY Army
CONF. SEC.
C55-M-1691
MAY 5 1945
File
Chgd. to
Referred to JAG

Secretary,
Department of National Defence,
OTTAWA, Ontario.

Re: Standing Court-Martial
G-601935 Pte. Hermil Marc MARTIN,
No. 7 District Depot, C.A.

1. Reference your H.Q.C.55-M-1691 (JAG/D-8) dated 30 Apr 45.

2. Having served their purpose, the proceedings of the marginally noted Standing Court-Martial are returned herewith for custody.

(G. G. Anglin) Brigadier,
District Officer Commanding,
Military District No. 7.

Enc.

NAT. DEF. B. 440

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No. 7 District Depot, C.A. FREDERICTON, N.B.

on the 18th day of APRIL 1945. at 1115 hours,

for the trial of: No. G-601935 Private Herald Marc MARTIN
Number Rank Full Name

No. 7 District Depot, C.A.
Unit

PRESIDENT: Lieutenant-Colonel W. C. McQuade, V.D.
Headquarters, M.D. No. 7.

PROSECUTOR: Captain J. Herschorn, Headquarters, M.D. No. 7.
Rank Full Name Unit

DEFENDING OFFICER: Lieutenant A.A. White, No. 70 C.I.(B)T.C., C.A.
Rank Full Name Unit

FINDING: THE COURT FIND THAT THE ACCUSED IS NOT GUILTY OF DESERTION, BUT GUILTY OF ABSENCE WITHOUT LEAVE.

SENTENCE: THE COURT SENTENCE THE ACCUSED TO UNDERGO DETENTION FOR SEVENTY FIVE (75) DAYS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF $9.16 IN RESPECT OF THE COST OF APPREHENSION AND RETURN TO HIS CORPS.

Signed at FREDERICTON, N.B. this 18th day of APRIL 1945.

W. C. McQuade Lt.-Col.
President,
Standing Court-Martial,
M.D. No. 7.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 3709 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 27 day of 19 45

B

Question to the accused. Q. Do you object to be tried by me as President of the Court ?

Answer: A. No Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Q. Do you object to No.G-28780 Sergeant J.S. Arsenault, No. 7 District as interpreter ? Depot, C.A.

Answer: A. No Sir.

Question to the accused. Q. Do you object to No.G-4364 S/Sgt.(A/C.S.M.) R.E. McCoombs, Headquarters as shorthand writer ? M.D. No. 7.

Answer: A. No Sir.

The shorthand writer and interpreter ~~(if any)~~ are duly sworn.

Question to the prosecutor. Q. Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial~~ ?

Answer: A. No Sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Q. Is that your number, rank, name and unit ?

Answer by accused. A. Yes Sir.

Question to the accused. Q. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: A. No Sir.

~~*Question to the accused.* Q. Are you guilty or not guilty of the second charge against you, which you have heard read ?~~

~~*Answer.*~~

~~*Question to the accused.* Q. Are you guilty or not guilty of the third charge against you, which you have heard read ?~~

~~*Answer.*~~

~~*Question to the accused.* Q. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

~~*Answer.*~~

~~(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B-2"

CHARGE SHEET

The accused, No. G-601935 Private Hermil Marc MARTIN, No. 7 District Depot, C.A. a N.R.M.A. soldier of the Canadian Army placed on Active Service is charged with:-

CHARGE
Sec. 12(1)(a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at Valcartier, P.Q. on 27th December 1944 did absent himself from Fusiliers du St. Laurent from 0800 hours on said 27th December 1944 until he surrendered to the military authorities at Edmundston, N.B. at 1605 hours on 3rd April 1945 wearing military uniform; cost of apprehension and return to his corps being $3.16.

(J. Herschorn) Captain
Prosecutor, Courts-Martial,
Military District No. 7

SAINT JOHN, N.B.,
14 Apr 45.

C

Proceedings on Plea of Not Guilty

Question to the accused. Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. A. No Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

THE PROSECUTOR DECLINES TO MAKE AN OPENING ADDRESS.

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. Captain F.L. Bowser, Officer in charge of Records, No. 7 District Depot, C.A.

being duly sworn, is examined by the Prosecutor.

Question Q. Captain Bowser, will you identify yourself to the Court, please?

A. I am Captain F.L. Bowser, Officer in charge of Records, No. 7 District Depot, C.A.

Q. Do you recognize the Accused?

A. I recognize the Accused as Private Martin.

Q. Will you identify this document I now hand you please?

A. This is M.F.B. 375, Record of the Declaration of a Court of Inquiry held at Lauzon, P.Q. on 14 Feb 45, certified as a true copy, purported to be signed by some officer, Lieutenant, Records Officer No. 5 District Depot, Lauzon, P.Q. It refers to the Accused.

PROSECUTOR: I submit in evidence Sir Militia Form 375, Record of the Declaration of a Court of Inquiry relating to the Accused, Private Martin.

M.F.B. 375, Record of the Declaration of a Court of Inquiry, received by the Court, read and signed by the President, marked with the identifying letter "F" and attached to the proceedings as an Exhibit.

PRESIDENT: The Court observe that the name of the Accused is given as H.N. Martin and not as stated in the charge sheet, also that the unit of the President of the Court is not shown.

PRESIDENT: Continue please.

Q. Captain Bowser, will you identify this document please?

A. This is an M.F.M. 216, certificate of surrender to service authorities, signed at Edmundston, N.B. on the 4 Apr 45, purported to be signed by Major R.W. MacDonald, Officer Commanding No. 71 C.I.(B)T.C.,C.A. It refers to the Accused.

PROSECUTOR: I submit in evidence Sir Militia Form 216, referring to the Accused, Private Martin.

M.F.M. 216, certificate of surrender, received by the Court, read and signed by the President, marked with the identifying letter "G" and attached to the proceedings as an Exhibit.

Q. Captain Bowser, will you identify this document please?

A. This is an M.F.B. 1481 certificate of cost of transportation purported to be signed at Fredericton, N.B. 4 Apr 45 by Lieutenant R.M. Langley, Assistant Officer in charge of Supplies, Fredericton, N.B. It refers to the Accused.

PROSECUTOR: I submit in evidence Sir Militia Form 1481 certificate of cost of transportation, relating to the Accused, Private Martin.

M.F.B. 1481, in the amount of $3.16, received by the Court, read and signed by the President, marked with the identifying letter "H" and attached to the proceedings as an Exhibit.

Q. Captain Bowser, will you identify this document please?

A. This is a certified true Extract of Part II Order No. 86, dated 12 Apr 45 of No. 7 District Depot, certified as a true Extract by myself as Officer in charge of Records, it refers to the Accused.

PROSECUTOR: I submit in evidence Sir Daily Order Part II No. 86, No. 7 District Depot, certified true Extract of this Order, certified by Captain Bowser and referring to the Accused, Private Martin.

Certified true Extract of Part II Order No. 86, No. 7 District Depot, C.A., dated 12 Apr 45, received by the Court read and signed by the President, marked with the identifying letter "I" and attached to the proceedings as an Exhibit.

PRESIDENT: In accepting this document the Court will only take cognizance of the part of the entry ~~which~~, which is made in the course of duty according to King's Regulations and Orders (Canada), that is, 'taken on strength at $1.50 per day at 1605 hours 3 Apr 45, G-601935 Private Martin,H.M..

PROSECUTOR: I have no further questions of this Witness Sir.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE.

THE WITNESS WITHDRAWS.

PRESIDENT: Your next Witness.

PROSECUTOR: No other witnesses Sir.

PRESIDENT: The case for the Prosecution is closed.

PROSECUTOR: Yes Sir.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Q. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. A. I wish to give evidence under oath.

Question to the accused. Q. Do you intend to call any witness in your defence?

Answer. A. No Sir.

~~*Question to the accused.*~~ ~~Is the witness to be called a witness as to character only?~~

~~*Answer.*~~

FIRST WITNESS
for
DEFENCE.

The Accused, No. G-610935 Private Hermil Marc MARTIN, No. 7 District Depot, C.A. being duly sworn is examined by the Defending Officer:

Q. When you left Valcartier on leave had you been warned verbally that you were on draft?

A. They gave me a pass but never mentioned anything.

Q. Did you at any time sign any written statement that you, that advised you that you were on draft, subject to transfer?

A. No Sir.

DEFENDING OFFICER: That is all Sir.

CROSS-EXAMINED BY THE PROSECUTOR:

Q. Private Martin were you absent without permission from 27 Dec 44 at 0800 hours until you surrendered at 1605 hours on 3 Apr 45?

A. Yes Sir.

Q. Where did you go absent from?

A. From Valcartier.

Q. Where was your Unit going?

A. I don't know.

Q. Did they go anywhere?

A. I don't know I never received any news from them.

Q. When you left your Unit on what date did you think you were going to come back?

A. On the date of the expiration of my pass.

Q. When your pass expired and you didn't return, did you have any intentions of coming back at all?

A. Yes I had in mind to return as I did later on.

Q. Why did you go absent?

A. They never gave me any pass since September 43, never had any furlough or pass, that is what I decideded to take my pass and then return.

PROSECUTOR: No further questions Sir.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE.

THE WITNESS RESUMES HIS SEAT.

THE ~~DEFENDING OFFICER~~ Prosecutor DECLINES TO MAKE A CLOSING ADDRESS.

THE ~~PROSECUTOR~~ Defending Officer DECLINES TO MAKE A CLOSING ADDRESS.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Q. Have you any statement to make concerning the documents which have just been read to you?

Answer. A. No Sir.

Question to the accused. Q. Do you wish to address the Court?

Answer A. Yes Sir through my Defending Officer.

DEFENDING OFFICER: There is very little to say except that the Accused has a clean conduct sheet and he seems to think where there is a little grievance against the army as far as he is concerned. He thinks it is quite justified. While I don't doubt he realizes that he broke the army law, he thought mostly he deserved some leave, that he had been disallowed while in the service. The accused was at Wainwright, Alberta I understand, quite a distance from his home for sometime and on being transferred to Fusiliers du St. Laurent, he was stationed at Valcartier for four or five days, and then granted seven days leave. Seven day's leave being up he proceeded to take a little extra leave on his own. I think that a light sentence would serve just as well as a heavy sentence in this particular case, as the man has a clean conduct sheet, has been in the army nearly three years, being an N.R.M. A. it is possible he did get pushed around a little bit on the leave question as there are times when they come under officers who don't understand them exactly. That is all Sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

RECORD of the Declaration of a Court of Inquiry assembled at Louzon, PQ on the 14th day of Feb 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Regimental Necessaries, or Clothing of No. G/601935 Pte MARTIN, H.N, F.S.L., CA

DECLARATION

The Court declare that No. G/601935 Pte MARTIN, H.N. Fus. du S.Lau.

illegally absented himself without leave from Fus. du St-Laurent at Valcartier at 0800 hours on the 27th day of December 1944 that he is still so absent, and that on the 14th Deb 45 he was deficient, and that he is still deficient of the following articles:-

ARTICLES		VALUE	ARTICLES		VALUE
Anklets web	2	1.48	Razor safety set	1	42
C p winter milton	1	1.05	Socks black	2	56
Dressing first field	1	22	Towels hand	2	62
Gloves khaki woollen	1	66	Badge cap	1	09
Greatcoat	1	15.54	Attachment brace	1	16
Mitts Pullover leather	1	93	Bag ration	1	04
Overalls combination	1	2.52	Belt waist	1	67
Battle dress blouse	2	13.00	Bottle water	1	62
" " trousers	2	13.10	Brace left & right	1	67
Boot ankle	2	11.64	Carrier cartriges	1	61
C p field service	2	1.40	Carrier water bottle	1	37
Drawers cotton short	2	80	Cover mestin rectangular	1	08
" woollen short	2	2.80	Haversack	1	2.29
Jacket sweather	1	1.37	Sacks w.e.	1	2.26
Shirts khaki cotton	4	6.16	Strap web supporting	2	28
" under cotton	2	86	Tin mess	1	57
" woollen	2	2.40	Container	1	1.60
Shoes canvas	1	2.29	F cepiece	1	3.20
Shoes leather black	1	4.84	Haversack	1	1.27
Socks woollen	4	1.84	Outfit anti-dinning	1	15
Trousers khaki drill	1	1.80	Eyeshields	5	1.04
Trousers khaki drill short	1	1.31	Cap A.G. camouflage	1	4.70
Bag kit	1	1.27	Detector gaz sleeve	1	25
Belt waist leather brown	1	35	Ointment A.G. No.2	1	26
Boot dressing tin	1	05	Wallet A.G. camouflage	1	27
Braces	1	28	Sheet ground 5	1	2.38
Brass button stick	1	04			
Brush boot	1	21	TOTAL		118.75
" button	1	111	75%		89.06
" cloth	1	17			
" hair	1	39			
" shaving	1	42			
" tooth	1	09			
C p comforter	1	41			
Comb hair	1	04			
Fork table	1	08			
Holdalls	1	22			
Housewives	1	35			
Knive table	1	18			
~~Neckties black~~	~~1~~	~~19~~			
Pin collar safety	1	06			

Signed at Lauzon, P.Q.

Sgd: J.A.M. Caron
(J.A.M. CARON) - Major - President

Sgd: J.U.G. Girard
(J.U.G. GIRARD) Capt., D.D.5 Member

Sgd: I. Lortie
(I. LORTIE) - Lieut. D.D.5 Member

this 14th day of February 1945.

Sgd: Jean La Fontaine
Signature of Commanding Officer (Jean La Fontaine)
Col. Mec. OC No.5 D.D.

Certified true copy Marcel Lebeau
(Signature of Officer having custody of original record)

RECORDS OFFICE
No.5 District Depot
Lauzon, Que.

M.B. 375

Form of Field Return "G"
Pro. P.C. 2797

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major. R.W. MacDonald NO. 71 CI(B)TC (CA)
(Number) (Rank) (Name) (Unit)

hereby certify that G 601935 Private Martin, H.M.
(Number) (Rank) (Name in full)

of the 1 st. Bn. Fusiliers du St.Laurent CA
(Unit and attachment, if any)

Strike out words not applicable } ~~XXXXXXXXXXXX~~ Released (surrendered to) G 63228 A/Cpl.
(Number) (Rank)

Lajoie, A. NO. 71 C.I.(B)T.C. (CA)
(Name) (Unit or appointment)

at Edmundston, N.B. at 1605 hours
(Place) (Hour)

on the 3rd day of April 1945

Strike out words not applicable } as a deserter (~~XXXXXXXXXXXX~~ Released) and that at the time of his arrest he was wearing military ~~XXXXX~~ uniform (~~XXXXXXXXXXXX~~ Released)

Dated at Edmundston, N.B. this 4th day of April 19 45

Major.
(Signature, Number, Rank, Unit or appointment)
(R.W. MacDonald) O.C. #71 C.I.(B)T.C. (CA)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
10034—11-42 (6000)
H.Q. 1772-39-1935

M.F.B. 1481
125M—10-43 (7206)
H.Q. 1772-39-1851

Pass to Del "H"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. (Rank) E.M. Lingley (Name), Asst.O.i/c Supplies, RCASC, Fredericton, N.B. (Unit),

Strike out word not applicable — hereby certify that I (issued) ~~(authorized)~~ the hereinafter itemized transportation for escort

Complete — to proceed from North Devon, N.B. (Place) to Edmundston, N.B. (Place)

and return to North Devon, N.B. (Place) for the purpose of escorting

Full description of soldier being escorted — G-601935 (Number) Fusilier (Rank) Martin, H.M. (Name in full)

No.7 District Depot C.A. (Unit) Fredericton, N.B. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(the transportation required)~~ and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	ESCORT	
	G-18017 Sgt.Arnold,M.S. No.7 District Depot C.A.	
	Escort in possession of own Transportation.	
	ALLEGED ABSENTEE	
	G-601935 Fus.Martin,H.M. No.7 District Depot C.A.	
	Issued Transport Warrant No.C-847627 on the 4th April 1945 providing one single second-class fare via CP Rly. Edmundston,N.B.to North Devon, N.B.	$3.16
	TOTAL	$ 3.16

Dated at Fredericton, N.B. this 4th day of April A.D. 1945

E M Lingley Lieut.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~(authorized to authorize)~~

Strike out description not applicable

Asst.O.i/c Supplies, RCASC, Fredericton, N.B.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

"I"

DAILY ORDERS PART II
By

LIEUTENANT-COLONEL W.A. MCDOUGALL, M.C.
Commanding

NO. 7 DISTRICT DEPOT C.A.

Order No. 86
D/12 Apr 45
Fredericton, N.B.

(Last Order Issued No. 85 d/11 Apr 45)

Sheet 3

DIVISION II HOLDING ESTABLISHMENT DIVISION II

"B"
Other Ranks

2. STRENGTH INCREASES

(d) Having been S.O.S. No. 5 D.D.C.A. by Court of Inquiry 14 Feb 45 For A.W.L. from 0800 hrs. 27 Dec 44 T.O.S. ($1.50 per diem) on surrendering from desertion to the military authorities at No. 71 C.I.(B)T.C. at 1605 hrs. 3 Apr 45.

G 601935 Pte. Martin, H.M.

Sgd: E.A. Skene, Captain
(E.A. Skene) Adjutant
No. 7 District Depot C.A.

Certified true extract of Part II Order
No. 7 District Depot C.A. No. 86 d/12 Apr 45

F.L. Bowser Captain
(F.L. Bowser)
Officer i/c Records
No. 7 District Depot C.A.

"Y"

M.F.B. 355
6054—9-42 (5000)
H.Q. 1772-30-420
A.F.B. 356

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G 601935	Private	Hermil Marc MARTIN	#7 District Depot C.A.

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	Nil times	Nil times
For	times	times
For	times	times
For	times	times

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 16 days in military custody, making a total of 16 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his enrolment paper is 23 yrs 10 mos

6. The date of his enrolment specified in his enrolment paper is 4 Aug. 42

7.

8.

9. The accused is in possession of or entitled to no military decoration, or military reward.

10.

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~

Permanent Force
unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer, continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of Apr 1945 H. Bowser Captain
(F.L. Bowser)
Officer i/c Records
No. 7 District Depot C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

601935 MARTIN, H.M.

Name

Sqn., Battery, or Company } 75 Corps 20 Fd Regt RCA Date of enlistment } 4-8-42 G.C. Badges } Tradesmen's Rates of Pay }

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. One Signature O.C. Company, etc. } Character

M.F.M. 6 (A.F.B.122) 7303M—12-42 (7537) H.Q. 1772-30-1652

Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
			Furlough					
			Certified true copy F.L. Bowser Captain (F.L. Bowser) Officer i/c Records No. 7 District Depot C.A.					

(P.T.O.)

Recd Pay Ledger 2 Dec 45

"2"

PRECIS OF EVIDENCE

in the case of

The accused, No. G 601935 Private Hermil Marc MARTIN, No. 7 District Depot C.A. a N.R.M.A. soldier of the Canadian Army placed on Active Service.

Charge: DESERTION

To prove the charge the following evidence is available:

DOCUMENTARY ✓ M.F.B. 375

✓ M.F.M. 216

Certified true extract of Part II Order No. 7 District Depot C.A. No. 86 dated 12 Apr 45

✓ M.F.B. 1481

H.F. Nickerson Captain
(H.F. Nickerson)
Officer detailed to take
Precis of Evidence
No. 7 District Depot C.A.

Fredericton, N.B.

12 April 1945

I, G 601935 Private Hermil Marc Martin, desire to have an officer assigned to represent me at my trial by Standing Court-Martial.

H. M. Martin

I do hereby appoint Lieut. A.A. White, No. 70 C.I.(B)T.C. as Defending Officer for G 601935 Private Hermil Marc Martin.

Lieut-Col.
(W.A. McDougall)
Officer Commanding
No. 7 District Depot C.A.

Fredericton, N.B.
16 Apr 45

MEDICAL OFFICER'S REPORT

I certify that No. C 601935 Pte. Martin, H.M. of No. 7 District Depot C.A. is in a good state of health and is fit to undergotrial by Court-Martial.

[illegible] Capt
~~Chief Medical~~ R.C.A.M.C.
Medical Officer
Att: No. 7 District Depot C.A.

Station: Fredericton, N.B.

Date: 18 Apr 45

H.Q.C.55-M-1691 (JAG/D-8)
Your J/38-M-1662

30 Apr 45

The District Officer Commanding,
Military District No. 7, Saint John, N.B.

STANDING COURT-MARTIAL

G.601935 Pte. Hermil Marc Martin,
No.7 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde) Brigadier
Judge Advocate General.

MO/MM

P11

IN REPLY PLEASE QUOTE No.
J/35-M-1662 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

REGISTERED

SAINT JOHN, N.B.
24 Apr 45.

C.55-M-1691

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ont.

Re: STANDING COURT-MARTIAL
No.G-601935 Private Hernail Marc MARTIN
No. 7 District Depot, C.A.

Herewith for review proceedings of the Standing Court-Martial held for the trial of the marginally named soldier in accordance with C.A. R.O. 4565.

(W. C. McQuade) Lt.-Col.
President, Standing Court-Martial, M.D. No. 7.

/REM
Encl.

NAT. DEF. B. 440

31019

THIS COPY FOR: H.Q. 55-M-1691
M.D. 7/38-M-1662

NEMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. G.601935 Name MARTIN, Hermil Mere

Rank Pte Unit No. 7 D.D. CA

Charge A.A. 12(1)(a) Desertion

Date of Crime 27-12-44

Date of Arrest 3-4-45 Charge Signed 14-4-45

Orders for D.C.M.

Place and Date of Trial No. 7 D.D. CA; 18 -4-45

Sentence Det 75 days; stoppages $3.16

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 37019

Date 27-4-45

MEMO Guilty A.W.L.

M.D. 7 - No 7 DD CA

Absent	Sentence
3½ mos	det 75 days

for Judge Advocate General

10M-1-45 (M-4629)

28 April 45

Passed - no inequalities noted.

H.Q.C. 55-1-1692

CONFIDENTIAL

N.F.B. 2078

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MCINTYRE. ROBERT JOSEPH B-64803 PTE.

CONFIDENTIAL
H.Q.C. 55-1-1692

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					All purpose for which referral cannot be expressed on one line, add minute to file and enter here "With Minute"		
MAY 2 1945					NEW FILE C.R.		APR 27 1945
					Give papers to MAY 12 1945		
MAY 15 1945				J.C.M.	To note plea	M.M.	15-5-45
MAY 16 1945							MAY 16 1945
MAY 18 1945							
MAY 30 1945					Give B.R. MAY 31 1945		
		P.A.		J.C.M.	Give Papers C.R. JUN 7 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. T-20-M-16366 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

319877

6th June, 1945.

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
JUN 7 1945
File 55-M-1692
Chgd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Report on Conduct
B-64803 - Pte. Robert Joseph McINTYRE,
No. 25 C.I.(B)T.C., C.A.

Reference H.Q.C.55-M-1692 (ICM)
dated 30th May, 1945.

2. Herewith returned Report on Conduct in respect of the marginally-named soldier, duly completed.

(A. E. Potts)
Major-General
D.O.C. M.D. 2.

N.D. 23
300032—10-44 (5769)
H.Q. 1772-101-23

REPORT ON CONDUCT I.C.M. - B

Department of National Defence,
H. Q. C. 55- M-1692, (IGM)
OTTAWA, 30 MAY 1945.

To:- Commandant
No. 61 Brampton, Military Detention Barracks.

1. Soldier under sentence	B64803 Pte. R.J. McINTYRE,
2. PLEASE STATE:-	
(i) Date of sentence	16 Apr 45
(ii) Sentence	120 days
(iii) Date you received soldier	23 Apr 45
(iv) (a) Can soldier read and write?	YES
(b) Religion	C OFE
(c) Married, Widower, Single	MARRIED
(d) What Army trade has soldier?	NONE
(v) (a) Conduct of soldier	EXCELLENT
(b) Industry of soldier	GOOD
(c) Remission earned:-	
(i) Number of days actually earned	17 days
(ii) Number of days obtainable to date	17 days
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	M/N is in a good state of physical and mental health.
(a) Whether detention will seriously aggravate soldier's condition.	NO
(b) Whether further confinement is likely to prove fatal.	NO G. Slocombe Capt. R.C.A.M.C.
(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence?	YES
(b) Moral effect confinement has had?	EFFECTIVE
(c) If returned to Army, is soldier likely to become a good soldier?	HAS THE ABILITY
(viii) Date term will expire if all remission earned from now on.	4 Jul 45

(A. E. Walford)
Major-General
Adjutant-General.

Signature H W Cowling Capt.
Commandant.
Date of Report: 5 Jun 45

1-45(M-4515)

I.C.M. - A.

Department of National Defence,
H. Q. C. 55 - M-1692,(IC)
OTTAWA, 30 MAY 1945.

Your File - T.20-M-16366

District Officer Commanding,

Military District No. 2,

TORONTO, Ontario.

B64203 Pte. R.J. McINTYRE,

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in No. 61 Brampton, Military Detention Barrack, under your command, a sentence of 120 days' detention awarded by a Standing, Court-Martial on the 16 day of APR 1945.

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC:WS.

5M-2-45(M-4516)

HQC.55-M-1692 (JAG/D)

15 May 45

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

Standing Court-Martial
B.64803, Pte. R.J. McINTYRE
No. 25 CI(B)TC, CA.

Receipt is acknowledged of your T-20-M-16366 (AJAG) dated 11th May, 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with M.F.M. 288.

/AB

E.A.M.
Capt.
for (R.J. Orde), Brigadier,
Judge Advocate-General.

Noted
L. H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
MAY 16 1945

Note for Col by Cor
17.5.45

5M-3-45(M-4664)

I.C.M. - L 438 [illegible]

REVIEW OF SENTENCE

DATE MAY 16 1945

H.Q.C. FILE: 55- M-1692

1. NO. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES AWL from 29 May 44, commenced 20 March 45 - 9½ mos.

8. PREVIOUS CONDUCT Bad conduct [illegible]
AWL — 5 times
Disobeying a command 2
Losing by neg 1
Failing to appear 1

ENLISTED
~~ENROLLED~~ 20 August 41 AGE 19

9. STATEMENT OF ACCUSED Granted special leave to go to the Bahamas as wife in financial difficulties. She is in Nassau. Intended coming back when leave was up but wife pregnant again & stayed until everything was over.

10. RECOMMENDATION

IN REPLY PLEASE QUOTE No. T-20-M-16366 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

313579

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
11th May, 1945.

[redacted]

CONFIDENTIAL

Central Registry Army
COMP. SEC.
MAY 12 1945
File CJS-M-1692
Chgd. to
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
H-64803, Pte. Robert Joseph McINTYRE,
No. 25 C.I. (B) T.C., C.A.

Reference H.Q.C. 55-M-1692 (JAG/D-9) dated 1st May, 1945.

2. Herewith returned Proceedings of the marginally-noted Standing Court-Martial, together with M.F.M. 288, duly completed, pursuant to C.A.R.O. 4587(7)(C)(e).

3. Pursuant to H.Q. 55-1-41 FD 74 (Admin) dated 16th January, 1945, it is advised that it is considered the Proceedings disclose no administrative matter requiring action.

(A.E. Potts)
Major-General
D.O.C. M.D. 2.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of B.64803 Pte Robert Joseph McINTYRE,
Number Rank Name in full

No 25 CIBTC, CA, SIMCOE, Ontario,
Unit Attachment (if any)

Sentenced to One Hundred and Twenty (120) days Detention

on 16 APR 45 at Simcoe, Ontario,

being served at No 61 Military Detention Barracks, Brampton, Ontario,
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 18 6/12 Years. 30 SEP 41

Medical grade or category 1111111

FIRST TRIAL—PART II

To ADJUTANT-GENERAL
Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (not) be (~~suspended~~) (~~put into execution~~) (reviewed on No review) for reasons given in paragraph X.
date

Place Toronto, Onterio

Date 10th May, 1945

Arthur E Potts
Confirming Authority
(A.E. Potts)
Major-General
D.O.C. M.D. 2.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....
Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offences, see pars. VIII. For C.O.'s remarks, see pars. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....
Confirming Authority

M.F.M. 288
(Army Form A-2104)
1034—5-43 (330)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
JUN 8 1945	No Suspension or Remission No further Review	Adjutant-General for Superior Military Authority	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Charge Sec 12(1)(a) Army Act When on Active Service Deserting His Majesty's Service	29 MAY 44	16 APR 45

(E.S. FROST) Capt & Adjutant
Signature of officer making entry No 25 CIBTC, CA, SIMCOE, Ont.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
4 MAY 45	Sentence is considered adequate and no remission is recommended. This man could make a good soldier if he put his mind to it.	(W.D. Anderson) Lt.-Col. Commanding Officer, No 25 CIBTC,C.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
10 May 45	No review recommended	(A.E.Potts) Major-General D.O.C. M.D.2.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No. 25 C.I.(B)T.C., CA, Simcoe, Ontario,

on the 16th day of April 1945 at 1500 hours,

for the trial of: B-64803, Pte. Robert Joseph McIntyre,
Number Rank Full Name

No. 25 C.I.(B) T.C., CA, Simcoe, Ontario,
Unit Attachment, if any

PRESIDENT: Major W.F. McClemont, ED (A&SH) Headquarters, M.D. No. 2.

PROSECUTOR: Capt. J.L. Downey, No. 2 D.D., CA, att'd S-8 C.A.T.S., CA.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~
DEFENDING OFFICER: Lt. A. Beck (HWE) No.25 C.I.(B)T.C., CA, Simcoe, Ont.,
Rank Full Name Unit Attachment, if any

FINDING: Not guilty of desertion but guilty of absence without leave except that he absented himself from 2359 hours on 28 MAY 44 and not as set forth in the Charge-Sheet.

SENTENCE: To undergo detention for One Hundred & Twenty (120) Days and to be put under stoppages of pay until he has made good the sum of $24.35 in respect of the cost of apprehension and return to his unit.

Signed at Simcoe, Ont., this 16th day of April 1945.

W F McClemont Major.
President,
Standing Court-Martial.

M.F.E. 1486
25M-6-44 (4826)
H.Q. 1772-39-2294

Extracts entered as No. B64803 in the record of Courts-Martial kept in the office of the Judge Advocate General this 30 day of June 1972

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to the interpreter?~~

Answer: No. B-55937, SM W.O. Stuart, No. 2 Det., CMSC, CA, Headquarters, M.D. No. 2,

Question to the accused. Do you object to as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter, if any,~~ ~~are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or Court-Martial?~~

Answer: No, sir, he has not.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

Answer.

~~(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

B-2
W P McClement
Pres. S.C.M. Major

CHARGE SHEET

The accused No. B.64803 Private Robert Joseph McINTYRE, No. 25 Canadian Infantry Basic Training Centre, CA, SIMCOE, Ontario, a G.S. Soldier of the Canadian Army placed on Active Service is charged with:-

CHARGE
SECTION 12(1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he,

at No. 25 Canadian Infantry Basic Training Centre, C.A., SIMCOE, Ontario, at 0001 hours, on the 29th day of MAY, 1944, absented himself without leave from the said No. 25 Canadian Infantry Basic Training Centre, C.A., SIMCOE, Ontario, until he surrendered to Military Authorities at 1700 hours, on the 20th day of MARCH, 1945, at Nassau, Bahamas, British West Indies, dressed in Military Uniform; the costs of apprehension and return to his Unit being $24.35.

10th day of APRIL, 1945,
No. 25 CIBTC, CA,
SIMCOE, Ontario.

W D Anderson Lt/Col

(W.D. ANDERSON) Lt.-Col.
Commanding Officer,
No 25 CIBTC, CA,
SIMCOE, Ontario.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

Capt. E.S. Frost, Adjutant, No. 25 C.I.(B)T.C., CA, Simcoe, Ontario,

being duly sworn, is examined by the Prosecutor.

Question

Q- Captain Frost, what is your unit?

A- H.W.E., No. 25 C. I.(B)T.C., Simcoe, Ontario.

Q- How are you employed?

A- I am Adjutant of this centre, as such being custodian of the regimental books and documents.

Q- Do you know the accused?

A- I do.

Q- What is his name?

A- Private Mc Intyre, R.J.

Q- What is his unit?

A- No. 25 C.I.(B)T.C., Simcoe, Ontario.

Q- Have you any documents to present to the Court?

A- I have.

Q- Will you produce them, please, telling us, firstly, what they are, secondly, to whom they refer and, thirdly, by whom they are signed.

A- I have M.F.B. 375, being a certified true copy of a record of a declaration of a Court of Inquiry. This certification is by myself and refers to the accused.

Q- Will you hand that to the President of the Court, please, and offer it as an exhibit.

BY THE PRESIDENT TO THE DEFENDING OFFICER: Have you any objection?

BY THE DEFENDING OFFICER: No objection, sir.

---- M.F.B. 375, certified true copy of a record of a declaration of a Court of Inquiry held at Simcoe, Ont., on 22 JUN 44 is read, marked Exhibit "F", signed by the President and attached to the proceedings.

WITNESS EXAMINED BY THE PROSECUTOR (Cont'd):

Q- Have you anything else to produce?

A- I also have certificate which is rendered under Section 163 (1)(j) of the Army Act. This certificate has been signed by Lieutenant J.R. Hennessey for J.R. Robson, Lieutenant-Colonel, Officer Commanding "N" Force.

Q- Will you offer that to the Court, please?

BY THE PROSECUTOR: Sir, in this case I wish to point out that the Prosecution is not sure that the document is admissible in view of the fact the document is signed by one Officer for another one, but I will leave that for the Court to decide.

BY THE PRESIDENT: The ruling of the Court is, under Section 163 (1)(j) of the Army A ct this document is not admissible. Had the surrender been to the Commanding Officer, or had it been signed by the Commanding Officer, it would have been admissible. The document will be attached to the proceedings but will not be accepted as an exhibit.

BY THE PROSECUTOR: I didn't see the document before arriving here to take the case and, therefore, I wish to absolve myself as I didn't know within reasonable time to obtain a better document.

BY THE PRESIDENT: From the Bahamas?

BY THE PROSECUTOR: Yes, sir. We have another certificate of apprehension which might show some apprehension at some place at some other time.

WITNESS EXAMINED BY THE PROSECUTOR (Cont'd):

Q- Have you a further document to produce?

A- I produce M.F.M. 216, being a certificate of apprehension or surrender. This document is signed by Major J.E. Purcell, Officer in charge of Composite Provost Companies,

WITNESS EXAMINED BY THE PROSECUTOR (Cont'd):

M.D. 4 and refers to the accused.

Q- Will you hand that document to the President of the Court, please, and offer it as an exhibit?

BY THE PRESIDENT TO THE DEFENDING OFFICER: Have you any objection?

BY THE DEFENDING OFFICER: No objection,,sir.

---- M.F.W. 216, certificate of apprehension of the accused is read, marked Exhibit "G", signed by the President and attached to the proceedings.

WITNESS EXAMINED BY THE PROSECUTOR (Cont'd):

Q- Have you something else to produce?

A- I have M.F.B. 1481 being a certificate of transportation costs, signed by myself, in the amount of $20.85. This document also refers to the accused.

Q- Will you hand that to the Court, please?

BY THE PRESIDENT TO THE DEFENDING OFFICER: Have you any objection?

BY THE DEFENDING OFFICER: No objection, sir.

--- M.F.B. 1481 covering transportation costs in the amount of $20.85 is read, marked Exhibit "H", signed by the President and attached to the proceedings.

WITNESS EXAMINED BY THE PROSECUTOR (Cont'd):

Q- Have you something else?

A- I have M.F.B. 1482, signed by Sergeant E.N. Runnalls, Regimental Police, Simcoe, Ontario, in the amount of $2.50, being incidental expenses incurred on behalf of the accused. This document also refers to the accused.

Q- Will you hand that document to the Court, please?

BY THE PRESIDENT TO THE DEFENDING OFFICER: Have you any objection?

BY THE DEFENDING OFFICER: No objection, sir.

--- M.F.B. 1482 covering incidental expenses in the amount of $3.50 is read, marked Exhibit "I", signed by the President and attached to the proceedings.

WITNESS EXAMINED BY THE PROSECUTOR (Cont'd):

Q- Have you any other documentary evidence to produce to the Court?

A- That is all, sir.

Q- You have handed to the Court two documents showing apprehension of the accused, one of which wasn't not accepted as an exhibit and one of which was. Can you explain to the Court why it was necessary to have two certificates of apprehension?

A- Yes, and realizing that I am on oath, I can only speak from hearsay evidence - I wasn't present.

Q- Can you explain what you saw in the documents?

A- Yes. One was a certificate acknowledging surrender in Nassau in the Bahamas Islands and the accused was flown from there to the airport outside of Montreal, Dorval Airport.

BY THE PRESIDENT:

Q- You assume he was?

A- I know he was, sir, because I was advised by Headquarters he was flown there.

Q- That is still hearsay and is not admissible as evidence.

BY THE PROSECUTOR: He can say that was his understanding.

BY THE PRESIDENT TO THE WITNESS.

Q- You understood he was flown there because someone advised you?

A- Yes, sir, I understand that he was flown to Dorval Airport and then surrendered himself at No. 4 District Depot.

Q- That is further assumption.

WITNESS EXAMINED BY THE PROSECUTOR (Cont'd):

Q- You can tell what happened by the documentary evidence.

A- Then he contacted the Provost inside of No. 4 District Depot and surrendered himself.

BY THE PRESIDENT:

Q- As the result of Exhibit "G" you are of the opinion he was brought, in some fashion, from the Bahamas and arrived in Montreal and there surrendered himself?

A- That is right, sir.

WITNESS EXAMINED BY THE PROSECUTOR (Cont'd):

Q- Is the accused charged with any costs of transportation from Nassau to Dorval Airport?

A- No, sir.

Q- Do you know why?

A- We received a telegram from Headquarters, M.D. No. 2.

Q- And what was the effect of that telegram?

A- It was to the effect that no costs were to be incurred by the accused in his return from the Bahamas to Canada and therefore action could be proceeded with.

Q- Have you any further evidence to give?

A- No, sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q- Captain Frost, in the charge against Private McIntyre it states that he did absent himself at 0001 hours on the 29th day of May, 1944. That would be one minute past midnight?

A- Yes.

Q- That is, as the Charge-Sheet reads?

A- Yes.

Q- In Exhibit "F", the M.F.B. 375, it states that he was absent at 0600 hours on the 30th day of May, 1944; that is one day later. Have you any knowledge of why the discrepancy there of one day?

A- No, I am sure I cannot answer that question. I wasn't present when these things took place and I really cannot answer the question.

Q- There is no reason why the discrepancy should be there?

A- No.

BY THE DEFENDING OFFICER: How does that affect the Charge Sheet, sir, the charge against the accused. It shows him to be absent at 0001 hours on May 29th, 1944, and there is no evidence to prove he was absent from that time.

BY THE PRESIDENT: The Court can, if it wishes, make a special finding as to when he was absent.

BY THE PROSECUTOR: The Court can also amend the Charge-Sheet right now if they wish.

BY THE PRESIDENT: In this case perhaps the best method would be to make a special finding, if one is required.

--- The witness withdraws.

--- The Prosecution has no further witnesses.

--- The Prosecution is closed.

W.K.M.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make a statement on oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~ –

Answer.

FIRST WITNESS FOR THE DEFENCE. - No. B-64803, Pte. Robert Joseph McIntyre, No. 25 C.I.(B)T.C., CA, Simcoe, Ontario, having been duly sworn is examined by the Defending Officer:

Q- Private McIntyre, you have heard the charge read stating that you were absent at 0001 hours on May 29th, 1944, and another document stating that you were absent at 0600 hours on May 30th, 1944. Those particular times will be settled by the Court later. There is one day's difference there but I am not going to bring that point up now. I just want you to tell the Court what happened at the time you left this centre, regardless of which day it was or what time. Why did you leave this centre?

A- Well, I received a special furlough to travel to the Bahamas. I proceeded down to Miami by train and I took an A.T.C. bomber from Miami to Nassau. I got a special furlough to go down there on the grounds that my wife was having financial difficulties.

Q- That is the reason you were granted this special furlough?

A- Yes, sir.

Q- I take it, then, your wife is in Nassau?

A- That is right.

Q- How did you come to be married to a girl living in Nassau?

A- I was stationed in Nassau for eighteen months with the Veterans Guard of Canada and while I was stationed there I met my wife and got married.

Q- To whom did you apply for this special furlough?

A- To Captain Allan.

Q- What kind of difficulties was your wife in? You spoke about your wife being in difficulties. Can you explain to the Court what her difficulties were?

A- Financial difficulties, sir, and moreso housing difficulties.

ACCUSED EXAMINED BY THE DEFENDING OFFICER (Cont'd):

Q- What do you mean by housing difficulties?

A- Well, the house that we had rented at the time, the owner wished to have his house back and my wife was having trouble obtaining another house to move into.

Q- Did you explain these circumstances to Major Allan?

A- Yes.

Q- He is a Major now?

A- Yes, sir.

Q- And he thought that the circumstances were strong enough he granted you a special furlough?

A- Yes, sir.

Q- Did you have a furlough coming to you? Were you due for a furlough?

A- No, sir, I wasn't due for a special furlough.

Q- What did you find on your arrival at Nassau with regard to your wife's condition?

A- The trouble had been straightened out when I arrived and I stayed to see if I could find a new home.

Q- Did you have any children?

A- Yes, sir.

Q- How many?

A- I had one girl at that time.

Q- At that time you had one girl?

A- Yes, sir.

Q- How many have you now?

A- Two, sir.

Q- Why did you not return at the end of this special furlough?

A- I was still having trouble obtaining a home and paying financial debts and my wife was taken pregnant again and she was immediately taken sick and I couldn't come back until the baby was born.

ACCUSED EXAMINED BY THE DEFENDING OFFICER (Cont'd):

Q- You say that your wife was taken sick. Just how sick was she? Was it serious?

A- Yes.

Q- Was your wife out of her immediate difficulties then, as far as her health was concerned?

A- Yes.

Q- Was she healthy after the baby was born?

A- Yes, sir.

Q- What did you do then ?

A- I surrendered to Colonel Robson at Nassau, Bahamas.

Q- What happened when you surrendered yourself?

A- I was there for one week waiting for a plane ride back with the R.A.F. Transport Command.

Q- Did you get that ride?

A- Yes.

Q- Were you in custody on the ride?

A- I was accompanied by a Lieutenant - I forget his name.

Q- The name is not important.

A- He was being sent back to the Depot in Halifax.

Q- Was he an Air Force man or an Army man?

A- An Army man.

Q- Anyways, he wasn't detailed particularly to escort you?

A- No, not particularly.

Q- Then what happened? Where did you arrive in Canada?

A- I arrived at Dorval Airport.

Q- And what did you do there?

A- We went by station wagon to Dominion Square and from there he took me to the Provost Barracks on St. Catherine's Street in Montreal, where I surrendered myself again.

Q- He went inside with you?

A- That is right.

Q- And you surrendered yourself a second time?

ACCUSED EXAMINED BY THE DEFENDING OFFICER (Cont'd):

A- Well, sir, it was done by a document he handed to the Sergeant; he got it down there.

Q- What did you do while you were in Nassau?

A- I worked for a while and tried to support her.

Q- At the time you left on this special furlough, what was your intention?

A- To return after my furlough was up and as soon as my difficulties were arranged.

Q- And what changed your mind to not return after your furlough?

A- Difficulties and sickness.

Q- Difficulties your wife was in?

A- Yes, sir.

Q- What were your intentions during the time you were away? After your furlough was up, there was a period when you were A.W.L. What were your intentions during that period?

A- To come back and surrender myself to the Army as soon as I could get away, as soon as my wife was out of trouble.

Q- Did you do that?

A- I did.

Q- How old are you?

A- 19.

Q- How old were you when you enlisted?

A- 15, sir.

Q- How did you get in the Army when you were 15?

A- I said I was 18, sir.

Q- Did you want to be a soldier that bad you would lie about your age?

A- I did.

Q- What are your intentions now? Do you still want to be a soldier?

A- I still want to be a soldier.

ACCUSED EXAMINED BY THE DEFENDING OFFICER (Cont'd):

Q- How are conditions now with your wife?

A- As far as her health is concerned, I haven't had any word since I have been here but her health was alright when I left; but there are still financial troubles.

Q- Would your financial troubles be such that you would have to go down there again at any time, if you had the chance?

A- Not if she gets her allowance back, sir.

Q- And if the allowance doesn't come back?

A- I don't know what will happen, sir.

Q- Which do you think in your own mind would be the best course, to stay and soldier and eventually get your wife's allowance back or jeopardize that allowance by going away again?

A- It would be best to stay and soldier and have the wife's allowance go back.

BY THE DEFENDING OFFICER: That is all, sir.

CROSS-EXAMINED BY THE PROSECUTOR:

Q- You were a Lance-Corporal at that time?

A- That is right.

Q- You were a Lance-Corporal when you left this camp?

A- Yes.

Q- And you were struck off as a Lance-Corporal on coming back?

A- Yes, sir.

Q- In any event, you have told us that you were with the Veterans Guard in the Bahamas and you were married down there?

A- Yes, sir.

Q- Were you down there with the Veterans Guard, with Colonel DeWolf?

A- That is right.

Q- You say that you had this trouble and your wife had trouble

ACCUSED CROSS-EXAMINED BY THE PROSECUTOR (Cont'd):

and you got this special furlough to go home?

A- Yes.

Q- For the purpose of straightening things out?

A- Yes, sir.

Q- I take it that you intended to come back when you got this furlough?

A- Yes, sir.

Q- This furlough, did it expire at 2359 hours on May 28th?

A- Yes, sir.

Q- That is, May 28th, 1944?

A- Yes, sir.

Q- So apparently being charged with being absent from 0001 hours on May 29th, 1944, or even as shown on the 375, 0600 hours on May 30th, you are not being prejudiced in any way, you are getting credit for two minutes or six hours and some minutes?

A- I don't understand that. Will you repeat that?

Q- If you are charged with being absent from 0001 hours on May 29th you are not being prejudiced in any way, you are being given credit for two minutes?

A- Yes.

Q- And if the Charge-Sheet was changed and the Court made a special finding and you were found absent from 0600 hours on May 30th, 1944, you are not being prejudiced in any way, you would be given credit for six hours?

A- Yes, sir.

BY THE DEFENDING OFFICER: It would be one day and six hours.

BY THE PROSECUTOR: That is right.

ACCUSED CROSS-EXAMINED BY THE PROSECUTOR (Cont'd):

Q- There is no question about overstaying your pass, is there?

ACCUSED CROSS-EXAMINED BY THE PROSECUTOR (Cont'd):

A- No, sir.

Q- You were continuously absent from this training centre from 0600 hours on May 30th or 0001 hours on May 29th, 1944, whichever the Court may decide, until you surrendered yourself in Nassau?

A- That is right.

Q- You were not back in any military unit in the meantime?

A- No, sir.

Q- You were present in Court when the Prosecution endeavoured to have a document accepted as admissible evidence in Court, just a few minutes ago?

A- Yes, sir.

Q- Maybe you can assist us in that. Is it true that you did surrender yourself to the Officer Commanding "K" Force at Nassau, Bahamas, on March 20th, 1945, as an absentee and the time of surrender was 1700 hours?

A- That is right, sir.

Q- Then you say you got a ride in this R.A.F. Transport Command plane and you found yourself in Montreal at the Dominion Square Building?

A- Yes, sir.

Q- In other words, you went to M.D. No. 4?

A- No, sir, he took me to the Provost Barracks on St. Catherines Street.

Q- That is where you went, where you surrendered yourself to Sergeant Barbe?

A- Pardon me; that was the next morning, when I was taken to Longueuil.

Q- You surrendered the next morning at 2300 hours?

A- Yes, sir.

Q- Both times you surrendered, you were wearing military uniform on both occasions?

ACCUSED CROSS-EXAMINED BY THE PROSECUTOR (Cont'd):

A- Yes, sir.

Q- Now I am going to ask you a very plain question. Did you at any time when you were absent from this camp intend never to come back?

A- No, sir.

Q- I suppose if your wife hadn't taken pregnant when you were down there there was a chance that you might have been back earlier?

A- Yes, sir.

Q- You were gone from May 29th, 1944, until March 20th, 1945?

A- Yes, sir.

Q- Approximately ten months all but eight days, and it was possible for your wife to become pregnant and have a child and you return within that length of time?

A- Yes, sir.

Q- When you joined the Army you were shown as a single man? That is right, isn't it?

A- Yes, sir.

Q- What is your state of training right now?

A- I am a qualified soldier, sir.

Q- In other words, are you trained and ready to go overseas?

A- Yes, sir.

Q- You told your Defending Officer you intended to return as soon as your furlough was up?

A- Yes, sir.

Q- In other words, you intended to be here on time?

A- Yes, sir.

Q- If your wife had not become pregnant would you have been back in time?

A- Yes, sir.

ACCUSED CROSS-EXAMINED BY THE PROSECUTOR (Cont'd):

Q- How could you tell your wife was pregnant in such a short time?

A- Sir, I didn't know for sure, until I was there six weeks.

Q- You didn't know? What you are telling us, then, is not exactly correct.

A- I see what you mean now.

Q- Well, try and explain that, will you?

A- What is the question?

Q- You were only supposed to have been gone two weeks?

A- Yes.

Q- And you said that the reason you stayed over was because you found your wife was pregnant?

A- Yes, sir.

Q- Now how could you go down there, take the travelling time to go down there, impregnate your wife and find out she was pregnant in such a short period of time?

A- I am sorry - I made a mistake.

Q- Tell us the exact truth.

A- As I said, sir, it was the housing difficulties and financial problems and they existed even after my wife was pregnant. That is where I got mixed up in my statement. I had the intention when I left here to get this trouble fixed up and get back on time. That is what I meant to say.

Q- When you say the reason you stayed was because your wife was pregnant, that is not right?

A- No, sir.

Q- You wish to change that?

A- Yes, sir.

Q- You realize it would be impossible for you to know that?

A- Yes, sir.

ACCUSED CROSS-EXAMINED BY THE PROSECUTOR (Cont'd):

Q- Are there any Canadian units in Nassau?

A- Not now.

Q- Was there when you were away?

A- Yes, sir.

Q- Did you wear your uniform or civilian clothes?

A- Civilian clothes.

Q- You didm't wear your uniform?

A- No, sir.

Q- Why didn't you?

A- Well, I was asked to go not in uniform,

Q- Did you not wear your uniform for the reason you thought about the day you might get caught?

A- No, sir.

Q- You are sure of that?

A- Yes, sir.

Q- How do you feel now about the whole situation? Are you willing to soldier?

A- I am willing to soldier, sir.

BY THE PROSECUTOR: That is all.

--- The Defending Officer declines to re-examine.

QUESTIONED BY THE PRESIDENT:

Q- Did you have return fare?

A- Yes, sir.

Q- What happened to that?

A- It is home now; it is in Nassau, the other half of the return ticket.

Q- Can your wife cash it in?

A- No, sir, it is over 30 days.

Q- It is no good?

A- No, sir.

Q- Did you pay return fare on the clipper?

QUESTIONED BY THE PRESIDENT (Cont'd):

A- No, sir, I paid return fare from the Union Station in Toronto and I took the plane from Miami to Nassau; I went from Miami to Nassau by A.T.C. bomber.

Q- How would you come back ?

A- The same way, sir.

Q- I don't understand; you wear the Veterans Guard flash.

A- Yes, sir.

Q- Why?

A- That is the unit I joined at No. 2 District Depot in Toronto.

Q- How was it you came to be with the Veterans Guard?

A- I was sent to Kingston on a signals course and after completing the signals course I took my trades test and we were put on draft. The Veterans Guard in Ottawa sent for five signalmen to travel with them overseas and they sent us from Kingston to Ottawa and they took a detachment of the signals and sent them to Nassau, sir.

Q- Has your wife any relations in the Bahamas?

A- A stepmother, sir.

Q- Has she any means of her own?

A- Not at the present time.

Q- How is she going to live?

A- She is living with her grandmother at the present time?

Q- Did you consider at any time bringing her and the children to Canada?

A- I intended to, sir, as soon as I could.

Q- You say that your pass expired at 2359 hours on May 28th, 1944?

A- Yes, sir.

--- The accused resumes his seat.

--- The Defence is closed.

--- The Prosecutor makes a closing address - not transcribed.

--- The Defending Officer declines to make a closing address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir, through my Defending Officer.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

STATEMENT BY THE DEFENDING OFFICER RE MITIGATION.

I have very little to say, sir, except to stress the extreme youth of this boy. This boy was 15 years old when he enlisted and he probably did lie about his age but he did it because he wanted to be a soldier. He is still only 19 years of age. His first offence in the Army was in November, 1941, and at a time when he was only 15 years old and it just seems that he got started off wrong.

If the Court will permit me to quote a remark made, I believe, in the presence of the accused, by an Officer of this centre; this Officer said 'This boy is a good soldier but he has been abused by someone'. It was just a remark and I believe the accused overheard the remark made by an Officer here while he was in custody. It is my opinion that he is a good soldier. He has a bad record, I admit that it looks very bad.

BY THE PRESIDENT: I have seen a lot worse.

BY THE DEFENDING OFFICER (Cont'd): When you look at the conduct sheet, it looks bad but there were some rather petty offences, other than the disobedience charge. I do not think he is a bad boy and I think, as the Officer said, he was probably abused by someone and treated wrong when he was first in the Army at 15 years of age. That probably got him off to a wrong start. I think he can be made into a good soldier as he was evidently good enough to be promoted twice. He has already spent 28 days in custody and I wish the Court would take that into consideration when they decide on the punishment.

'F'

W. McClement
Pres. S.C.M. Major

1.47

RECORD of the Declaration of a Court of Inquiry assembled at SIMCOE, Ontario.

on the 22nd day of JUNE 19 44, for the purpose of investigating

and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition,

Equipments, Instruments, Regimental Necessaries, or Clothing of No B.64803, A/L/Cpl McINTYRE, R.J. "B" Coy.

DECLARATION

The Court declare that No B.64803 (Regt'l No.) A/L/Cpl (Rank)

McINTYRE, R.J. (Full Name) No. 25 C.I.B.T.C., CA, SIMCOE, Ont. (Unit)

illegally absented himself without leave from No.25 C.I.B.T.C., CA, SIMCOE, Ontario.

at SIMCOE, Ont. (Place) at 0600 hours on the 30th day of MAY 1944

that he is still so absent, and that on the 22 JUNE 44 he was deficient, and

that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Clo.Div."A"			Trousers Khaki drill shorts	1.20	.90
Anklets, Web 1 pr.	.79	.60	Clo.Div."C"		
Cap, Winter Melton Cloth	1.06	.80	Bags, Kit	.78	.59
Gloves, Woollen Khaki Prs 1	.59	.45	Belts, waist leather brown	.37	.28
Clo.Div"B"			Boots, dressing tins 1	.05	.04
Battledress blouse 1	5.25	3.93	Boots, laces prs .03¢ 2	.06	.05
Trousers, B.C. Prs. 1	5.39	4.05	Braces prs 1	.32	.24
Boots, ankle prs 1	5.46	4.10	Brushes cloth 1	.27	.21
Caps, field service 70¢ 2	1.40	1.05	Brushes, shaving 1	.42	.32
Jersey, pullover 1	1.56	1.17	Brushes, Tooth 1	.09	.07
Putties D.S. prs. 1	.97	.73	Combs, hair 1	.04	.03
Shirts, flannel khaki 1	1.71	1.29			
Shirts, Khaki cotton 2	1.25 2.50	1.88			

(PTO)

A.H.Fonger, Capt. H.W.E., No.25 CIBTC, CA, SIMCOE Ont. (Name) (Rank) (Unit) Member

W.A.Mills, Lieut. A.10 CITCI CA Att'd #25 CIBTC CA SIMCOE, Ont. (Name) (Rank) (Unit) Member

Signed at SIMCOE, Ontario.

this 22nd day of JUNE 1944

T.J.ROBINSON 2/Lt. A.10 CITCI CA att'd No.25 CIBTC, CA, SIMCOE, Ont. (Name) (Rank) (Unit) Member

Signature of Commanding Officer C.C.BROOKS, Lt.-Col. No25 CIBTC, CA, SIMCOE Ont. (Name) (Rank) (Unit)

Certified true copy E.S.Frost Capt (Name) (Rank) (Unit)

(Signature of Officer having custody of original record)

(E.S.Frost) Capt. & Adjt. No.25 CIBTC, CA, SIMCOE, Ont.

M.F.B. 375
A.F.B. 115
15936—20-42 (8520)
H.Q. 1777-36-127

"C" 3 49

W. W. McClement
Maj. S.C.M. Major

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127 - 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major J.E. Purcell, I.C. Composite Provost Companies M.D. 4
(Number) (Rank) (Name) (Unit)

hereby certify that R-54603 L/Cpl. McINTYRE, R.J.
(Number) (Rank) (Name in full)

of the Queens Rifle
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) D-51322 Sergeant
(Number) (Rank)

BARBE, A. Composite Provost Companies M.D. 4
(Name) (Unit or appointment)

at Montreal, Que. at 2300
(Place) (Hour)

on the 27th day of March 19 45

Strike out words not applicable } as a ~~deserter or~~ absentee without leave), and that at the time of his ~~arrest~~ surrender he was wearing military ~~(or civilian)~~ uniform (~~dressed in civilian clothes~~).

Dated at Montreal, Que. this 28th day of March 19 45

J.E. Purcell
(J.E. Purcell) Major
(Signature, Number, Rank, Unit or appointment)
I.C. Composite Provost Coys. M.D. 4

RD...

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

Soldier of the Active Army

M.F.M. 116
150M—2-44 (3730)
H.Q. 1772-39-1936

W. McClement
Pres. S.C.M. major

4

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Captain E.S. FROST, Adjutant, No 25 CIBTC CA, SIMCOE, Ontario
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I ~~XXXXX~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from SIMCOE, Ontario (Place) to MONTREAL, Quebec, (Place)

and return to SIMCOE, Ontario, (Place) for the purpose of escorting

Full description of soldier being escorted — B.64803 Pte. McINTYRE, R. J.
(Number) (Rank) (Name in full)
No. 25 CIBTC, CA, SIMCOE, Ontario.
(Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter ~~XXXXXXXXXXXXXXXXXXXXXX~~ the facts, date and particulars of (~~XXXXXXXXXXXXXXXXXXXXXX~~ the transportation required) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
1 Return ticket, Simcoe to Montreal, PQ 5 APR 45(Es)	$13.90
1 Single ticket, Montreal to Simcoe 5 APR 45 (Pr)	6.95
via C.P.R.	
TOTAL	$ 20.85

Dated at SIMCOE, Ontario this 6th day of APRIL A.D. 19 45

E.S. Frost Capt & Adjt.
(E.S. FROST) Capt & Adjt, No 25 CIBTC, CA, SIMCOE, Ont.
Signature, rank, unit, ~~XXXXXXXXXXXXXXXX~~ appointment of officer
(~~XXXXXXXXXXXXXXXXXX~~ authorizing transportation.)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1463
(35m—10-43 (6662)
H.Q. 1775-89-1463

"I"

W. McClement
Pres. S.C.M. Mess

5- 53

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER ~~1099, 1941~~ 1877, 1942

(INCIDENTAL EXPENSES)

Complete description

I, B.100561 Sjt RUNNALLS, E.N., No 25 CIBTC, CA, SIMCOE, Ontario
(No.) (Rank) (Name) (Unit)

Strike out words not applicable

as (escort) ~~XXXXXXXXXXXXXXXX~~ consisting of myself,

Members of escort

detailed to proceed from SIMCOE, Ontario to MONTREAL, Quebec,
(Place) (Place)

Name and description of soldier escorted

to return B.64803 Pte ~~XXXXXX~~ McIntyre, R.J., #25 CIBTC, CA
(Rank) (Name) (Unit)

alleged to be a deserter or absentee without leave, to SIMCOE, Ontario,
(Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
2 meals @ .75¢ (Es) 5 ~~APR~~ CR 45	1.50
2 meals @ 1.00 (Es & Pr) 5APR 45	2.00
Total	$ 3.50

Dated at SIMCOE, Ontario this 6th day of APRIL A.D. 19 45

E N Runnalls

B.100561 Sjt RUNNALLS, E.N.
No 25 CIBTC, CA, SIMCOE, Ont

Signature and rank ~~of officer or soldier proceeding~~ (escort)

Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1452
75M—2-43 (3339)
H.Q. 1772-29-1550

55

Y

W. R. Clement
Pres. B.C.M. Maj

M.F.B. 355
WM—5-41 (572-5)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B,64803	Private	Robert Joseph McINTYRE,	No. 25 CIBTC,CA, SIMCOE,Ont.

1. The following is a fair and true summary of the entries in the field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For A.W.L.	NIL times	A.W.L.	5 times
		Disobeying a Lawful Comd.	2
For Losing by neglect	1 times	Losing by neglect	1 times
For	times	Breaking out of Barracks	1 times
For	times	Failing to appear at Place of Parade	1 times

Number of instances of gallantry or distinguished conduct NIL

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 28 days in military custody, making a total of 28 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his attestation paper is 19 10/12 years

6. The date of his attestation specified in his attestation paper 30th September, 1941

7.

8.

9. The accused is in possession of or entitled to State any military decoration or reward. C.V.S.M. and Clasp

10.

56

11. [illegible] Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

.....

12. The accused has served as a non-commissioned officer [illegible]

.....

In the rank of A/Cpl. 5AUG43 to 14 OCT 43 years.

In the rank of A/L/Cpl. 1 MAY 44 to 22 JAN 44. years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

[illegible]

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

[illegible]

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of APRIL, 1945. E.S. Frost Capt & Adjt.

(E.S.Frost)Capt.&Adjt.,
No. 25 CIBTC,CA,SIMCOE, Ontario.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

B.64803 McINTYRE, Robert Joseph C.I.C. CERTIFIED TRUE COPY

No. Name Sqn., Battery, or Company Corps Date of enlistment 30 SEP 41 G.C. Badges Tradesmen's Rates of Pay M.F.R. 6 (A.F.R.132) 750M—12-42 (7527) H.Q. 1773-99-1402

No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. One Signature O.C. Company, etc. (signed) A.Aitken, Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
North Bay, Ont.	1 NOV 41	Pte.		1. AWL from 2359 hrs 1-11-41 to 0145 hrs 2-11-41. (absent 1 hours 46 minutes)	Cpl. O'Hagan	17 days DETENTION	11-11-41	Lt.-Col. Breinfrien	Forfeits 9 days pay.
				2. AWL from 2200 hrs 2-11-41 to 0600 hrs 11-11-41. (absent 8 days 8 hrs)	Gnr. Boas				
				3. Breaking out of barracks					
	Former	sheet	destroyed after six months service 30-3-42 - Regimental entry carried forward.						
Nassau,	24 SEP 42	Pte.		1. While on Govt House Guard Duty disobeyed a lawful command to carry water to the santries at 1035 hours. Sec. 9 (1) A.A.	Cpl. T.D. Coombs	168 hours DETENTION	25-SEP-42	Col. A.W. DeWolf	Forfeits 7 days pay.
				2. Disobeys a lawful commend to carry Lt. Dymonds dinner to him at 1250 hrs Sec. 9 (1) A.A.	Cpl. T.D. Coombs	168 hours DETENTION	25 SEP 42	Col. A.W. DeWolf	Forfeits 7 days pay
Nassau	6-2-43	Pte.		A.W.L. absent 2 hours 41 mins. Sec. 15 (1) A.A.	Cpl. W. Cunningham	5 days C.B. 5 extra fatigues	8 FEB 43	Captain H.T. Deane	

(P.T.O.)

57

2

W. Fitzgerald
Capt
P.A.S.I.C.M.
Surgeon

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Toronto, Ont.	19 JAN 44	Pte.		FAILING TO APPEAR AT THE PLACE OF PARADE APPOINTED BY HIS COMMANDING OFFICER AT THE EXHIBITION BARRACKS, TORONTO. A.A.15 (2)	Sgt. Bennison	Forfeits 3 days pay in lieu of Detention	20 JAN 44	LT.-Col.H.M. Campbell	
Toronto, Ont.	7 FEB 44	"		A.W.L. from 0730 hrs 7-2-44 until 2345 hrs 28-2-44. (Absent 21 days 16 hrs 15 mins.) Total 22 days	Sgt. Drew, F.J. Sgt. Cleverly Documentary	Forf. 11 days pay FR&I 149 in lieu of detention	28 FEB 44	Lt.-Col.H.M. Campbell	Forf. 22 days pay under FR&I. 149.
Toronto, Ont.	6 MAR 44	"		A.W.L. from 0800 hrs 6-3-44 until 1145 hrs. 9-3-44. (absent 3 days 3 hrs 45 mins) (Total 4 days) Sec. 15 (1) Close Arrest	Sgt. Trussell Documentary	4 days C.B.	9 MAR 44	Capt. D.C. Saunders	Forfeits 4 days pay under FR&I. 149.
Simcoe, Ont.	6 MAY 44			CERTIFIED TRUE COPY	(signed) (F.W.R.LEE)	Lieut. & Asst. Adjt.			
Simcoe, Ontario	6 APR 45	Pte.		A.A.Sec.24 (2) Losing By Neglect His Equipment And Regimental Necessaries to the amount of $14.22	Documentary	Stoppages of Pay $14.22	9 APR 45	Lt-Col.W.D. ANDERSON	WDA

CERTIFIED TRUE COPY
Lieut & Capt & Adjt
(E.S. Frost) Capt. & Adjt.,
No. 25 C.I.B.T.C.,CA

MEDICAL OFFICER'S REPORT

I certify that No. B.64803, Pte. Robert Joseph McINTYRE of #25 CIBTC, CA is in a Good state of health, and Fit to undergo Trial by Court martial.

A S Tauber Capt.

Medical Officer
(A.S.Tauber) Capt. RCAMC
Att'd #25 CIBTC, CA, SIMCOE, Ontario.

Station SIMCOE, Ontario.

Date 16 APRIL 45.

M. F. B. 246
25M—5-43 (5744)
H.Q. 1772-30 440

W. P. McClement
Pres. S.C.M. Major

Certificate under Army Act, Section 163 (1) (j).

I, J. Remnerey Lieut. certify that B64803 Pte Wedderburn P.S.
of the Queen's R.R.C. Regiment surrendered himself to Officer
Commanding "N" Force at Nassau, Bahamas on the 20th
day of March 1945 as a ~~deserter~~ absentee.

Date 20/3/45.

J. Remnerey Lieut.
(Orderly Officer)
For (J.R. Robson) Lt/Col.
Officer Commanding
"N" Force.

Note: The a/m soldier was in uniform when he surrendered to me. Time 1700 hrs 20/3/45.

H.Q.C.35-M-1692 (JAG/D-9)
Your T.20-M-16366

1 May 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

Standing Court-Martial
H.64803 Pte. Robert Joseph McIntyre,
No. 25 C.A.B.T.C., C.A.

Receipt is acknowledged of the proceedings of the m/n Standing Court-Martial which were forwarded by the President named therein.

2. It is noted that the Special Finding herein substitutes a time anddate which has the effect of lengthening the period of absence alleged in the charge; the attention of the President is directed to M.M.L. p.649 note 6 where it states that such lengthening is not permissible. However, as the accused admitted on cross-examination that the substituted time and date were correct and as the addition does not affect the accused's pay, it is considered that it will not be necessary to substitute a new Special Finding for the one herein.

3. The proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde), Brigadier,
Judge Advocate-General.

RGM/MM

THIS COPY FOR H.Q. C.55-M-1692
M.D. T-20-M-16366

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B.64803 Name McINTYRE, Robert Joseph

Rank Pte Unit No. 25 C.I.B.T.C. CA

Charge A.A. 12(1)(a) ~~A.A.~~ Desertion

Date of Crime 29-5-44

Date of Arrest 20-3-45 Charge Signed 10-4-45

Orders for D.C.M.

Place and Date of Trial No. 25 C.I.(B)T.C. CA ; 16-4-45

Sentence Det 120 days; stoppages $24.35

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 37018

Date 27-4-45

MEMO Guilty A.W.L.

M.D. 2 - No 25 C.I(B)TC CA

Absent	Sentence
9¾ mos	det 120 days

for Judge Advocate-General

10M-1-45(M-4829)

Comment as to ~~[illegible]~~ spec.
finding which adds to the length of term
of absence alleged in charge sheet —
(addition in this case 2 mos) — not reqd
to substitute new spec. finding as pay
not affected. Rem'd.

IN REPLY PLEASE QUOTE No. T-20-D-16366 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No.2,
136 Bay Street, Toronto, Ontario,
25th April 1945.

CONFIDENTIAL

C.55-M-1692

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL

B-64803, Pte. Robert Joseph McINTYRE,
No. 25 C.I. (B) T.C., C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4505, Section 11 (a).

W.P. McClemont

(W.P. McClemont) Major
President
Standing Court-Martial.

NAT. DEF. B. 440
25000M-4-44 (4520)
H.Q. 1772-29-767

31018

H.Q.C. 55-1-1693 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MORRIS. THOMAS ANTHONY G-32352 PTE.

CONFIDENTIAL H.Q.C. 55-1-1693

CENTRAL REGISTRY	DATE	F.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
APR 27 1945					NEW FILE C.R.		APR 27 1945
					With Papers C.R. MAY 17 1945		
MAY 18 1945							
MAY 21 1945					PER B.F. MAY 31 1945		
JUN 11 1945					With Papers C.R. JUN 9 1945 Per Requisition C.R. JUN 19 1945		
JUN 20 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. J/38-M-1547 (JAG)

Director of Records
Branch
JUN 18 1945
Nat. Defence Hq
Ottawa, - Canada

DEPARTMENT OF NATIONAL DEFENCE

ARMY

SAINT JOHN, N.B., 13 Jun 45.

405-M-8829

Secretary,
Department of National Defence,
OTTAWA, Ontario.

Re: G52352 Pte. T.A. Morris

1. The case of the marginally named soldier has been reviewed at this time. No recommendation for remission is being submitted as soldier will be released on 4 Jul if all remission earned.

(G. G. Anglin) Brigadier,
District Officer Commanding,
Military District No. 7.

Note & file
L.H. CLUTTON
Lieut.-Colonel
JUN 20 1945

HQC-55 M 1693

IN REPLY PLEASE QUOTE No. J/38-M-1547 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

320374

SAINT JOHN, N.B.
6 Jun 45.

CENTRAL REGISTRY Army
CONF. SEC.
JUN 9 1945
File 55-M-1693
Chgd. to
Referred to ICM

Secretary,
Department of National Defence,
OTTAWA, ONTARIO.

"REPORT ON CONDUCT" FORM
G-32352 Pte. T.A. MORRIS
No. 39 Coy., C.Pro.C., C.A.

Reference H.Q.C. 55-M-1693 (ICM) dated 30 May 45.

2. Returned herewith is "Report On Conduct" Form re the marginally-named soldier, duly completed, as requested.

(G.G. Anglin) Brigadier,
District Officer Commanding
Military District No. 7.

Encl. 1.

NAT. DEF. B. 400
250M 4-44 (A320)
H.Q. 1772-39-267

REPORT ON CONDUCT I.C.M. - B

Department of National Defence,
R. Q. C. 55- M-1693, (ICM)
OTTAWA, 30 MAY 1945

To:- Commandant
No. 72 Sussex, Military Detention Barracks.

1. Soldier under sentence	G32352 Pte. T.A. MORRIS, 1547
2. PLEASE STATE:-	
(i) Date of sentence	16 April 45
(ii) Sentence	120 Days
(iii) Date you received soldier	18 April 45
(iv) (a) Can soldier read and write?	Yes
(b) Religion	R.C.
(c) Married, Widower, Single	Married
(d) What Army trade has soldier?	N/A
(v) (a) Conduct of soldier	Very Good
(b) Industry of soldier	Very Good
(c) Remission earned:-	
(i) Number of days actually earned	16
(ii) Number of days obtainable to date	16
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	
(a) Whether detention will seriously aggravate soldier's condition.	No André Jarigman Capt
(b) Whether further confinement is likely to prove fatal.	
(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence?	Yes
(b) Moral effect confinement has had?	None
(c) If returned to Army, is soldier likely to become a good soldier?	Yes
(viii) Date term will expire if all remission earned from now on.	4 Jul 45

CENTRAL REGISTRY
M.D. No. 7, St. John, N.B.
JUN 5 1945
138-M-1547
A

(A. E. Walford)
Major-General
Adjutant-General.

Signature D. MacKinnon Lieut.,
Commandant. (D. MacKinnon.)
Date of Report: 4 June 45

5M-1-45(M-4515)

I.C.M. - A.

Department of National Defence,
H. Q. 7. 55 - M-1693,(ICM)
OTTAWA, 30 MAY 1945

Your File - J/38-M-1547

District Officer Commanding,

Military District No. 7,

SAINT JOHN, N.B.

G32352 Pte. T.A. MORRIS,

1. Herewith enclosed "Report on Conduct" Form in respect of this soldier who is serving in No. 72 Sussex, Military Detention Barrack, under your command, a sentence of 120 days' detention awarded by a Standing Court-Martial on the 16 day of APR 1945.

2. Would you please have the Commandant of said Detention Barracks complete said form.

3. When form is completed same is to be returned to this Headquarters.

(A. E. Walford)
Major-General
Adjutant-General.

LHC:WS.

5M-2-45(M-4516)

H.Q.C.55-M-1693 (JAG/D)

18th May, 1945.

District Officer Commanding,
Military District No. 7,
Saint John, N.B.

Standing Court-Martial
G-32352 Pte. Thomas Anthony Morris
No. 39 Coy., Canadian Provost Corps, C.A.

Receipt is acknowledged of your J/38-M-1547 (JAG) dated 14th May 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial., together with M.F.M. 288.

E L M
Capt
for (R.J. Orde), Brigadier,
Judge Advocate-General.

Noted
J.E.C.
L.M. CLAYTON
Lieut.-Colonel
Secretary of Court Martial
MAY 19 1945

/DC

5M-3-45(M-4664)

I.C.M. - L4407

REVIEW OF SENTENCE

DATE MAY 19 1945

H.Q.C. FILE: 55-17-1693

1. NO. RANK AND NAME

2. UNIT AT DATE OF OFFENCE

3. AT PRESENT ON STRENGTH OF M.D.

4. SENTENCE OF COURT DATE

5. CONFIRMED SENTENCE DATE

6. BEING SERVED AT

7. OFFENCES 8 April 45 - Striking his superior officer

8. PREVIOUS CONDUCT Baltimore 20-113 11121 ENLISTED ~~ENROLLED~~ 9 Oct. 39 AGE 25

A.W.L.	8	2 days
conduct to prej.	4	
drunkenness	1	
refused to give name to N.C.O. in guard	1	
damaging his respirator	1	

9. STATEMENT OF ACCUSED Told that Cpl accused me of being in the office. Went to see him to fight with him. Woke him up. He denied accusing me. I called him a liar. He got up. I thought it was a challenge. Saw his hands coming for me so I hit him. No other reason to quarrel with him.

10. RECOMMENDATION

IN REPLY PLEASE QUOTE No. J/38-M-1547 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

SAINT JOHN, N.B., 14 May 45.

314747

CENTRAL REGISTRY Army
CONF. SEC.
MAY 17 1945
File C 55-M-1693
Chgd. to
Referred to J.A.G.

Secretary,
Department of National Defence,
OTTAWA, Ontario.

Re: Standing Court-Martial
G-32352 Pte. Thomas Anthony MORRIS
No. 39 Coy., Canadian Provost Corps, C.A.

1. Reference your H.Q.C.55-M-1693 (JAG/D-8) dated 30 Apr 45.

2. The proceedings having served their purpose are returned herewith for custody together with M.F.M. 288 duly completed.

(G. G. Anglin) Brigadier,
District Officer Commanding,
Military District No. 7.

Enc.

NAT. DEF. B. 680
23000-3-44 (4321)
H.Q. 1772-38-287

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of G-32352 (Number) Pte. (Rank) MORRIS, Thomas Anthony. (Name in full)

No. 39 Coy. Canadian Provost Corps, (CA) (Unit) (Attachment (if any))

Sentenced to 120 days detention.

on 16 April 1945 at Saint John, N.B.

being served at No. 72 Military Detention Barracks, Sussex, N.B. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 18 years, 9 Oct 1939

Medical grade or category 20 -1131121

FIRST TRIAL—PART II

To Adjutant-General, Department of National Defence, Ottawa, Ont. (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~XXX~~ committed to undergo his sentence, which I recommend should ~~XX~~ be ~~XXXXXXXX~~ (put into execution) ~~XXXXXXXXXXXXXXXXXXXX~~ (date) ~~XXXXXXXXXXXXXXXXXX~~.

Place Saint John, N.B.

(Confirming Authority)

(G. G. Anglin) Brigadier,
D.C.C., M. D. No. 7.

Date 14 May 45.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Superior Military Authority

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....

Superior Military Authority

For details of offence, see para. VII). For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Confirming Authority

Date .....

M.F.M. 288
(Army Form A-2104)
(M—6-45 (288))
H.Q. 1772-99-2015

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
JUN 10 1945	No Suspension or Remission No further Review	Adjutant-General for Superior Military Authority	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
The accused G.22352 Pte MORRIS, T.A., No.39 Coy, C Pro C (CA), a GS soldier of the Canadian Army placed on Active Service is charged with: WHEN ON ACTIVE SERVICE STRIKING HIS SUPERIOR OFFICER in that he at But No.2 at the HQ, No.39 Coy, C Pro C (CA) Coldbrook, N.S. on 8 Apr 45, at approximately 2330 hrs, struck with his fist, in the face and on the body, 48761 Cpl Geldart, W.R. No.39 Coy C Pro C(CA), while in his quarters in said But No. 2	8 Apr 45	16 Apr 45

Signature of Officer making entry (J.C. Van Horne) Capt
A/Officer Commanding
No.39 Coy, C Pro C (CA)

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
7 May 45	Received training Overseas. No MFM 105 in documents. No remarks - sentence is just.	(J.C. Van Horne) Capt A/Officer Commanding No.39 Coy C Pro C(CA)

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
14 May 45	I have directed that this case be brought before me for study of remission at the expiration of two months.	(G. G. Anglin) Brigadier, D.O.C., M.D. No. 7.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Room 43 Old Ordnance Building Barrack Green, Saint John, N.B.

on the 16th day of APRIL 1945, at 1015 hours,

for the trial of: No. G-32352 Private Thomas Anthony MORRIS
Number Rank Full Name

No. 30 Company Canadian Provost Corps, C.A.
Unit Attachment, if any

PRESIDENT: Lieutenant-Colonel W. C. McQuade, V.D.,
Headquarters, M.D. No. 7.

PROSECUTOR: Captain J. Marshburn, Headquarters, M.D. No. 7.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Major J.F. Shaw, 15th Coast Battery, R.C.A.,
Rank Full Name Unit Attachment, if any

FINDING: THE COURT FIND THAT THE ACCUSED IS GUILTY OF THE CHARGE.

SENTENCE: THE COURT SENTENCE THE ACCUSED TO UNDERGO DETENTION FOR ONE HUNDRED AND TWENTY (120) DAYS.

Signed at SAINT JOHN, N.B. this 16th day of APRIL 1945.

W. C. McQuade Lt.-Col.
President,
Standing Court-Martial
M.D. No. 7.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 31010 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 27 day of Apr 1945

B

Question to the accused. Q. Do you object to be tried by me as President of the Court?

Answer: A. No Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~*Question to the accused.* Q. Do you object to ..... as interpreter?~~

Answer: .....

Question to the accused. Q. Do you object to No. 24254 S/Sgt. (A/C.S.M.) R.E. McCombs, Headquarters, M.D. No. 7. as shorthand writer?

Answer: A. No Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Q. Has the accused elected to be tried by a Standing Court-Martial ~~or other~~ Court-Martial?

Answer: A. No Sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Q. Is that your number, rank, name and unit?

Answer by accused. A. No Sir.

Question to the accused. Q. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read?

Answer: A. Not Guilty Sir.

~~*Question to the accused.* Q. Are you guilty or not guilty of the second charge against you, which you have heard read?~~

~~*Answer.*~~ .....

~~*Question to the accused.* Q. Are you guilty or not guilty of the third charge against you, which you have heard read?~~

~~*Answer.*~~ .....

~~*Question to the accused.* Q. Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

~~*Answer.*~~ .....

~~(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B-2"

CHARGE SHEET

The accused G.32352 Pte Morris, T.A., No. 39 Coy, C Pro C (CA), a GS soldier of the Canadian Army placed on Active Service is charged with:

~~FIRST~~ CHARGE 8(2) ARMY ACT

WHEN ON ACTIVE SERVICE STRIKING HIS SUPERIOR OFFICER

in that he,

at Hut No.2 at the HQ, No.39 Coy, C Pro C (CA), Coldbrook, N.B., on 8 Apr 45, at approximately 2330 hours, struck with his fist, in the face and on the body, G.48761 Cpl Geldart, W.R., No.39 Coy, C Pro C (CA), while in his quarters in said Hut No.2.

COLDBROOK, N.B.
10 Apr 45.

(J.C. Van Horne) Capt
A/Officer Commanding,
No.39 Coy, C Pro C (CA).

Proceedings on Plea of Not Guilty

Question to the accused. Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. A. No Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

THE PROSECUTOR DECLINES TO MAKE AN OPENING ADDRESS.

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. No. G-48761 Corporal W.R. Geldart, No. 39 Company Canadian Provost Corps, C.A.

being duly sworn, is examined by the Prosecutor.

Question Q. Corporal Geldart, will you identify yourself please, giving your regimental number, your rank, your name and your unit?

A. G-48761 Corporal Geldart, W.R., 39 Company Canadian Provost Corps, C.A. Coldbrook, N.B.

Q. Do you recognize the Accused Corporal?

A. Yes Sir.

Q. As whom do you recognize him?

A. Private Morris Sir.

Q. Will you tell the Court where you were on the night of 8 Apr 45 after approximately 2330 hours?

A. I was asleep in bed Sir.

Q. Where?

A. At Headquarters 39 Company Canadian Provost Corps Hut 2, Coldbrook, N.B.

Q. Did anything occur that night?

A. Yes Sir.

Q. Will you tell the Court what happened please?

A. Between the hours of 2330 and 2359 on 8 Apr 45 I was awakened by someone calling Geldart. When I awoke I saw Private Morris standing at the foot of my bed saying "Geldart you squaked on us tonight to Sergeant Mann for being in the staff car." I said "no Morris I didn't." Private Morris called me "a goddamn liar" and came towards the head of my bed. Private Morris challenged me out of bed to fight, I refused to get up and told Private Morris that "I didn't want no trouble here in the barracks." Private Morris called me many names and said that I was scared of losing my two hooks. Private Morris said "if I had you outside I would drive this goddamn knife through you." I raised up on my elbow as I did I saw someone else standing at the foot of my bed. Then I was hit in the jaw in the left jaw by Private Morris's right fist. I turned my blankets down put my feet on the floor, as I did Private Morris hit me in the same place. I reached down to get my shoes on and I put them on and when I had the false sub Private

Morris hit me again. I came to my feet. I clinched Private Morris and as we were scuffling Private Morris pushed me back against the window which broke out a pane of glass. I threw Private Morris down between the wall and the head of Corporal Furlotte's bed. I held Private Morris down by choking him. He asked me to let him up, I told him not until I had someone up to put the lights on. I then hollered for the boys to get up and help me. Then someone jumped my back, striking me many times about the back of the head and the body. When I came to my feet I then recognized the person to be Private Warren. I fought my way out between Corporal Furlotte's bed and my own out in the alleyway when both Private Morris and Private Warren were striking at me. Private Morris said "get the son of a bitch off his feet if you can." While defending myself from Private Morris Private Warren jumped my back putting a headlock on me, pulled me backwards.

PRESIDENT: Not too much detail, we are trying Morris now unless it has some direct bearing on the present case.

Q. Corporal Geldart, in telling your story I wish you would confine yourself more to Private Morris from here on if there is anything else to add. If there is anything more to aid of course you may say so.

A. I was put on the floor, I was held around the neck by Private Warren while Private Morris hit me in the face and about the body and bit me on the leg.

Q. Corporal Geldart where were you when this last action was taking place, what position were you in?

A. I was laying on my side on the floor.

Q. Corporal Geldart how long have you known Private Morris?

A. Approximately between three and four months Sir.

Q. How long have you been Corporal?

A. Approximately seven months Sir.

Q. Were you a Corporal during the time you have known Private Morris?

A. Yes Sir.

Q. And did he know you to be a Corporal?

A. Yes Sir.

PROSECUTION: I have no further questions Sir of this witness.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q. Corporal Geldart what day of the week was all

this took place you accounted?

A. Sunday Sir.

Q. What time did you go to bed that night?

A. Sir approximately 2315 hours.

Q. A quarter past eleven in the night?

A. Yes Sir.

Q. What time is lights out in your barracks?

A. Supposed to be at ten o'clock Sir.

Q. Where were you between ten o'clock and eleven fifteen?

A. I was M.P. driver in barracks that night Sir and I had Sergeant Nenn, Orderly Officer, in Town checking his patrols.

Q. I am not trying to confuse you at all, was it your duty to be in bed at ten o'clock, were you on duty or not on duty?

A. I was on duty.

Q. What right did you have to be asleep at 1115?

A. That is our orders when we are in M.T. drivers in barracks we are supposed to keep our clothes on until ten o'clock, than we are allowed to go to bed.

Q. How long did this fight that you have described last, in your estimation, can you estimate the time? Well would you say a half an hour?

A. No Sir.

Q. How much less than one half an hour?

A. I cannot say Sir for sure how long.

Q. Well from your account.

PRESIDENT: Tell Major Shaw how long you think it lasted?

A. WITNESS: Between five and ten minutes Sir.

Q. And you say it finally ended, who stopped this fighting, did anyone stop it?

A. Yes Sir.

Q. Can you recall who stopped it? Well did the men in the barracks every man in the barracks stop it?

A. Yes Sir.

Q. Quite a number of men?

A. Yes Sir.

Q. You cannot say who?

A. Yes Sir.

Q. They just came around and took you apart?

A. Yes Sir.

Q. What time was that when you stopped fighting?

A. I am not sure Sir I would say approximately 2345 hours.

Q. 2345 hours?

A. Yes Sir.

Q. And is it correct to say that you were first molested by the Accused at 2330 or was it before that?

A. I would say between 2330 and 2359.

Q. How long had you been asleep before you were molested?

A. Not very long Sir.

Q. Are you sure you were asleep?

A. Yes Sir.

Q. How do you know, you remember any dreams you had?

A. No Sir.

Q. Don't remember dreaming after you went to sleep?

A. No Sir.

Q. Do you remember you were asleep?

A. Yes Sir.

Q. You remember you were asleep because you remember waking up?

A. Yes Sir.

Q. Well in that instant of awakening were you hit by the Accused?

A. No Sir.

Q. You were not?

A. No Sir.

Q. You have a clear recollection of talking to the Accused before you woke up?

PRESIDENT: That is not quite right, that is stating as a fact something-----

Q. DEFENDING OFFICER: After you woke up?

A. After I woke up, yes Sir.

Q. Now which side of the face were you hit on first?

A. On the left jaw Sir.

Q. And which hand did the Accused use in striking you?

A. His right Sir.

Q. Can you tell me how you remember that so clearly, have you a crystal clear recollection of being hit on the left jaw by his right hand?

A. Yes Sir.

Q. Were you badly hurt?

A. May I ask a question Sir.

Q. Were you badly hit, were you still in bed when you were first hit?

A. Yes Sir.

Q. Were you badly hurt by that blow?

A. No Sir.

Q. You were not cut by the blow?

A. No Sir.

Q. Didn't bleed?

A. No Sir.

Q. Well now just what kind of a blow was it, clenched fist?

A. Yes Sir.

Q. Well now you say that you now got up and began to dress, you proceeded to put your boots on, not if you were hit in the face you were in bed you were hit in the face you got up and started to dress to the extent of putting your boots on?

A. It was my intention Sir to put on my shoes.

Q. Now when you had the Accused down on the floor as you stated Now were you dressed at that time?

A. My shorts, shirt and my shoes and stockings Sir.

Q. Were you sleeping in your shorts?

A. Yes Sir.

Q. Your boots laced?

A. Yes Sir.

Q. But you were not sleeping in the boots?

A. Yes Sir.

Q. You had time to lace your boots?

A. Yes Sir.

Q. Were you wearing boots or shoes?

A. Shoes. Walking out shoes.

Walking out dress shoes?

A. Yes Sir.

Q. How many times in all do you remember being struck by the Accused with his fist?

A. I don't remember Sir.

Q. You have the general impression have you of being hit a great deal?

A. Yes Sir.

Q. Well you don't appear to be very much cut up, no scratches on your face, this is, was only a week ago, how do you account for that Corporal, I mean this description you gave is a pretty violent quarrel and I am just wondering and perhaps the Court is is wondering how violent it was?

A. I was scratched about the face Sir.

Q. Would it not be more correct to say that this was a wrestling match between you and Morris?

A. No Sir.

Q. Well you did a lot of talking, he said a lot of nasty things to you?

A. Yes Sir.

Q. Quite a considerable debate talking back and forth? And as you leaned down with your boots on he struck you is that right?

A. Yes Sir.

Q. Did he strike you hard that time?

A. About the same Sir as the time before when I was in bed.

Q. After you, that did you get the best of the fight?

A. No Sir.

Q. Did you get the best of it from then on?

A. No Sir.

Q. Did you end up on top?

A. At the last of the fight Sir.

Q. I mean with Morris here the Accused?

A. I am sorry Sir.

Q. You ended up on top you were on top of Morris when Warren came along?

A. Yes Sir.

WITNESS: You asked me Sir if I got the best of the fight I took it Sir you mean at the end of the fight.

Q. I mean at the end of the first round before Warren came entered the scene, before you mentioned Warren coming along to help this Accused?

A. I was getting the best of it.

Q. You think you were?

A. Yes Sir.

Q. You were able to handle him alright?

A. Yes Sir.

Q. Were you frightened of him?

A. I was frightened of the knife Sir.

Q. Did you see the knife?

A. No Sir.

Q. Well then what knife were you frightened of?

A. In the way he spoke Sir I was in bed.

Q. What previous trouble have you had with the Accused?

A. Don't remember of any Sir.

Q. How do you account for him waking you up then and using this threatening language?

PROSECUTOR: Sir I don't think I have much right to say anything about the cross-examination by the Defending Officer, but the Defending Officer at this point is trying to put the Witness on trial more or less and trying to get him to delve into the mind of another person, I think this is a little unfair in cross-examination Sir if I may say so.

PRESIDENT: The Witness is perfectly welcome to answer the question if he wishes to.

A. WITNESS: The only thing Sir he accused me of telling Sergeant Mann that he had been in the staff car that nigh t.

Q. Did you tell Mann that he was in the staff car?

A. No Sir I didn't.

Q. Or anyone else was in the staff car?

A. No Sir.

Q. That night or any other night?

A. No Sir.

Q. Or made any report to Mann whatsoever of the Accused or a man named Warren?

A. No Sir.

Q. Well then is it correct to say that you see no reason whatsoever why this man should attack you, the whole thing was a mistake in so far as he was concerned in having any cause to attack you, real or supposed?

PRESIDENT: What is your answer to that.

PRESIDENT: That question means do you know of any reason why he should attack you or you know of no reason why he should not attack you?

A. WITNESS: No reason outside of my previous statement.

Q. How many men sleep in that barracks Corporal?

A. PRESIDENT: By that he means Hut 2.

Q. DEFENDING OFFICER: How many men sleep in Hut No. 2 Corporal?

PRESIDENT: The question was about how many Corporal?

A. WITNESS: I don't know whether he means at any time or at the present time.

Q. About how many men slept in Hut No.2 on the night when you stated the accused attacked you?

A. Approximately seven or eight men Sir.

Q. How many beds in the Hut approximately?

A. Approximately 24 Sir.

Q. Double-deckers?

A. Yes Sir.

Q. Does not seven men seem a little low to you to be occupying the hut?

A. Not at that time no Sir.

Q. Were there other men in the washroom?

A. I don't know Sir.

Q. Getting ready to go to bed?

A. I could not say Sir.

Q. You were asleep, you stated you were asleep, how close was the closest man to you to the bed that you occupy?

A. Sir I would say between six and eight feet.

Q. And the next closest?

A. Approximately twenty feet.

Q. Who is closest to you?

A. Lance Corporal Nelson Sir.

Q. How far away was Corporal Furlotte, was Corporal Furlotte there?

A. No Sir.

Q. Did you have any feeling Corporal Geldart when you were putting up this battle with this man that somebody should have come to your aid?

A. Yes Sir.

Q. So you remember wondering that you fought for fifteen minutes taking considerable----

PRESIDENT: He said five to ten minutes Major.

Q. You were bitten on the leg?

A. Yes Sir.

Q. After fifteen minute fight?

A. Mr President Five to ten minutes he said Major.

Mr ~~PRESIDENT~~: Try not to make wrong statements, it looks bad.

Q. After five to ten minutes, you have stated, it didn't appear strange that anyone, no one came to help you, you must have been making a lot of noise, struggling, fighting, headlocks, bitting on the leg, it was a real battle, you have described a real battle, how can you account for the fact that no one came to help you in this barracks puzzles me?

A. Our men sleeps very sound.

Q. Is it not a fact that you are exaggerating a bit about the severity of this fighting, exaggerating a bit when you tell about the blows?

A. Sir our men are used to a noise at twelve o'clock, men on patrol coming in, I am used to it.

Q. They are not used to a fracas, you don't have battles like this, is it not true that you made the time a little longer than it actually was, that this all took place very quickly, that it was practically over before you knew it was started, it all happened so quickly that you cannot really estimate how long it was and that your comrades came to your help almost instantly, is that not so, will you answer that, do you disagree?

PROSECUTOR: May I suggest that the Defending Officer give the Witness a chance to answer, that is a lot of question Sir and he has to consider it Sir.

A. WITNESS: I gave you the time Sir I thought how long it lasted.

Q. PRESIDENT: You said five to ten minutes.

A. Yes, that is the answer, I cannot---

Q. DEFENDING OFFICER: It would be that you say five to ten minutes and you stand by that?

A. Yes Sir.

Q. Can you tell me how it is that you remember

you were hit on the right jaw with his left hand?

PRESIDENT: Now you just stated that wrong Major Shaw, the Witness stated he was hit on the left jaw with the Accused's right hand.

DEFENDING OFFICER: How do you remember that he hit you on the left jaw with his right hand, which way did he approach your bed from the foot or from the head?

Q. He came from the foot of my bed.

A. From which side of the bed as you look at the foot, right or left?

Q. Sir I was laying on my back, from the left side from the way I was laying on my back, on the left.

A. On the left of your bed as you look to the foot?

Q. Yes Sir.

A. Did you spring out of bed and grapple with him?

Q. No Sir not at the first blow Sir.

A. Did he appear to you to be drunk?

Q. No Sir.

A. I want to get this clear Corporal, from the time you sprung up, I think that you did straighten up and grapple with him---

Q. PRESIDENT: After he put his boots on.

A. You were not taking this laying down?

Q. Yes Sir.

A. From then you, on you got the best of the fight?

Q. To a certain point Sir.

A. That is so far as this man is concerned and the intervention of this man Warren?

Q. Yes Sir.

A. You put it to him?

Q. I didn't hit him Sir.

A. You say that he didn't hit you after that?

Q. No Sir.

A. So he really only hit you twice?

Q. Three times Sir.

A. When was the third time?

Q. After I had my shoes on Sir.

A. I had twice in bed, once while getting your shoes on, was it twice in bed and once while you were getting your shoes on?

Q.

A. Once when I was lying in bed, the next when I put my foot on the floor sitting on the bed and the third as I leaned to get up after I had my shoes on.

Q. Well now granted that you had all the provocation in the world that three blows, was that occasioned by you rushing at him, were you in the act of grappling with him when he struck the third time?

A. No Sir.

Q. Once you had your shoes on didn't you spring up and square off?

A. When I was hit I came up quick after my boots were on.

Q. You were hit when you were still working on your boots?

A. No Sir not while I was working on my boots.

DEFENDING OFFICER: I thought you said you were, it is very difficult to find out what the story is. I am confused Sir, it is not that I am trying to confuse the Witness, I understood the witness to say that he was hit the third time while he was getting his boots on on direct evidence.

Q. Will you agree then after you had got your shoes on you got up to fight?

A. I got up to fight Sir?

Q. Once you had your shoes on?

A. No Sir.

Q. Now would the blows which you got while you were still in bed heavy blows, was it from these you were hurt or the ones after you got out of bed?

A. Afterwards.

Q. Was it these blows that you got lying in bed damage or hurt you or after you were able to defend yourself when you were up?

A. I never got any blows heavier than the ones I got in bed that I remember of.

THE PROSECUTOR DECLINES TO RE-EXAMINE.

THE WITNESS WITHDRAWS.

PRESIDENT: Your next Witness Captain Herschorn.

PROSECUTOR: Lance Corporal Mann Sir.

PRESIDENT: Call Lance Corporal Mann.

PROSECUTOR: I may say Sir at this point there are several witnesses mentioned on the Precis, but I don't believe I am going to call them, the Defending Officer may call them if he wishes, they are available.

PRESIDENT: Major Shaw I will ask you about this a little later.

SECOND WITNESS for PROSECUTION.

No. G-24233 Lance Corporal L.J. Mann, NO. 39 Company Canadian Provost Corps, C.A. being duly sworn is examined by the Prosecutor:

Q. Corporal Mann, will you identify yourself, giving your regimental number, your rank, your name and your unit?

A. Yes Sir. G-24233 Lance Corporal Mann, L.J., 39 Company Canadian Provost Corps, C.A.

Q. Do you recognize the Accused Corporal?

A. Yes Sir.

Q. As whom do you recognize him?

A. As Private Morris Sir.

Q. Now Corporal I understand, I am going to put leading questions to save time, just introductory part, I understand the evening of the 8 Apr 45 at approximately 2330 hours you were in your Hut at Headquarters No. 39 Company Canadian Provost Corps, C.A.?

A. Yes Sir.

Q. What were you doing?

A. I was asleep at the time Sir.

Q. Will you tell the Court if anything happened that night?

A. Yes Sir.

Q. Tell the Court what you saw?

A. Yes Sir.

Q. On that night?

A. On the 8 Apr 45 I was asleep in our Hut Sir and I was awakened by Corporal Geldard calling for help, I then got up and someone sang out turn the lights on and someone else sang out there was no lights, so I went to my barrack box and got my flashlight and I stepped out of the foot of my bed and I turned my flashlight down towards where the rumpus was and I seen Private Morris sitting on Corporal Geldart's legs and Private Morris was hitting Corporal Geldart around the chest, then when I got down there Private Morris he got up and Private Warren he was holding Corporal Geldart down, then we broke Private Warren's hold and Corporal Geldart got to his feet.

Q. Corporal Mann?

A. Yes Sir.

Q. Where was this in the hut?

A. The third bed below mine Sir.

Q. Near whose bed was it?

A. Corporal Geldart's, the bed is at the opposite side Sir. I think alongside Lance Corporal Dickson's bed.

Q. This occurred very near Geldart's bed?

A. Yes Sir, that is right Sir.

PROSECUTOR: I have no further questions Sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q. Corporal did you come to the scene of the quarrel?

A. Yes Sir.

Q. Immediately?

A. After I got out of the bed I got my flashlight and went right down.

Q. Did you start to move immediately after you heard Geldart call?

A. Yes Sir.

Q. Did you say that Morris was on the floor?

A. No Sir.

Q. What was Morris doing?

A. He was laying on Corporal Geldart's legs Sir.

Q. On what?

A. On Corporal Geldart's legs Sir.

Q. What was Geldart doing?

A. Geldart was laying down Sir.

Q. Struggling?

A. No Sir.

Q. Was Warren struggling?

A. No Sir.

Q. Was Morris struggling?

A. No Sir.

Q. Sort of a still light picture?

A. He was just holding Corporal Geldart Sir.

Q. But he was hitting him?

A. Yes Sir.

Q. Worris?

A. Yes Sir.

Q. Holding him by the leg and hitting him?

A. He was sitting on his leg.

Q. He was not biting him?

A. I never seen him bitting him Sir.

Q. Were you aware of a fight going on before you heard Geldart call?

A. No Sir.

Q. How many other men were in the Hut?

A. I could not tell you I don't know exactly how many.

Q. About how many?

A. I could not say Sir because I was asleep some came in after I was asleep Sir.

Q. Did everybody pretty well get up?

A. I could not tell you that Sir.

Q. Well it was not much of a fight was it?

A. I could not tell you that I don't know how long they were fighting before I got up.

Q. There was not a general disturbance of everybody who were sleeping in the Hut?

A. I don't know I don't know if everyone got up or not.

Q. Did you see any other witnesses present?

A. Yes Sir.

Q. How many people were in the hut, did you ever get the lights on?

A. After everything was all over they got the lights on.

Q. Then how many people in the hut?

A. I could not tell you that either.

Q. Well now come you can tell me?

A. No Sir I cannot I never counted them.

RE-EXAMINED BY THE PROSECUTOR:

Q. Corporal Mann?

A. Yes Sir.

Q. Will you name some of the people you saw there that evening?

A. Lance Corporal Hayes, Lance Corporal Ellingwood, Lance Corporal Nelson and Private Ross, that is all I noticed there at the time.

QUESTIONED BY THE COURT:

Q. What Hut was that in Corporal?

A. Number 2 Hut Sir.

Q. Did you see Sergeant Mann that night?

A. Yes Sir.

Q. After the fracas?

A. After the fracas Sir.

THE WITNESS WITHDRAWS.

PRESIDENT: Your next Witness Captain Herschorn.

PROSECUTOR: Lance Corporal Nelson Sir.

PRESIDENT: Call Lance Corporal Nelson.

THIRD WITNESS for PROSECUTION.

No.C-3484 Lance Corporal R.R. Nelson, No. 39 Company Canadian Provost Corps, C.A. being duly sworn is examined by the Prosecutor:

Q. Corporal Nelson, will you identify yourself giving your regimental number, name, rank and unit?

A. C-3484 Lance Corporal Nelson R.R., No. 39 Company Canadian Provost Corps, C.A. Coldbrook, N.B.

Q. I understand Corporal that you were in your Hut No. 2 Headquarters No. 39 Company Canadian Provost Corps the 8 Apr 45 at approximately 2330 hours, is that right?

A. Yes Sir.

Q. What were you doing?

A. Well I went to bed about one half past ten Sir and I was awakened between 1230 and 2359 by Corporal Geldart hollering come on boys give me a hand and well I sat up and I seen someone scuffling around on the middle of the floor and they fell down right, one bed away from me, I heard somebody choking and I got up, I crawled over the bed and I seen one of the fellows laying over Geldart, Corporal Geldart, it was Private Morris.

Q. Is Private Morris present here?

A. Yes Sir.

Q. Who is he?

A. The Witness points to the Accused. I tried to get Private Morris off of Corporal Geldart and just then Mann came, Lance Corporal Mann came down the hall with a flashlight and Private Morris got up. That is all Sir.

Q. Did you see Corporal Geldart after this, after this thing you described?

A. Yes Sir.

Q. Will you tell the Court what he looked like please?

A. He had a cut on his head I think, it was on the right side of the sideburns there and he had a cut on his leg, I think it was his right leg Sir and his face was scratched up quite a bit around the neck .

PROSECUTOR: I have no further questions of this Witness Sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q. These scratches that you mentioned, cuts, did you see them being inflicted?

A. No I didn't Sir.

Q. You don't know how he got them?

A. No Sir.

Q. What other people did you see around?

A. Well there was Corporal Mann and Hayes, Drost and Warren and Ellingwood.

Q. How far away were you sitting?

A. Sir Corporal Geldart's bed, it is one bed up from his Sir just across the Hut.

Q. What time did you go to bed?

A. I went to bed at half past ten Sir.

Q. Do you sleep pretty soundly?

A. Yes Sir, I do Sir.

Q. Were you aware of some kind of a fight going on in barracks for any appreciable time before you got up?

A. No, it was not much of a fight at the time Sir. I just sat up in bed Sir. They were just scrimmaging around and I got up just like a half a minute Sir I didn't know what was going on, some of the fellows, no they were not wrestling there, I d idn't pay much attention to them.

Q. When you first heard Corporal Geldart cry what was your first impression?

A. I didn't know until I woke up when they fell down on the floor, I heard him choking that is what made me think there was something going on.

Q. They fell down?

A. They went down to the floor the three of them.

Q. Did you see them?

A. I saw someone I didn't know who it was then when they were scuffling around.

Q. Did Corporal Geldart appear to be struggling?

A. No Sir he was not when I got up.

Q. WITNESS You mean on the floor Sir.

A. DEFENDING OFFICER Yes.

A. WITNESS: No Sir he was not struggling on the floor Sir.

Q. Was he unconscious?

A. I don't know whether he would be unconscious or not.

Q. Did you speak to him just after that, when he got up?

A. When he got up?

Q. Yes?

A. No Sir.

Q. Did he get up immediately?

A. Well a couple of the boys gave him a hand to get up I believe Sir.

THE PROSECUTOR DECLINES TO RE-EXAMINE.

QUESTIONED BY THE COURT:

Q. Corporal Nelson during your evidence you said you were awakened between 1230 and 2359 hours, will you think that over and tell the Court if that is right?

A. I am sorry it was between 2330 and 2359 hours Sir.

THE WITNESS WITHDRAWS.

FOURTH WITNESS for PROSECUTION.

No. G-22096 Sergeant D.K. Mann, No. 39 Company Canadian Provost Corps, C.A. being duly sworn is examined by the Prosecutor:

Q. Sergeant Mann, will you identify yourself please giving

your regimental number, name, rank and unit?

A. G-22096 Sergeant D.K. Mann, No. 39 Company Canadian Provost Corps, C.A.

Q. Do you recall seeing Corporal Geldart , W.R. on the night of the 8 Apr 45 before he went to bed?

A. Right Sir.

Q. Would you tell the Court anything, can you tell the Court what his appearance was that night?

A. That is before he went to bed.

Q. Yes.

A. Yes Sir. His appearance Sir he had drove me out to the City made our inspections and returned to the Barracks at 2300 hours and his condition was just the same as usual, there was no marks, scratches or anything, he was not scratched up or anything unusual about him.

PROSECUTOR: I have no further questions Sir of this Witness.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE.

THE WITNESS WITHDRAWS.

PRESIDENT: Your next Witness.

PROSECUTOR: Well Sir there are several witnesses mentioned in the Precis of Evidence, namely Lance Corporal Ellingwood, Private Drost and Lance Corporal Hayes. Now these witnesses as far as the Prosecution is concerned can throw no new light onto the case. They are present if the Defending Officer wishes them to be called and I can give them to him, for cross-examination Sir.

PRESIDENT: Do you wish the Prosecution to call any of the Witnesses.

DEFENDING OFFICER: I would like to see them all, I would like to see each one of these men who have been mentioned in the Precis.

PROSECUTOR: Lance Corporal Ellingwood Sir.

PRESIDENT: Call Lance Corporal Ellingwood.

FIFTH WITNESS for PROSECUTION.

No. G-48743 Lance Corporal R.V. Ellingwood, No. 39 Company Canadian Provost Corps, C.A. being duly sworn is examined by the Prosecutor:

Q. Corporal Ellingwood, will you identify yourself please giving your regimental number, rank, name and unit?

A. G-48743 Lance Corporal R.V. Ellingwood, No. 39 Company Canadian Provost Corps, C.A.

Q. Do you recognize the Accused Corporal?

A. Yes Sir.

Q. As whom?

A. Private Morris Sir.

PROSECUTOR: I have no further questions Sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q. Do you remember the night of Apr 8?

A. Yes Sir.

Q. Do you remember being in Hut 2 Coldbrook?

A. Yes Sir.

Q. What time did you go to bed?

A. Approximately eleven o'clock Sir, that is 2300 hours Sir.

Q. Do you remember being awakened by, did you go to sleep?

A. Yes Sir.

Q. Do you remember being awakened, woke up?

A. Yes Sir.

Q. What woke you?

A. A disturbance in the Hut Sir.

Q. Well were you awakened by the noise of the disturbance?

A. Yes Sir, I presume it was Sir.

Q. Or were you awakened by the calls of anyone in particular? Did you hear one piercing noise through all the others which was above all the others?

A. No Sir.

Q. You didn't hear Geldart call for aid?

A. Not until I woke up Sir.

Q. What did you see when you woke, just when you woke what did you see?

A. I could not see anything the hut was in darkness.

Q. How far is your bed from Geldart's bed?

A. I would say Sir about twenty five feet Sir.

Q. Do you know approximately how many men were in the hut that night?

A. No Sir.

Q. Do you know what was causing the disturbance, did you find out or was anything?

A. Yes Sir.

Q. Well did you see Corporal Geldart standing up?

A. No Sir.

Q. Did you see him at all?

A. Yes Sir.

Q. Who did you see with him?

A. What do you mean I don't understand the questions.

Q. Was there anyone with him at the time?

A. Yes Sir.

Q. Well did you recognize them?

A. Yes.

Q. Who?

A. Private Morris and Private Warren Sir.

Q. Anyone else?

A. Lance Corporal Hayes, and Lance Corporal Mann.

Q. And what was Lance Corporal Hayes and Lance Corporal Mann doing?

A. Lance Corporal Mann was standing with the flashlight and Mann was holding Private Warren Sir.

Q. They got there ahead of you?

A. Yes Sir.

Q. You didn't see Lance Corporal Geldart hit the Accused?

A. No Sir.

Q. Or struggle with the Accused?

A. No Sir.

Q. Were both the Accused and Geldart on the floor when you saw them first?

A. Yes Sir.

Q. But Geldart was not struggling?

A. No Sir.

Q. Were they fighting?

A. No Sir.

Q. That is you didn't see them?

A. I didn't see them fighting.

Q. Did you see them on the floor?

A. Yes Sir.

Q. Can you see alright?

A. Yes Sir.

THE PROSECUTOR DECLINES TO RE-EXAMINE.

THE WITNESS WITHDRAWS.

SIXTH WITNESS for PROSECUTION.

No. G-45569 Private R.W. Drost, No. 39 Company Canadian Provost Corps, C.A. being duly sworn is examined by the Prosecutor:

Q. Private Drost, will you identify yourself please giving your regimental number, your rank, name and Unit?

A. G-45569 Private Ralph Drost, No. 39 Company Canadian Provost Corps, C.A.

Q. Do you recognize the Accused Private Drost?

A. Yes Sir.

Q. As whom do you recognize him?

A. Private Morris Sir.

CROSS EXAMINED BY THE DEFENDING OFFICER:

Q. Private Drost do you remember Sunday 8 Apr 45, do you recall that date?

A. Yes Sir.

Q. Were you in No. 2 Hut at Coldbrook?

A. Yes Sir.

Q. Did you sleep there that night?

A. Yes Sir.

Q. What time did you go to bed?

A. I went to bed approximately around nine o'clock.

Q. Sleep well?

A. Well I was well asleep, I was first woke by the mounties wanting to see me I would say around ten and ten thirty.

Q. Get to sleep again, awakened again?

A. Yes Sir I was awakened .

Q. Tell me just exactly just what woke you exactly what woke you?

A. As near as I know what woke me was someone calling for help.

Q. Did you recognize the voice?

No I could not say that Sir.

Q. Were there any lights on?

A. No Sir.

Q. Did you see anything?

A. Well I tried for the lights and the lights would not go on.

Q. Did you identify the voice eventually that called for help?

A. No Sir I could not say that I can, could not say who it was, that was what woke me.

Q. Did you investigate the cry for help?

A. Well I got up to put the lights on somesne said, I don't know who said, turn the lights on, I got to the lights and was trying the lights and they would not go on.

Q. What did you do after that?

A. Well I think were by me, there was other fellers weren't by me, I don't know where they were, I werent clear up to where the other fellows was.

Q. Where were the other men going?

A. Well they were going by me, they must have been going by me where the other fellows was is all I can say.

Q. What other fellows?

A. Where this scuffling noise was.

Q. There was a scuffling noise as well?

A. There was a scuffling noise.

Q. Can you say for certain there was a glare from the Quarter Store's hut, you could see the moving but you could not tell who they were, how many people seemed to be scuffling?

A. I cannot say that exactly.

Q. Was there anyone there with a flashlight?

A. Yes Sir I saw the man who got the flashlight.

Q. Was he illuminating the scene?

A. Yes Sir.

Q. What did you see with the flashlight?

A. When I said there is no lights Corporal Mann hopped out of bed on the floor pulled his barrack box open and removed his flashlight from the box before he turned it on.

Q. Did you see any fighting?

A. Well I could not say, I could not say fight, I could not say that, I was I could see the scuffle I could not say it was a fight, I was not there.

Q. Was the figure standing up or laying on the floor that you saw scuffling?

A. They must have been on their feet when I saw them.

Q. Did you ever get up close to the scene at all?

A. I was not close I would say I must have been twelve or fifteen feet away from it the other fellows were all there ahead of me, went by me.

Q. Was Lance Corporal Mann there before you?

A. Yes Sir he went by me with the flashlight.

THE PROSECUTOR DECLINES TO RE-EXAMINE.

THE WITNESS WITHDRAWS.

SEVENTH WITNESS for PROSECUTION.

No. G-4754 Lance Corporal E.O. Hayes, No. 39 Company Canadian Provost Corps, C.A. being duly sworn is examined by the Prosecutor:

Q. Corporal Hayes, will you identify yourself please giving your regimental number, name, rank and unit?

A. G-4754 Lance Corporal Hayes, E.O. No. 39 Company Canadian Provost Corps, C.A., Headquarters, Coldbrook, N.B.

Q. Do you recognize the Accused Corporal?

A. I do Sir.

Q. As whom?

A. Private Morris Sir.

PROSECUTOR: I have no further questions Sir.

CROSS-EXAMINATION

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q. Lance Corporal Hayes, do you remember the night of April 8?

A. Yes Sir.

Q. Were you at Hut No. 2 Coldbrook?

A. That is right Sir.

Q. What time did you go to bed?

A. I would say around eleven 00'clock Sir.

Q. Did you sleep soundly?

A. Fairly sound Sir.

Q. Do you remember being having gone to sleep?

A. I don't know how to answer that Sir.

Q. Do you remember waking up?

A. Yes Sir.

Q. And assuming that you had been asleep?

A. Yes Sir.

Q. What wakened you?

A. There was a rumpus about halfway down---

Q. How far from where you were sleeping?

A. About seven beds from my bed.

Q. When you woke was the hut in darkness?

A. Yes Sir, except the light shining from the Quarter Stores through the windows.

Q. Through the window?

A. Yes Sir the window and the door.

Q. Can you tell what was going on?

A. I could not at the time Sir. The, I seen the silouette of the fellows scuffling. I don't know who it was.

Q. did you think it was serious?

A. Well I didn't at the time Sir.

Q. Was there any shouts or cries of pain, cursing or swearing?

A. The first I heard Sir was Private Morris, "these two hooks don't mean a damn thing to me."

Q. You heard him say that?

A. Yes Sir.

Q. Well can you tell, how can you tell it was Private Morris?

A. I think I can identify his voice Sir.

Q. How many people seemed to be involved in the scuffling at that time?

A. I could not say Sir.

Q. Did you think the fight was serious enough that you should intervene?

A. Not until Corporal Geldart hollered for help.

Q. Did you go immediately?

A. Yes Sir.

Q. And when you arrived at the scene was Geldart standing up?

A. He was laying down on his back Sir.

Q. Was the Accused there?

A. Yes Sir.

Q. Well was Lance Corporal Mann there?

A. Yes Sir.

Q. Was he there before or after you?

A. That I could not say Sir.

Q. Someone had a flashlight, is that correct?

A. Lance Corporal Mann had a flashlight.

Q. Did you get there before or after the flashlight?

A. Before the flashlight Sir.

Q. You would see everything that Lance Corporal Mann saw?

A. I could not say that Sir.

Q. You were there before Mann, is that correct?

A. I could not say Sir. But I was there before the light was turned on, the flashlight.

Q. Before the flashlight was turned on?

A. Yes Sir.

Q. Was Geldart struggling?

A. He was not then Sir.

Q. Well what would you say they were doing?

A. Well.

Q. Describe the scene you saw there, tell us what you saw?

A. Well Private Morris was on the lower part of Corporal Geldart's body and Private Warren was lying down alongside of Corporal Geldart, he had his right arm around Corporal Geldart's neck and his left hand clutching on his throat and I think Corporal Mann helped to break Warren's hold and I pulled Warren off of Corporal Geldart and threw him down in the corner and held him there and he said "let me up" and I says "I will let you up if you will be a good guy" and he says "o.k."

Q. Will you tell me about the Accused there, you actually say he was fighting at that time?

A. I could not say that he was fighting Sir. He was on the lower part of the Accused's body, he was on the lower part of Geldart's body.

Q. He was on the lower part of Geldart's body?

A. That is right Sir.

Q. Was he punching him or just wrestling with him punching him, blows on his body or was he wrestling with his body and legs?

A. To my knowledge he seemed to be holding him

Q. What I mean to say was he really actually beating up the Lance Corporal at that time?

A. To my knowledge, no Sir.

Q. You didn't see any blows struck by him?

A. By Private Morris.

Q. At that time after you came at the scene, did you see any blows struck, the Accused strike any blows?

A. I didn't Sir.

THE PROSECUTOR DECLINES TO RE-EXAMINE.

THE WITNESS WITHDRAWS.

At 1240 hours on the 16th day of April, 1945, the Court adjourned.

At 1400 hours on the 16th day of April, 1945, the Court is reopened.

PRESIDENT: Your next Witness Captain Herschorn.

PROSECUTOR: No other Witnesses Sir.

PRESIDENT: The case for the Prosecution is closed.

PROSECUTOR: Yes Sir.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

~~THE DEFENDING OFFICER MAKES AN OPENING ADDRESS.~~

Question to the accused. Q. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. A. Yes Sir, under oath.

Question to the accused. Q. Do you intend to call any witness in your defence?

Answer. A. Yes Sir.

Question to the accused. Q. Is the witness to be called a witness as to character only?

Answer. A. No Sir.

The Defending Officer makes an opening address

F[illegible] WITNESS for DEFENCE.

The Accused, No. G-32352 Private T.A. Morris, No.39 Company Canadian Provost Corps, C.A. being duly sworn is examined by the Defending Officer.

Q. Will you, you are the Accused Private T.A. Morris, are you not?

A. Yes Sir.

Q. A Member of the 39 Company Canadian Provost Corps?

A. Yes Sir.

Q. Stationed at Coldbrook?

A. Yes Sir.

Q. Do you recall the evening of Apr 8 last?

A. Yes Sir.

Q. What were you doing in the early part of the evening?

A. I was in the canteen drinking beer Sir.

Q. What time did you go to bed?

A. I didn't go to bed Sir.

Q. Did you ever start to go to bed?

A. No Sir.

Q. You say you were in the Canteen, what time did you leave the canteen?

A. About a quarter after eleven Sir.

Q. Pardon?

A. About a quarter after eleven Sir.

Q. A quarter after nine?

A. After eleven Sir.

Q. Where did you go from there?

A. I went over and went to the lavatory over in our Hut No. 2.

Q. Anyone with you at the time?

A. Private Warren Sir.

Q. What did you do next?

A. I went to the latrine Sir.

Q. Pardon?

A. I went to the latrine.

Q. After you left there, did you leave there?

A. Yes Sir.

Q. Where did you go next?

A. I went to Corporal Geldart.

Q. Why did you go see the Corporal?

A. Because I was accused of being in the car, the staff car and .

Q. Who had accused you of being in the staff car?

A. It was made known to me to another party that Corporal Geldart said I was.

Q. When you say that it was made known to you you mean more simply someone told you?

A. Yes Sir.

Q. And you had, had you any reason to believe that he had made such a charge?

A. No Sir.

Q. And what did you intend to do in connection with the Lance Corporal under charge?

A. I intended to fight with him Sir.

Q. Where did you find him?

A. He was in bed Sir.

Q. Did he appear to you to be asleep?

A. No Sir.

Q. Did you shake him and wake him up?

A. No Sir.

Q. How did you attract his attention?

A. I called Geldart.

Q. Did he answer?

A. He said, "yes."

Q. And what transpired then?

A. I told him that he accused both me and Private Warren of being in the staff car he said he never, I told him.

Q. Was Private Warren present at that moment?

A. Yes Sir. I then told him he was a liar and one word lad to another so the Corporal started to get up and put his shoes and stockings on, then he got up, I thought it was a challenge so we got into a clinch first, I am sorry, there is a mistake there, when, as soon as he got up we made a gloom for each other, I struck him.

Q. Did you strike him before he was up?

A. No Sir.

Q. Did you invite him outside to fight?

A. Yes Sir.

Q. Will you describe to the Court what you mean by him making a gloom for you?

A. I seen his both hands coming for me, I made a jab and knocked, I don't know just where I hit him, the upper part of the body.

Q. Had you any other reason to quarrel with Corporal Geldart other than that you related?

A. No Sir.

Q. Had you had any previous, had there been any previous occasion on which you considered the Corporal in your opinion, unfair to you?

A. No Sir.

DEFENDING OFFICER: That is all.

CROSS-EXAMINED BY THE PROSECUTOR:

Q. Did you know Corporal Geldart to be a full Corporal ?

A. Yes Sir.

Q. You knew him to be a Corporal on the 8 Apr 45?

A. Yes Sir.

Q. Why did you state that Geldart was not asleep?

A. Because if he was he was awakened very easy Sir because I only called to him.

Q. How many times?

A. Once Sir.

Q. Is it not a fact that men in your barracks are called quite often during their sleep and they are expected to wake when so called?

A. Yes Sir.

Q. What did Corporal Geldart have to say to your invitation to fight?

A. He just kept mumbling, said alright.

Q. Did Corporal Geldart hit you while you were close to his bed?

A. No Sir not while I was standing there.

Q. Do you recall how many times you struck Corporal Geldart?

A. Yes Sir.

Q. How many?

A. Once Sir.

Q. Are you trying to tell the Court now that Corporal Geldart was struck but once during the evening?

Yes Sir by me.

A. How about that tussle in the corridor of the Hut 2 of your headquarters?

Q. Well Sir I never struck him.

A. Did you grab him around or sit on his hands as was described earlier today?

Q. I was holding him by the legs Sir.

A. Was he struck then?

Q. You mean he was struck.

A. Did anyone strike him then?

Q. No Sir.

A. Anybody bite him?

Q. Yes Sir.

A. Who?

Q. I did Sir.

A. At the time that you bit Corporal Geldart how many people were present or by?

Q. Just myself and Private Warren and Corporal Geldart.

A. And Corporal Geldart?

Q. And Corporal Geldart Sir.

A. Was Private Warren helping you or helping Corporal Geldart in this fight?

Q. Helping me I think Sir.

A. What do you mean you think, don't you know?

Q. No Sir.

A. Is it not a fact that you and Warren went into this Hut to beat up Corporal Geldart?

Q. No Sir.

A. Who was it told you that Geldart had reported you to have been in the staff car?

Q. I would rather not make any statement Sir.

A. I am asking the question?

Q. PROSECUTOR: May I request that the Witness answer that question.

PRESIDENT: The question must be answered.

WITNESS: I don't know definitely Sir.

A. Was it a member of the Provost Corps?

Q. Yes Sir.

A.

Q. Was it a Private?

A. I don't know his rank Sir.

Q. Did you know that night?

A. No I didn't Sir.

Q. Had you ever seen that man before?

A. Yes Sir.

Q. Had you been with him before that?

A. Yes Sir.

Q. For any length of time.

A. You mean the same night?

Q. The same man that told you?

A. Yes Sir.

Q. How long had you been stationed with him?

A. Four months.

Q. What is his name?

A. I don't know his name Sir.

Q. Does he live in your hut, sleep in your Hut?

A. Yes Sir.

Q. How many men are there in your Hut all together?

A. I could not say Sir.

Q. Was he present in the Hut while this quarrel or fight was going on?

A. I could not say Sir.

Q. Was he drinking beer with you in the cantsen?

A. No Sir.

Q. Is it not a fact Private Morris that you are not giving that name because of what you call fair play and not wishing to squeal on someone else?

A. Yes Sir.

PRESIDENT: If Private Morris does not give the name now I will have to have him up for contempt of Court.

WITNESS: I don't know his name, I never said I knew his name.

DEFENDING OFFICER: I don't think the Accused understood fully what answer he was giving to that question. He is obviously confused, the Court my explain that question to the Accused.

Q. PRESIDENT: You stated you were not giving the name because you didn't want to squeal on that man, you answered yes to that question?

A. WITNESS: I understand now Sir, I don't know the name I have only slept in that Hut twice since I have been here.

THE PRESIDENT READS OVER SECTION 28 of the ARMY ACT.

Q. PROSECUTOR: Private Morris how long did this fight last?

A. It was over in two or three minutes Sir.

Q. How many times were you hit?

A. I was not hit Sir.

PROSECUTOR: I have no further questions Sir.

RE-EXAMINED BY THE DEFENDING OFFICER:

Q. Do you recall at this moment what the man who you say gave you the idea that Corporal Geldart had informed on you looks like?

A. I would not know him Sir.

Q. Can you recall, would you recognize him if you saw him?

A. I might Sir.

Q. Was he a member of the Provost Corps?

A. Yes Sir I think he is.

Q. Have you been regularly employed member of the Provost Corps?

A. Yes Sir.

Q. Have you not been on probation as it were?

A. I don't understand Sir.

Q. Have you not been more or less on trial with the Provost Corps?

A. Yes Sir.

Q. Have you got to know all the people in the Provost Corps?

A. No Sir.

Q. Did more than one tell you that this charge was going to be laid, had been laid?

A. There was two or three standing there at the time, standing there.

Q. Standing where?

A. In the lavatory.

Q. You really don't know who told you?

A. No Sir.

Q. Now you were asked about biting Corporal Geldart, was that after he got up?

A. No Sir that was when he was down.

Q. Where was he down?

A. When both Private Warren and myself was fighting him.

Q. Was he fighting you at that time?

A. I was holding his legs Sir.

Q. Pardon?

A. I was holding his legs Sir, and one came up and hit me in the face.

Q. Why was it necessary for you to bite him?

A. Because one of his legs came up and hit me in the face Sir.

QUESTIONED BY THE COURT:

Q. Morris do you know the names of any of these men standing in the lavatory when you were told?

A. No Sir I don't.

THE WITNESS RESUMES HIS SEAT.

SECOND WITNESS for DEFENCE.

No. A-5033 Private A.G. Warren, No. 39 Company, Canadian Provost Corps, C.A. being duly sworn is examined by the Defending Officer:

Q. Will you give your initials, number, rank and unit?

A. No.A-5033 Private A.G. Warren, No. 39 Company Canadian Provost Corps, C.A.

Q. Where are you stationed?

A. At Coldbrook Sir.

Q. Do you remember Sunday April 8th last at Coldbrook?

A. Yes Sir.

Q. Where were you earlier in the evening?

A. We were at the Canteen, I was at the Canteen.

Q. At what time?

A. Just after the Canteen opened about 7:30.

Q. Was anybody with you?

A. Yes Sir.

Q. Was the Accused Morris present when you went there?

A. Yes Sir.

Q. Did you go together?

A. Yes Sir.

Q. Did you see the Accused approach Lance Corporal Geldart?

A. Yes Sir.

Q. In number 2 Hut?

A. Yes Sir.

Q. What time was it when you saw that?

A. Approximately 2340 hours.

Q. Did you see him strike Lance Corporal Geldart?

A. No Sir.

Q. Where was Lance Corporal Geldart when you first saw him?

A. He was in bed Sir.

Q. Did he remain in bed?

A. No Sir.

Q. What did he do?

A. He sat up on the bed Sir and put his stockings on and his shoes, then he got up.

Q. Were you watching him from the time you first went? Went in?

A. No Sir.

Q. Were you watching him, Lance Corporal Geldart, from the time you saw the Accused, Morris, approach him? Approach his bed?

A. Yes Sir I seen him, yes Sir.

Q. Was there conversation between the Accused and Geldart?

A. Yes Sir.

Q. You say you saw Lance Corporal Geldart get up?

A. Yes Sir.

Q. Did you see the Accused strike him?

A. No Sir.

Q. Did you see him strike the Accused while he was still in bed?

A. No Sir.

Q. Would you say he didn't strike him?

A. He didn't strike him while he was in bed Sir.

CROSS-EXAMINED BY THE PROSECUTOR:

Q. Private Warren, why did you go to Hut 2 with Private Morris?

A. Well I was going to bed Sir.

Q. What was Morris going to do?

A. I don't know Sir.

Q. Where is your bed with relations to that of Corporal Geldart?

A. On the opposite side of the room Sir.

Q. Did you go straight to your bed?

A. I went to the latrine first Sir.

Q. Yes and then?

A. To my bed.

Q. What did Morris do in the meantime?

A. To Corporal Geldart's bed.

Q. You would therefore have your back to Geldart, would you not?

A. No Sir.

Q. Is not your bed Private Warren closer to the door of Hut No. 2 than Corporal's, Corporal Geldart's bed?

A. Yes Sir.

Q. And therefore if you were approaching your bed you would have to pass Geldart's bed would you not, coming from the latrine?

A. Yes Sir.

Q. And you said that you had gone to your bed?

A. Yes Sir.

Q. And that Morris stopped at Geldart's bed?

A. That is right Sir.

Q. Therefore your back would be to Geldart, is that not right?

A. No Sir.

Q. Will you explain it then?

A. I went to my bed and started to bed, unbutton my jackst to get into bed and during that time Private

Morris was talking to Corporal Geldart and I naturally turned around, I didn't turn around, was facing my bed was going to make it up, I seen what was going on at the other side of the room while I was unbuttoning my jacket, I went over closer to Corporal Geldart's bed.

Q. But at some time during your movements your back must have been to Corporal Geldart's bed, was it not?

A. Only when I passed Corporal Geldart's bed was my back to him.

Q. And is it not a fact that when you faced Geldart's bed Private Morris was there?

A. He was approaching Corporal Geldart.

Q. Could Private Morris strike Geldart without you seeing it?

A. No Sir.

Q. Was Corporal Geldart struck at all that night?

A. Sir I am not positive on that statement Sir.

Q. At about 2330 hours was Corporal Geldart hit?

A. No Sir.

Q. At any time during that part of the evening?

A. I cannot make a definite statement on that Sir, because I don't recall what I did.

Q. What can't you recall?

A. I can't recall what I did.

Q. Why not?

A. From well I sort of lost control of myself of what happened, I am not sure of that I can tell the truth on Sir.

Q. Do you remember the window breaking near Corporal Geldart's bed?

A. Yes Sir.

Q. How did that happen?

A. At that time Sir I was at the light switches and when I heard the window broke.

Q. How far are the light switches from Corporal Geldart's bed?

A. They are approximately one half way from the door of the hut.

Q. About thirty feet are they not?

A. About thirty feet something like that.

Q. The hut was dark?

A. Yes Sir.

Q. And yet you told us that Geldart was not hit by Morris, is that right?

A. Yes Sir,

Q. Is it not, this is another occasion when you had your back to Geldart and Morris when you went to the light switch?

A. That was after I came after I had already unbuttoned my jacket Sir and the fight had already started Sir.

Q. Who was fighting?

A. Private Morris and Corporal Geldart.

Q. Did Corporal Geldart get hit?

A. No Sir not when I seen the fight they were not fighting with their fists, they were wrestling.

Q. What were you doing down at the light switches?

A. I went to see what was going on and some fellow called out for to turn on the lights.

Q. Had you not been with Morris that night?

A. Yes Sir.

Q. Did you not discuss with Morris getting Geldart because of his squealing?

A. No Sir.

Q. Did you help Morris with, in his struggle with Geldart?

A. I pulled Corporal Geldart off of Morris for to break up the fight.

Q. Do you remember when Private Morris was told that Corporal Geldart had as he said squealed on him, I believe this was in the lavatory, do you recall that?

A. I cannot recall it Sir, I recall being in the lavatory but I cannot recall any statements.

Q. Do you know who it was that told Morris that Geldart had accused him, Morris, of being in the staff car?

A. No Sir.

Q. Do you remember such a thing happening?

A. Yes Sir.

Q. What do you remember about it?

A. I remember we ran out of the Canteen and we were sort of playing around fooling and we jumped in the side of a car then we got out of the car and went into the Hut.

Q. Now come to the lavatory, what happened there?

A. And we went into the lavatory and sat down and Sergeant Mann came in and asked me what I was doing in the car.

Q. Were you with Private Morris all the time?

A. There was a lapse of a few minutes while we were not together.

Q. Was that in the lavatory?

A. Yes Sir.

Q. Where did Morris go at that time?

A. Morris was Sir, I cannot state definitely on this, but Morris was I believe a few minutes in the washroom before he went to the toilet.

Q. Who else was in the washroom besides you Mann and Morris?

A. I don't know Sir.

Q. Was there anyone else?

A. Yes Sir there was somebody else.

Q. Did you have any conversation with them?

A. No Sir.

Q. Did Morris have any conversation with them?

A. No Sir.

Q. Did Morris have any conversation with them?

A. I don't know Sir.

Q. You were there?

A. Yes Sir.

Q. Did Sergeant Mann mention Corporal Geldart's name to you or to Private Morris while in the lavatory?

A. I don't know Sir.

Q. Was it right from this lavatory scene that you have given me some details that you went to your bed and Morris went to the bed of Geldart?

A. Yes Sir.

Q. Was Corporal Geldart asleep?

A. I don't know Sir.

Q. Was he lying down in bed or was he sitting up?

A. Lying down Sir.

Q. Did you hear Private Morris invite Geldart to fight?

A. Yes Sir.

Q. Where were you at that time?

A. Close to my bed.

What did Geldart reply to the invitation he had to fight?

Q. He didn't reply Sir.

A. What did he do?

Q. He got up on his bed, he sat up at least, put his stockings and shoes on, then he stood up.

A. What was Morris doing in the meantime?

Q. Morris sort of half turned from, I figured he was going to walk away , anyway he turned half way about.

A. As yet were any blows struck?

Q. No Sir.

A. When was the first blow struck, who struck it?

Q. I never seen any blows struck Sir.

A.

RE-EXAMINED BY THE DEFENDING OFFICER.

Did you hear your answer to that question read?

Q. Yes Sir.

A. Do you mean by that you could not recall what took place up until the time Corporal Geldart got up out of bed?

Q. No Sir I mean.

A. Can you amplify that statement as to why you cannot say out, explain why if you were charged, if you were watching these transactions whether he was hit or not?

Q. Because I didn't see him, being hit Sir.

A. I think in reply to some question as to whether he was hit or not you said when I saw the fight they were wrestling, at some time during the evening they were fighting, is that correct?

Q. Yes Sir.

A. And when did they begin to fight?

Q. Just after Corporal Geldart stood up on the floor.

A. Did Geldart hit the Accused or the Accused hit Geldart?

Q. I didn't see any clenches at all Sir.

A. How did they appear to be fighting?

Q. Morris's back was towards me and Corporal Geldart was I, on the other side of Morris and they were wrestling and Corporal Geldart had a hold of Morris and each had a hold of their arms.

A. Possible either could have hit each other and you could

Q.

not have seen the blow?

A. Yes Sir.

THE WITNESS WITHDRAWS.

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS.

THE PROSECUTOR MAKES A CLOSING ADDRESS.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Q. Have you any statement to make concerning the documents which have just been read to you?

Answer. A. No Sir.

Question to the accused. Q. Do you wish to address the Court?

Answer. A. Yes Sir through my Defending Officer.

DEFENDING OFFICER: Sir I would like the Court to consider the Accused's length of service . His record is lengthly but it covers six years.

PRESIDENT: As we have another case for the same offence, the Court will adjourn until the hearing of the other case is over.

At 1645 hours on the 16th day of April, 1945, the Court Adjourned.

At 2030 hours on the 16th day of April, 1945, the Court is reopened.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Colour Patch 27 "V"
Pro. C.C.M.

M.F.B. 458
503(--)-9-42 (3002)
H.Q. 1772-30-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G- 32352	Private	Morris, T.A., No. 39 Coy., C Pro.	C (CA)

1. The following is a fair and true summary of the entries in the ~~Company Conduct sheets~~ Regimental or Squadron or Battery Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For A.W.L.	2 times	A.W.L.	8 times
For ~~Conduct to the prejudice~~	~~Nil~~	Conduct to the prejudice	4 times
For ~~Drunkenness~~	Nil times	Drunkenness	1 times
For ~~Refused to give pass to NCO~~	times	Refused to give pass to NCO	times
~~i/c Guard~~	~~Nil~~	i/c Guard	1 times
For ~~Damaging his Respirator~~	Nil times	Damaging his respirator	1 times

~~Number of instances of gallantry or distinguished conduct xx~~

~~Nil~~

~~There are no entries in the conduct sheet of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~The accused has not been previously convicted~~

~~The accused has not been previously convicted~~

~~Previous convictions of the accused by a court-martial or civil court, or summary punishment under Section 47 of the Army Act and Air Force Act and cases in which trial has been dispensed with are shown in the following table~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for xxxxxxxxxx beginning on the day of xxxxxx~~

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and 8 days in military custody, making a total of 8 days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his ~~record of services~~ attestation paper is 25 years-3 mos-5 days

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper 9 Oct 39

~~7. The rank which the accused is allowed to resume on his discharge is~~

~~8. The accused is entitled to xxxxxxxxxx for the purpose of determining his pension xx~~

9. The accused is in possession of ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ military ~~xxxxxx~~ ~~xxxxxx~~ ~~xxxxxx~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Name.....of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of April, 1945.

(J.C. Van Horne) Capt.,
A/Officer Commanding &
O. i/c Records #39 Coy. C.Pro.C.
CA

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. 7 District Depot
Corps

M.F.M. 8
(A.F.B.122)
75036—12-43 (7537)
H.Q. 1772-39-1663

No. G.32352 Name MORRIS, T.A. | Sqn., Battery, or Company | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment 13-9-39 | G.C. Badges | Sheet No. | Signature O.C. Company, etc. "E.A. Stone" Capt | Tradesmen's Rates of Pay

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
F'ton, N.B.	16-10-44	Pte		A.W.L. from 1630 hrs 16 Oct 44 until 0620 hrs 17 Oct 44	Cpl. Dykeman R.C.	Forfeits 4 days pay	17-10-44	Major E.A. McLaughlin	Forfeits 1 days pay & allows.
F'ton, N.B.	20-11-44	Pte		Absent 13 hrs. A.W.L. from 1300 hrs 20 Nov 44 until 0630 hrs 21 Nov 44	Cpl. Gillis A.J.	4 days C.B.	21-11-44	Major F.R. Armstrong	1 days pay & allows.

Extract from Pay Ledger

CERTIFIED TRUE COPY

(J.C. Van Horne) Capt
A/Officer Commanding & O. i/c Records
No. 39 Coy, C Pro C (CA)

Coldbrook, N.B.
10 Apr 45

(P.T.O.)

Previous sheet destroyed 1 Jan 42. Date last entry 24 Jun 41

No. G.32352 Name MORRIS, T.A. Sqn., Battery, or Company } Corps 1 Cdn Corps Depot RCASC Date of enlistment } 13-9-39 G.C. Badges } Tradesman's Rates of Pay } Character

No. and date of last drunk } One 1 Jul 40 Period not reckoning towards freedom from extra fine } N/A Sheet No. Signature O.C. Company, etc.

M.F.M. 6 (A.F.B.122) 750M—12-42 (7537) H.Q. 1773-39-1653

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Delville N.B.	5-1-40	Pte		AWL from 1000 hrs 5-1-40 to 1900 hrs 7-1-40 Sec 15(1) AA	Cpl Bustard Cpl Gillin R.S.M. Phillips	10 days C.B. 5 days Pay	12-1-40	Major Montgomery	
Delville N.B.	30-1-40	Pte		Conduct to the prejudice of good order & military discipline in that he neglegently handled his rifle during training on active service in such a manner as to show a wilful disobedience to the instructions orders Sec 40 AA		14 days Detention 14 days Pay	1-2-40	Major. W.C. Lawson	
Woodstock Eng	1-7-40	Pte	1	(1) Drunkenness (2) Refused to give pass to NCO in charge of guard when ordered to do so by same Sec 15 AA	Cpl Clark	5 days Pay		Lt Col Ganong	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Effingham	1-9-40	Pte	1	AWL from 2230 hrs 1-9-40 to 2230 hrs 8-9-40 (Sec 15(1)AA)	Cpl Penny	5 days Fd Pun		Lt Col Ganong	7 Days Pay
Caterham	23-9-40	Pte	1	WOAS Conduct to the prejudice of good order & military discipline in that he when ordered by Cpl Monzilla to stand in line he replied "Fuck you I'll stand where I like" Sec 40 AA	Cpl Monzilla	10 days Fd Pun	24-9-40	Lt Col Ganong	10 days Pay
Caterham	7-12-40	Pte	1	WOAS AWL from 1200 hrs 7 Dec 40 to 2200 hrs, 14 Dec 40 (no punishment only oss of pay, was sick and had a doctors certificate) Sec 15(1) AA	Pte Fulton (C.O.S.)			Lt Col Ganong	8 Days Pay
Caterham	26-6-41	Pte	1	Damaging his respirator Sec 24 A.A.	Sgt Butler		2 July 41	Lt Col W.C. Lawson	7 Days Pay

No. G.32352 Name Morris, T.A. Sqn., Battery, or Company } No. 1. Cdn. Conv. Depot. RCAMC Corps } Date of enlistment } G.C. Badges } Tradesmen's Rates of Pay } Character

M.F.M. 6 (A.F.B.122) 7828—12-42 (7537) H.Q. 1772-29-1550

No. and date of last drunk } N/A Period not reckoning towards freedom from extra fine } N/A Sheet No. N/A Signature O.C. Company, etc. }

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Brixham	21 Apr 42	Pte		A.A.Sec.40. WOAS., Conduct to the prejudice of good order & military discipline, in that he failed to carry out his duties as Batman-Waiter in the Officers' Mess on 21 April 42	Cpl. Lalonde	7 days C.B.	22 Apr 42	Major J.B. Morison	
Field	26 May 43	Pte		Sec 15 (1) A.A. A.W.L., WOAS., Absenting himself without leave, in that he at Moorlands absent himself without leave from 2230 hours 17 May 43 until 1900 hours 25 May 43 Total absence, (7 days 20½ hrs) 8 days	Cpl. McGitchie	8 Days pay 7 days pay 15 days pay.	149(1)(a) 149(2) 26 May 43	F.F. Northup, Lt Col	

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Field	23 Jun 43	Pte		WOAS AWL from 1315 hrs, 23 June 43 until 0840 hrs, 13 Jul 43 (total absence 19 days 19 hrs, 25 mins) A.A. Sec 15(1)	Documentary	28 days F.P. 28 days pay	14 Jul 43	W.C. Lawson Lt Col	20 days pay F.R. & I 149(1)(a)
Field	17-12-43	Pte		A.A. SEC. 40 Conduct to the prejudice of good order and military discipline in that he on 15 Dec 43 at approx. 2030 hrs in the "Roebuck Tavern" Wokingham did assault No. D-94137 Cpl Frigon, L. striking him in the nose several times with his fist.	D.59295 Pte Couture, A. D.46297 Pte Laviguear, R. D.94137 Cpl Frigon, L.	7 days Detn (In quarters) 7 days pay	17-12-43	Col. C.P. Gaboury	7 Days Pay
F'ton N.B.	15-3-44	Pte		A.W.L. from 2359 hrs 15-3-44 until 2220 hrs 16-3-44 Absent 22 hrs, 21 min.	Cpl. Sheoner, A.B.	4 days C.B.	17-3-44	Capt G.G. Creighton	Forfeits 1 days pay & allowance

24 Mar 44

PRECIS OF EVIDENCE

IN THE CASE OF

the accused G.32352 Pte Morris, T.A., No. 39 Coy, C Pro C (CA), a GS soldier of the Canadian Army placed on Active Service:

CHARGE:

1. STRIKING A SUPERIOR OFFICER

To prove the charge the following evidence is available:

VERBAL FIRST WITNESS

G.48761 Cpl. Geldart, W.R., No.39 Coy, C Pro C (CA), will give evidence that he was struck by the accused with his fist on the back of the head and on the body at approximately between the hours 2330 and 2359, on 8 Apr 45 at Hut No.2, Headquarters, No.39 Coy, C Pro C (CA), Coldbrook, N.B. That at the time of the alleged offence it was known to the accused that the said Cpl. Geldart, W.R. was an NCO.

SECOND WITNESS

G.48743 L/Cpl Ellingwood, R.V., No. 39 Coy, C Pro C (CA), will give evidence as to Cpl. Geldart's appearance immediately after the commission of the alleged offence. As to what he saw at the scene where the alleged offence was committed.

THIRD WITNESS

G.24233 L/Cpl. Mann, L.J., No.39 Coy, C Pro C (CA), will give evidence corroborating the evidence of the first witness that the accused did strike Cpl. Geldart, W.R, and as to Cpl. Geldart's appearance immediately after the alleged offence was committed. As to certain statements made by the accused in his presence immediately after the alleged offence was committed. As to what he saw at the scene where the alleged offence was committed.

FOURTH WITNESS

G.3484 L/Cpl Nelson, R.R., No.39 Coy, C Pro C (CA), will give evidence as to the appearance of Cpl. Geldart, W.R., immediately after the alleged offence was committed and as to certain statements made by the accused in his presence immediately after the alleged offence was committed. Also what he saw at the scene where the alleged offence was committed.

FIFTH WITNESS

G.45569 Pte Drost, R.W., No.39 Coy, C Pro C (CA), will give evidence as to certain statements made by the accused in his presence immediately after the alleged offence was committed.

SIXTH WITNESS

G.4754 L/Cpl. Hayes, E.O., No.39 Coy, C Pro C (CA), will give evidence as to statements made by the accused in his presence prior to and after the alleged offence was committed. As to appearance of Cpl. Geldart. Also as to what he saw at the scene where the alleged offence was committed.

SEVENTH WITNESS

G.22096 Sgt. Mann, D.K., No.39 Coy, C Pro C (CA), will give evidence as to Cpl. Geldart's appearance after the alleged offence was committed.

J.O. Van Horne

(J.O. Van Horne) Capt
A/Officer Commanding,
No.39 Coy, C Pro C (CA).

COLDBROOK, N.B.
10 Apr 45.

D I S T R I C T O R D E R S

By

Brigadier G.G. Anglin, C.B.E., M.C., E.D.,
District Officer Commanding, M.D. No. 7.

Nos. 643- 652.
Saint John, N.B.

Nos. 643- 652.
Friday, 13 Apr 45.

(Last D.O. #642 6/12 Apr 45.)

.".".".

DISTRICT ORDERS 13 Apr 45.

#647 #647

DRIVERS QUALIFICATIONS

G.17254 C.Q.M.S. FLEMMING, M.R., 2nd (R) Bn Saint John Fusiliers was tested at Coldbrook, N.B., 10 Apr 45 and qualified as Driver I.C. (W) Class III.

(J/13-27-4)

.....
(F.M. Griffiths)Lt.-Col.,
G.S.O. 1, M.D. No. 7.

ADMINISTRATIVE STAFF

#648 #648

Laundry & Dry Cleaning Vouchers

The delay in submitting the original copies of laundry and dry cleaning vouchers to Ordnance when the services have been satisfactorily completed renders the submission of contractors' invoices for payment very difficult.

2. Too often it is necessary for the Ordnance Depot to send numerous hasteners which takes up valuable time and effort.

3. Commanding Officers will therefore issue instructions in this connection to the effect that irregularities of this nature must be avoided in future.

(J/ 11-2-4)

#649 #649

Stores Issued in Sets

Commanding Officers will refer to para. (g) under "Stores Issued in Sets" pamphlet "Unit Accounting Instructions" which outlines the procedure which is to be adhered to in receiving from and returning such stores to Ordnance.

2. In future proper checking lists will be used in the return to Ordnance of "Stores Issued in Sets." Request for copies of checking lists as required will be addressed to the D.O.O., M.D. No. 7.

(J/ 9-2-1)

#650 #650

SUBSISTENCE ALLOWANCE.

The u/m personnel are granted Subsistence Allowance in lieu of rations and quarters:

Lt.-Col. F.M. GRIFFITHS, H.Q. M.D. No. 7,
Eff. 7 Apr 45.

Capt. M.F. CARSON, Att. No. 7 District Coy., R.C.A.S.C.,
Eff. 9 Apr 45.

K.49705 Sgt. McCORMACK, B.W., No. 7 Dist. Sigs. Sec. R.C.C.S.
Eff. 3 Apr 45.

G.49033 Pte. HICKS, H.S., No. 7 D.D., Empl. No. 7 Ord. Depot, RCOC.
Eff. 12 Apr 45.

DISTRICT ORDERS
#650
SUBSISTENCE ALLOWANCE (Cont'd)

13 Apr 45.
#650

W.7815 Pte. FRITCH, C.C., No. 8 Admin Unit, C.W.A.C.,
Eff. 6 Apr. 45 to 6 Jun 45 (2 months)

(J/23-1-6)

#651

#651

ACCIDENTS to D.N.D. Vehicles

The following is a summary of accidents involving D.N.D. Vehicles during the month of March, 1945.

UNIT	D.N.D. NEGLIGENCE
No. 7 E.S. & W. Coy., RCE.	2
No. 7 Dist. Coy., RCASC.	1
No. 39 Coy., C. Pro. C.	2
No. 2 Port Coy., RCASC.	2
No. 7 Ordnance Depot RCOC.	-
A.30 C.I.T.C., C.A.	1
TOTAL	8

(J/18-5-41)

#652

#652

STANDING COURT-MARTIAL
No. G.32352 Private Morris, T.A.,
No. 39 Company Canadian Provost Corps, C.A.

No. A.5033 Private Warren, A.G.,
No. 39 Company Canadian Provost Corps, C.A.

Major J.F. Shaw, 15th Coast Battery, R.C.A., C.A. has been appointed Defending Officer of the m/n cases. The accused are members of No. 39 Company, Canadian Provost Corps, C.A. The Officer Commanding of said soldiers is Captain J.C. VanHorne. Trial will be held Monday, Apr 16th 45, at 1000 hrs, Room 43 Old Ordnance Building, Barrack Green, Saint John, N.B.

(J/38-M-1148)
(J/38-M-1547)

(W.B. Durward) Lt.-Col.,
A.A.& Q.M.G., M.D. No. 7.

MEDICAL OFFICER'S REPORT

I certify that No. G-32352 Pte.Morris T.A.
of No.39 Provost Coy.,C.Pro.C. Saint John,N.B.
is in a Good state of health and is fit
to undergo trial by Court-Martial.

J.L. Gravich Capt. R.C.A.M.C.
(signature) (Rank)
Medical Officer,
Attached No. 7 Coy., R.C.A.M.C. C.A.

Station: Saint John,N.B.

Date: 16 Apr 45

M.F.E. 246.

H.Q.C.55-M-1693 (JAG/D-8)
Your J/36-M-1547

30 Apr 45

The District Officer Commanding,
Military District No. 7, Saint John, N.B.

STANDING COURT-MARTIAL

G.32352 Pte. Thomas Anthony Morris,
No. 39 Coy., C. Pro C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde),Brigadier
Judge Advocate-General.

MO/MM

F.A.J.

THIS COPY FOR: H.Q. C,55-M-1693
M.D. J/38-M-1547

GS

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. G.32352 Name MORRIS, Thomas Anthony

Rank Pte Unit No. 39 Coy, C. Pro C. CA

Charge A.A. (8 (2) Striking superior officer

Date of Crime 8-4-45

Date of Arrest Charge Signed 10-4-45

Orders for D.C.M.

Place and Date of Trial Room 43 Old Ordnance Bldg., Bk Green, St. John, N.B.; 16-4-45

Sentence det 120 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 37020

Date 27-4-45

MEMO

M.D. 7 - No. 39 Coy, C Pro C CA

for Judge Advocate General

10M-1-45 (M-4629)

28 April 45

Passed - no irregularities noted

R11

IN REPLY PLEASE QUOTE No.
C/38-M-1547 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

REGISTERED

SAINT JOHN, N.B.
24 Apr 45.

C.55-M-1693

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ont.

Re: STANDING COURT-MARTIAL
No. G-32352 Private Thomas Anthony MORRIS
No. 39 Company Canadian Provost Corps, C.A.

Herewith for review proceedings of the Standing Court-Martial held for the trial of the marginally named soldier in accordance with C.A.R.O. 4565.

W. C. McQuade

(W. C. McQuade) Lt.-Col.
President, Standing Court-Martial M.D. No. 7.

/RBM
Encl.

NAT. DEF. B. 440

31020

H.Q.C. 55-M-1694 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

MORASH. CECIL STANLEY F.608053 PTE.

CONFIDENTIAL
H.Q.C. 55-M-1694

CENTRAL REGISTRY	DATE	F.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")							
MAY 2 [redacted]		[redacted]		[redacted]	NEW FILE	C.R.	APR 28 19[illegible]
				JSG	With Papers C.R. MAY 25 1945		
MAY 29 1945				JCM	To note, gb	M.M.	28-5-45
JUN 30 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC.55-M-1694 (JAG/D)

28 May 45

District Officer Commanding,
Military District No. 6,
HALIFAX, N.S.

Standing Court-Martial
F.608053, Pte. C.S. MORASH,
No. 1 Inf. Trg. Bn., C.I.C., C.A.

Receipt is acknowledged of your H/M-2865 (JAG) dated 23rd May, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

Note to file copy
L. H. CLAYTON
Lieut.-Colonel,
Inspector of Courts-Martial
/AB
MAY 31 1945

E L M
Capt
for (R.J. Orde), Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE
No. H/M-2865 (JAG)

DEPARTMENT OF NATIONAL DEFENCE
ARMY CONFIDENTIAL

Headquarters, M.D. No. 6,
Halifax, N.S., 23 May 1945

316937

CENTRAL REGISTRY Army
CONF. SEC.
MAY 25 1945
File C55-M-1694
Chgd. to
Referred to JAG

The Secretary,
Department of National Defence,
Ottawa, Ontario.

Standing Court-Martial
F.608053, Pte. C.S. MORASH,
No. 1 Inf. Trg. Bn., C.I.C., C.A.

Reference HQC.55-M-1694 (JAG/D-1) dated 2 May 45.

1. The Proceedings of this Standing Court-Martial are returned herewith for safe custody, having been duly reviewed.

2. This soldier is reported as not being very interested in his work, and has had no training at the Unit where he is now attached. He refuses to be attested as a G.S. soldier. It is recommended that he should complete his sentence.

(D.A. WAITE) Brigadier,
D.O.C., M.D. No. 6.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

PROCEEDINGS OF A STANDING COURT-MARTIAL

No.F-608083 Private Cecil Stanley MOPASH,
No. 1 Infantry Training Battalion,CIC,C.A.

Dehert, N. S., 19th April, 1945.

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Debert, N. S.

on the 19th day of April 1945 at 1430 hours,

for the trial of: F-608053 (Number) Private (Rank) Cecil Stanley MCRASH (Full Name)

No. 1 Infantry Training Battalion, CIC, C.A. (Unit) (Attachment, if any)

PRESIDENT: Major R. F. Barnes, E.D., Headquarters M. D. No. 6, Permanent President Standing Courts-Martial M.D.No.6.

PROSECUTOR: Capt. A.L.Bourque, M.C., Headquarters M. D. No. 6, Permanent Prosecutor District Courts-Martial M.D.No.6. (Rank, Full Name, Unit, Attachment, if any)

~~COUNSEL OR~~ DEFENDING OFFICER: Capt. W. MacVisoc, No. 1 Inf. Trg. Bn., CIC, C.A. (Rank, Full Name, Unit, Attachment, if any)

FINDING: The Court find the accused No.F-608053 Private Cecil Stanley MCRASH, No. 1 Infantry Training Battalion, C.I.C., C.A. guilty of the charge.

SENTENCE: The Court sentence the accused No.F.608053 Private Cecil Stanley MCRASH, No. 1 Infantry Training Battalion, C.I.C., C.A. to undergo detention for ninety (90) days and to be placed under stoppages of pay until he has made good the sum of $3.66 in respect of the costs of apprehension and return to his unit.

Signed at Debert, N. S. this 19th day of April 1945.

R. F. Barnes
R. F. BARNES, MAJOR
President,
Standing Court-Martial.

Extracts entered as No. 37062 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 30 day of Apr 1945

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2298

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter ?~~

Answer:

Question to the accused. Do you object to P.83514 Sgt.(A/SM(W.O.I)J.R.Ross, No. 6 Detachment,C.M.S.C. as shorthand writer ?

Answer: No sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer:

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Guilty.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B-2"

(R. BARNES) Major
President R.C.M.

CHARGE SHEET

The accused No., F.608053 Private Cecil Stanley MORASH, No 1 Inf Trg Bn CIC (CA) Debert, N.S., an N.R.M.A. soldier of the Canadian Army placed on Active Service is charged with:-

ABSENTING HIMSELF WITHOUT LEAVE

CHARGE
Sec 15 (1)
Army Act

in that he

At Camp Debert, N.S. on 20 Feb 45, absented himself without leave from No 1 Inf Trg Bn CIC (CA) Debert, N.S., from 0800 hrs on said 20 Feb 45 until he was apprehended at Cole Harbour, Halifax Co., N.S., at 2150 hrs on the 4th day of April 1945 by military authorities, dressed in civilian clothes.
Cost of Apprehension and Return to his Unit $5.91.

(A. THOMSON) Lt.-Col.,
Commanding
No. 1 Inf Trg Bn, CIC (CA).

Debert Camp, N.S.,
11 April 1945.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to .....the..... charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. .....Yes sir.....
(See overleaf)

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. .....No sir.....

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. .....No sir.....

Question to the accused. Do you wish to call any witness as to character?

Answer. .....No sir.....

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

STATEMENT BY THE ACCUSED:

My father owns a farm and he is 66 year of age and not very well and my only brother at home is only eleven years of age. I have three younger brothers home and a young sister. While I was home I was cutting fire wood and working on the farm. In January of this year I applied for farm leave, but it was re fused. That is all sir.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes sir through my Defending Officer.

DEFENDING OFFICER. Sir, I would like to corroborate what the accused has said. His younger brothers are not able to work the farm and that is the familys only means of livlihood andhe wished an opportunity to work the farm.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Marked "Y" and signed by me.

MAJOR
PRESIDENT, C. M.

M.F.B. 355
50M—9-43 (5992)
H.Q. 1772-30-620
A.F.B. 296

7

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F-608053	Private	Cecil Stanley MORASH	No 1 Inf Trg Bn CIC CA

1. The following is a fair and true summary of the entries in the Field [redacted] Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, [redacted] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	4 times	A.W.L.	9 times
For		times	Failing to appear on parade	1 times
For		times	Breaking out of Barracks	1 times
For		times		times

[redacted]

2. The accused has not been previously convicted

[redacted]

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 16 days in military custody, making a total of 16 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 21 years old

6. The date of his [redacted] specified in his [redacted] attestation paper 1 Dec 43

[redacted]

9. The accused is in possession of or entitled to no [redacted] military decoration, or [redacted] military reward ([redacted]

[redacted]

4

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~

Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of April 1945

(J. C. Boisseau) Lieut
Asst Adjt
No 1 Inf Trg Bn CIC (CA)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the President and exhibited in the proceedings.

No. F.60805 Name MORASH, C.S. Sqn., Battery, or Company } Corps CIC Date of enlistment } 1 Dec 43 G.C. Badges } Tradesmen's Rates of Pay } Character

No. and date of last drunk } Period not reckoning towards freedom from extra duty and signed by me. Sheet No. One Signature O.C. Company, etc. }

MAJOR
PRESIDENT. C.M.

M.F.M. 6
(A.F.B. 122)
500M—11-41 (2498)
H.Q. 1772-20-1632

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Halifax, N.S.	27-12-43	Pte		AWL from 2359 hrs 27-12-43 until 1500 hrs 12-1-44.(15days , 15hrs, 1min.)	Documentary Pte Strickland	10 days pay	14-1-44	Lt.-Col. ANDREW	Forf 16 days pay F.R.&I.149(1)(a)
Halifax, N.S.	24-1-44	Pte		AWL from 2359 hrs 24-1-44 until 0800 hrs 1-2-44.(7days, 8hrs, 1min.)	Pte Strickland	28 days pay	1-2-44	Lt.-Col. ANDREW	Forf 8 days pay F.R.&I.149(1)(a)
Halifax, N.S.	3-5-44	Pte		AWL from 2200 hrs 3-5-44 until 1500 hrs 5-5-44.(2 days, 20 hrs.)	Cpl Strickland	15 days Detn	8-5-44	Major CAVERS	Forf 3 days pay F.R.&I.149(1)(a)
Halifax, N.S.	4-5-44	Pte		Failing to appear at Drill Hall at 0630 hrs after being warnsd for Draft.	Sgt Deut	20 days Detn	8-5-44	Major CAVERS	
Halifax, N.S.	2-2-44	Pte		AWL from 1300 hrs 2 Feb 44 until 0800 hrs 4 Feb 44.(1 day, 19 hrs.)	Pte Strickland	14 days C.B.	4-2-44	Lt.-Col. ANDREW	Forf 2 days pay F.R.&I.149(1)(a)
Halifax, N.S.	6-2-44	Pte		BREAKING BARRACKS and was AWL from 1000 hrs 6-2-44 until 0800 hrs 9-2-44.	Cpl Mason	3 days pay Sec 46 A.A.	9-2-44	Lt.-Col. F.I. ANDREW	Forf 3 days pay F.R.&I.149(1)(a)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Halifax, N.S.	9-2-44	Pte		AWL from 2200 hrs 9 Feb 44 until 2045 hrs 6 Mar 44.(25 days, 22hrs, 45mins.)	Cpl Strickland	28 days Detn 14 days pay 46	20-3-44	Lt.-Col. F.I. ANDREW	Forf 26 days pay F.R.&I.149(1)(a)
Yarmouth, NS	19-5-44	Pte		AWL from 0600 hrs 19 May 44 until apprh at 1745 hrs 25 May 44.(6 days, 11 hrs, 45 mins.)Close arrest: 3 days, 16 hrs, 15 mins.Total abs: 10 days, 4 hrs.	Cpl MacIsaac	28 days Detn To pay cost of apph: $12.44	29 May 44	Lt.-Col. V.D. DAWSON	Forf 10 days pay F.R.&I.149(1)(a)
Yarmouth, NS	28 Jun	44 Pte		AWL from 0730 hrs 28 Jun 44 until apprh at 2015 hrs 10 Jul 44.(12 days, 14 hrs, 45 mins.)Close arrest 3 days, 10 hrs, 45 mins.	Capt Banks SP	28 days Detn To pay cost of Apprh: $12.44	14 Jul 44	Lt.-Col. V.D. DAWSON	Forf 13 days pay F.R.&I.149(a)(a)
Halifax, NS	28 Nov	44 Pte		AWL from 0001 hrs 28 Nov 44 to 1830 hrs 4 Dec 44.(6 days, 18 hrs, 29 mins.)		Admonished	6 Dec 44	Col. F.R. ANDREW	Forf 7 days pay F.R&I.149(1)(a)
Halifax, NS	20 Dec	44 Pte		AWL from 0800 hrs 20 Dec 44 to 0800 hrs 29 Dec 44.(9 days)	CSM Sanford	28 days Detn	30 Dec 44	Col F.I. ANDREW	Forf 9 days pay F.R.&I.149(1)(a)

CERTIFIED TRUE COPY

(J.C. BOISSEAU) LIEUT A/ADJT
NO 1 INF TRG BN CIC

Debert N.S.
16 April 45

"CERTIFIED TRUE COPY OF NO 1 TRG BDE GP D.O. 57 d/23 Feb 45"

(J.M. BROCHU) LIEUT.
Officer i/c Records
No 1 Trg Bde Gp

DAILY ORDERS PART II

By
LIEUT COLONEL W.E. GILLESPIE
T/Officer Commanding

D.O. No. 57
23 Feb 45
Debert, N.S.

TRAINING BRIGADE GROUP

(Last Order Issued No. 56 d/22 Feb 45)

HOME WAR ESTABLISHMENT

NIL

HOLDING ESTABLISHMENT

NO. 1 FD TRG REGT RCA

"A"

1 HOSPITAL

Admitted to Debert Military Hospital (sick), 20 Feb 45.

Lieut. Y. VALOIS

"B"

2 STRENGTH INCREASE
Amendment
Para 16 (d) of D.O. No. 51 d/17 Feb 45 insofar as it ref to the u/m is amended to read:
For: "29 Jan 45"
Read: "30 Jan 45"

B-47615 Sgt. EASTWOOD, J.P.

3 HOSPITAL

(a) Admitted to Debert Military Hospital (sick) 18 Feb 45.

C-48788 Gnr. STEELE, G.H.

(b) Admitted to Debert Military Hospital (sick) 15 Feb 45.

B-601823 Gnr. DUQUETTE, H.

HOLDING ESTABLISHMENT

No 1 FD. TRG. COY., R.C.E.

"A"

4 STRENGTH DECREASE

S.O.S. TO No. 2 (T) Transit Camp 23 Feb 45.

Lieut. J.F. FORD
Lieut. E.G. KEARNEY

"B"

5 STRENGTH DECREASE

S.O.S. to No. 2 (T) Transit Camp 23 Feb 45.

D--5927 Sgt. DAY, J.J.C.
B135004 Cpl. MARTINOW, T.V.
F--5729 Spr. ARSENEAULT, J.A.
B129697 Spr. CHALUT, L.
D-27067 Spr. WISENER, R.K.
L107899 Spr. NORELL, A.
D146273 Spr. ST JAMES, V.
H-80502 Spr. TRUDEAU, W.R.

B117499 Spr. HITCHINGS, H.D.

P-10186 S/Sgt. FIRCHALL, D.G.
D170382 Spr. LECLERC, R.

D163130 Spr. ALTILIA, J.L.
D-146271 Spr. HAWLEY, V.
E629841 Spr. ALLARD, L.
D649523 Spr. BEAULIEU, G.
C614796 Spr. CHARLEBOIS, L.G.
G601461 Spr. COTE, W.
B626323 Spr. DEWELL, I.H.
D616476 Spr. FOURNEL, J.E.
K608891 Spr. KALK, F.
E601863 Spr. LEVASSEUR, Y.
E601607 Spr. MARAS, F.
F608381 Spr. MacDONALD, M.A.
D642940 Spr. NANTEL, F.
D651023 Spr. PROULX, M.
D652502 Spr. RUSSYN, D.
D638916 Spr. VENNE, J.M.
E629764 Spr. GAGNON, V.
D651619 Spr. MORAND, R.
M612109 Spr. ANDERSON, E.W.
H608966 Spr. DARDEAU, M.
D654367 Spr. LETANG, L.P.
M600658 Spr. WRIGHT, T.O.

C-42838 Sgt. O'NEILL, C.
C101137 Cpl. McLEAN, W.M.
A103681 Spr. BALL, R.D.
B117002 Spr. HAFFIE, M.L.
M--2445 Spr. McDERMOTT, H.A.
D130835 Spr. RICHARDSON, A.M.
D163661 Spr. THIBEAULT, J.D.
C122743 Spr. WILSON, C.

M-38520 Spr. SROKA, V.A.

M-41681 Spr. ARMISHAW, G.R.

K-69149 Spr. BORER, F.X.

H616293 Spr. DACHINSKY, P.
D638195 Spr. DERGERON, R.
D650524 Spr. CHEDORE, E.
D639613 Spr. DESERRE, H.
D652963 Spr. DUBREUIL, R.
D506140 Spr. LACROIX, L.
D639368 Spr. LAGACE, L.
D638954 Spr. MALO, A.
D639246 Spr. MARINEAU, H.P.
F602382 Spr. McDONELL, D.J.
D638973 Spr. OUELLETTE, R.
E627099 Spr. ROUSSY, W.
D650827 Spr. SANSOUCY, P.E.
H617641 Spr. ZELISKO, N.
H616578 Spr. KODLUK, J.

B635120 Spr. BABYK, M.
B635159 Spr. KANAT, J.
B634564 Spr. SALICCO, G.

6 ATTACHMENTS Cease att F.A.P. on retun to No 2 (T) Transit Camp 23 Feb 45.

D-44559 Spr. DEECHEY, C.A.
E629064 Spr. BOUTIN, G.
D-45734 Spr. BLANCHARD, J.H.
M104129 Spr. CAREY, W.K.
E106743 Spr. DESROCHERS, H.P.
C124963 Spr. KILBURN, K.M.
G--7572 Spr. MOWRY, J.A.
C-9014 Spr. NESBITT, R.L.
B129642 Spr. PRESCOTT, T.W.
A-86137 Spr. SCHNEIDER, H.H.
B--3149 Spr. RYAN, F.J.

D653800 Spr. BELLEROSE, R.P.
K-49557 Spr. BJERKE, O.I.
B138850 Spr. BRADLEY, F.E.
C--2810 Spr. CYR, H.
B146239 Spr. BILLIS, M.L.
B115092 Spr. MONKMAN, R.T.
B145716 Spr. McDOUGALL, R.H.
C-90155 Spr. PAGE, D.
C100078 Spr. PURDY, M.A.
H-14841 Spr. SINCLAIR, S.W.

HOLDING ESTABLISHMENT

NO I INF TRG BN CIC

SECTION 'A' - OFFICERS

7 HONOURS AND AWARDS

Awarded the Canadian Efficiency Medal under the Provisions of the Royal Warrant d/23 Sep 30 and General Order #3 of 1932 (Auth: RO 5366) 14 Feb 45

Lieut R.C. MURRAY

8 HOSPITAL

Discharged from Debert Military Hospital on date shown:

Lieut P. Saint Mars GAUVREAU 21 Feb 45

SECTION 'B' OTHER RANKS

9 STRENGTH DECREASE

(a) S.O.S. NRMA to General Service 20 Feb 45

	(new regtl Nos)
H.617322 Pte BZOVY W.	H.105273
D.641286 Pte CHAPDELAINE G.	D.178095
C.606210 Pte CHARTRAND V.F.	C.115172
F.601620 Pte COOMBS B.L.	F.10993
B.629859 Pte DANCOCKS J.W.	B.154759
D.615302 Pte FILION Y.	D.178096
A.601598 Pte GUNN D.H.	A.125446
B.633834 Pte LABELLE O.	B.154758
D.647726 Pte LEPAGE P.	D.178097
F.605175 Pte MacMILLAN C.R.	F.10994
H.615848 Pte NEDOHIN H.	H.105274
B.634831 Pte SHANK L.E.	B.154760
B.622573 Pte STEVENS A.W.	B.154761
B.630167 Pte YONKER R.	B.154762

(b) S.O.S. to N.D.H.Q. D.Estates, Ottawa, Ont. (Auth: HC.64-7-2(A5) over H.110-439-14AE F.D.36 d/17 Feb 45) 23 Feb 45

D.139595 Pte LAPIERRE J.A.R.

(c) S.O.S. to 16th Coast Regt, RCA, Sydney, N.S. (Auth: HS-3238(A5) d/20 Feb 45) 26 Feb 45

F.97756 Pte SCOTT H.

10 STRENGTH INCREASE

T.O.S. General Service from NRMA 21 Feb 45

	(old regtl Nos.)
H.105273 Pte BZOVY W.	H.617322
D.178095 Pte CHAPDELAINE G.	D.641286
C.115172 Pte CHARTRAND V.F.	C.606210
F.10993 Pte COOMBS B.L.	F.601620
B.154759 Pte DANCOCKS J.W.	B.629859
D.178096 Pte FILION Y.	D.615302
A.125446 Pte GUNN D.H.	A.601598
B.154758 Pte LABELLE O.	B.633834
D.178097 Pte LEPAGE P.	B.647726
F.10994 Pte MacMILLAN C.R.	F.605175
H.105274 Pte NEDOHIN H.	H.615848
B.154760 Pte SHANK L.E.	B.634831
B.154761 Pte STEVENS A.W.	B.622573
B.154762 Pte YONKER R.	B.630167

HOLDING ESTABLISHMENT

NO I INF TRG BN CIC

SECTION 'B' OTHER RANKS
(Continued)

11 ATTACHMENTS

(a) Personnel shown in this order, under Strength Increase, (No.2 Transit Camp Wing) para 27(a) and (d) are attached F.A.P. from #2 Transit Camp Wing, Debert, N.S. 15 Feb 45

(b) Personnel shown in this order, under Strength Increase (No.2 Transit Camp Wing) paras 27(b) and (c) are attached F.A.P. from #2 Transit Camp Wing, Debert, N.S. 16 Feb 45

12 LEAVES AND PRIVILEGE LEAVES

Granted 10 dys compassionate lve (RO 4688(4)
22 Feb to 3 Mar 45
B.624624 Pte COX F.

13 SUBSISTENCE ALLOWANCE

Granted ration allce (10 dys) while on lve (Auth FR&I 196(4)
22 Feb to 3 Mar 45
B.624624 Pte COX F.

14 NEXT-OF-KIN

(a) Change of address of next-of-kin from:

Mrs. Emma Quesnel (mother)
Montebello, Quebec.

TO: 1065 Maisonneuve,
Montreal, Quebec.

D.641423 Pte QUESNEL R. 21 Feb 45

(b) Change of next-of-kin from:

Mrs. Amelia Bartley, (mother)
221 Lancaster St. East,
Kitchener, Ontario.

TO: Mrs. Ruth Florence Rosaline Bartley (wife)
221 Lancaster St. East,
Kitchener, Ontario.

A.602483 Pte BARTLEY K.R. 21 Feb 45

15 HOSPITAL

Admitted to Debert Military Hospital on date shown:

D.635941 Pte PRASHKER S. (sick) 22 Feb 45
M.609501 Pte HAGEN H.G. (injury)21 Feb 45
B.632772 Pte TRACH A. (injury)21 Feb 45

16 ABSENT WITHOUT LEAVE

(a) A.W.L. at 0630 hrs 19 Feb 45
Ret'd from A.W.L. at 1800 hrs 20 Feb 45

F.16844 Pte BROWN B.C.

HOLDING ESTABLISHMENT

NO I INF TRG BN CIC

SECTION 'B' OTHER RANKS
(Continued)

16 ABSENT WITHOUT LEAVE - Cont'd

(b) A.W.L. at 0630 hrs 2 Feb 45
Apprehended at 0855 hrs 21 Feb 45

B.143934 Pte SERRE L.

(c) A.W.L. at 0630 hrs 14 Feb 45
Still A.W.L. at 0630 hrs 22 Feb 45 (8th day)

L.104407 Pte ALLARD J.O.

(d) A.W.L. at 0800 hrs 20 Feb 45

F.608053 Pte MORASH C.S.

(e) Amendment
Para 29(a) D.O.#51 d/17 Feb 45 insofar as it concerns the u/m is hereby cancelled:

L.91559 Pte KITZAN G.

17 PUNISHMENTS

(a) On 21 Feb 45 awarded 5 dys C.B. for an offence under Sec 15(1) A.A., A.W.L. from 0630 hrs 19 Feb 45 to 1800 hrs 20 Feb 45 (absent 1 dy 11 hrs 30 min) Forf 2 dys pay under FR&I 149(1)(a) Total forf 2 dys pay.

F.16844 Pte BROWN B.C.

18 STRENGTH DECREASE

(a) Amendment
Para 9(b) D.O. #49 d/16 Feb 45 is amended to read "S.O.S. to No 1 Entertainment Unit, Toronto, Ont"

F.79420 Bdsmn. WEIR J.L.

HOLDING ESTABLISHMENT

3 INFANTRY TRAINING BATTALION CIC

"A" OFFICERS

19 STRENGTH DECREASE

S.O.S. to No. 2 Transit Camp Wing. 21 Feb 45

Serial 2587

Lieut. J.H. TOPPING

Serial 2589

Lieut(A/Capt) H.G. COWAN
Lieut. D. GOODRIDGE
Lieut. R.D. FAULKNER
Lieut. J.H. SHEPHARD

"B" OTHER RANKS

20 HOSPITAL

(a) Discharged from Debert Mil Hospital on dates shown.

K 1832	Pte.	FORBES, W.R.	16 Feb 45
K 6309	"	BOSCHALK, J.R.	20 Feb 45
L 108636	"	HODGSON, A.L.	20 Feb 45
M 8694	"	SUGG, B.	21 Feb 45
M 64026	"	JENSEN, C.T.	20 Feb 45

(b) Admitted to Debert Mil Hospital on dates shown:

M 38974	Pte.	FELL, D.H. (Sick)	20 Feb 45
D 638786	"	CORNELOW, P.(Injured)	21Feb 45

21 ATTACHMENT

Cease att FAP except pay to No. 70 Mil Det Bks (on being S.O.S. to No. 2 Transit Camp Wing). 23 Feb 45

K 50970	Pte.	JAMES, T.
K 49289	"	TAYLOR, J.W.
K 15618	"	THAYER, C.E.

22 LEAVE & FURLOUGH

Granted 4 days compassionate leave and ration allowance (FR&I 196 (4). 22 Feb 45 to 25 Feb 45
(Auth: C.A.R.O. 4688)

G 604293 Pte. MALLET, J.

HOLDING ESTABLISHMENT

3 INFANTRY TRAINING BATTALION CIC

"B" OTHER RANKS

23 STRENGTH DECREASE

S.O.S. to No. 2 Transit Camp Wing. 23 Feb 45

Serial 2587

K 6393	Pte.	BODEN, F.	K 6309	Pte.	BOSCHALK, J.R.
K 3364	"	CAPILO, A.B.	H 9337	"	COCKERILL, R.
K 3434	"	CHRISTOPHERSON W.	M 1449	"	DAVID, W.F.
M 7718	"	EDWARDS, I.C.	K 1939	"	EVANS, J.R.
M 1440	"	FAECHNER, W.F.	K 3669	"	FAVELL, C.W.
M 64027	"	FORSYTH, E.J.	K 99594	"	FOX, A.W.
K 2024	"	GILL, T.L.	K 3996	"	GINGELL, L.E.
K 3701	"	GRAYSTON, K.R.	K 6500	"	GREAVES, G.F.
M 2264	"	GREEN, C.H.	L 108636	"	HODGSON, A.L.
K 3362	"	INGRAM, M.N.	K 3275	"	JOPSON, E.
K 6465	"	KENNEDY, J.T.D.	K 3813	"	LITTLE, V.T.R.
K 3027	"	LOUGHLEAN, E.C.	M 107549	"	MATHES, V.D.
K 3552	"	MEUNIER, R.R.	K 3555	"	MURPHY, E.W.
K 6531	"	MACINTYRE, J.G.	K 6467	"	OMAN, J.
L 108842	"	PEDERSON, C.A.	K 3868	"	PROTEAU, W.J.
K 3733	"	ROBERTSON, O.D.	M 2281	"	SCHISCHIKOWSKY, L.
K 6367	"	SCHMIDT, A.	K 92421	"	SCOTT, W.
K 6380	"	SDROGEFSKE, D.	M 38613	"	SERINK, S.
K 3614	"	SIMOLA, R.	M 105845	Cpl	SMITH, R.L.
K 3466	"	STEPHENS, F.D.	K 3547	Pte	STRINGFELLOW, A.
K 6580	"	TAYLOR, H.B.	K 49289	"	TAYLOR, J.W.
K 15618	"	THAYER, C.E.	M 8694	"	SUGG, B.
K 1903	"	VERRIER, M.J.	M 1707	"	WATKINS, G.A.
K 6534	"	WEINRAUCH, F.E.	M 2613	"	WHEELE, T.A.
M 1477	"	WILSON, L.E.	K 3252	"	WORMS, C.H.
K 4677	"	WILSON, S.H.	K 50970	"	JAMES, T.
M 1441	"	ZABRICK, N.	K 8826	"	BARNES, E.W.
K 8825	"	DICKIE, J.G.	K 1832	"	FORBES, W.H.
M 64026	"	JENSEN, C.T.			

SERIAL 2587

M 608968	"	ARONYK, E.D.	K 607349	"	BAKER, C.
M 602572	"	BAMELIS, M.C.	M 600854	"	BELANGER, G.
K 609191	"	BRINE, R.J.	M 609928	"	BRYANT, S.A.
M 608956	"	CHMILIAR, P.	M 609927	"	CHRISTIANSON, W.E.
K 608449	"	CLIFFORD, E.H.	K 605594	"	COOPER, A.G.
M 609630	"	COX, C.M.	M 608711	"	DARGATZ, L.L.
K 609063	"	FRITZ, V.	K 609136	"	GAMACHE, L.
M 612268	"	HUSTAD, A.H.	L 611084	"	JOHNSTON, C.A.
K 608995	"	KARMAS, W.	M 608688	"	KMYTA, M.
K 609178	"	KOTHLOW, E.	M 612356	"	LANGER, A.E.
M 609215	"	MARX, W.A.	M 612478	"	MAYHEW, R.
M 609028	"	MELNYCHUK, B.	M 609008	"	MODIN, W.E.
K 8828	"	MUSCLOW, F.E.	K 608920	"	PETRUNIA, G.L.
M 612305	"	ROBERTS, R.A.	M 612346	"	RUNHAM, L.E.
M 601251	"	RENDFLEISCH, A.	K 608052	"	SAUNDERS, E.R.
M 609583	"	SCHELL, D.A.	L 611221	"	TOKAREK, M.S.
L 466672	"	THOMPSON, E.B.	K 602650	"	YOUNGER, J.O.
K 608409	"	ZEPESKI, S.G.	K 609122	"	MCCARTHY, C.A.

HOLDING ESTABLISHMENT

3 INFANTRY TRAINING BATTALION CIC

"B" OTHER RANKS

23 STRENGTH DECREASE (Cont'd)

SERIAL 2588

B 157660	Pte.	ANDERSON, J.F.	B 155772	Pte.	EARL, F.L.
B 159870	"	INGLIS, S.A.	B 55770	"	JOY, L.L.
B 123570	"	KELLY, G.W.	B 123528	"	MCKENZIE, G.W.
B 155165	"	NORTH, E.E.	B 158232	"	ROBINSON, W.L.
B 160004	"	SPENCER, W.C.	B 164103	"	STRIBBALL, C.W.
B 164488	"	TERSIGNI, F.	B 103041	"	WATERS, J.

N.R.M.A. PERSONNEL

D 601865 " MINER, H.B.

SERIAL 2589

G 52393	"	BERUBE, J.A.	G 5608	"	BREWER, A.M.
G 6476	"	CAISSIE, D.J.	G 2502	"	CORMIE, R.H.
G 5797	"	CUSACK, E.B.	G 6491	"	DOUCET, A.
G 5672	"	DUTCHER, K.J.	G 1604	"	GALLAN, H.E.
A 86646	"	KELLER, S.J.F.	A 114468	"	MAHONEY, J.D.
G 6447	"	MCGARRITY, J.A.	G 6468	"	MCINNIS, G.P.L.
G 2568	"	MCLEOD, A.J.	G 6440	"	MITCHELL, A.G.
G 5594	"	NORTON, J.J.	G 5949	"	ROBICHAUD, E.J.
G 5742	"	STANLEY, L.J.	A 114499	"	STEMMLER, E.E.

N.R.M.A. PERSONNEL

G 422726	"	DOUCET, J.	G 422755	"	HACHE, J.B.
D 425593	"	KARPUK, P.	D 636239	"	LEGAULT, A.
F 607630	"	MILLER, E.L.	G 607449	"	MELANSON, G.A.J.
G 607310	"	MICHAUD, L.	E 627583	"	TREMBLAY, P.E.
D 650357	"	TRUDEAU, J.	D 640100	"	TURCOT, P.

24 INCREASE IN PAY

Amendment

(a) Para 33 (b) of D.O. 52 d/19 Feb 45 insofar as it ref to the u/m is am'd to read "19 Jan 45".

K 6380 Pte. SDROGEFSKE, D.

(b) Para 33 (b) of D.O. 52 d/19 Feb 45 insofar as it ref to the u/m is am'd to read "16 Jan 45".

M 1477 Pte. WILSON, L.E.

25 STRENGTH INCREASE

(a) T.O.S. General Service from N.R.M.A. 22 Feb 45

K 8826 Pte. BARNES, E.W. (K 608406)

K 8825 " DICKIE, J.G. (K 608225)

(b) T.O.S. General Service from N.R.M.A. 23 Feb 45

K 8828 Pte. MUSCLOW, F.E. (K 608198)

26 STRENGTH DECREASE

(a) S.O.S. N.R.M.A. to General Service 21 Feb 45

K 608406 Pte. BARNES, E.W. (K 8826)

K 608225 " DICKIE, J.G. (K 8825)

(b) S.O.S. N.R.M.A. to General Service 22 Feb 45

K 608198 Pte. MUSCLOW, F.E. (K 8829)

NO 2 TRANSIT CAMP WING

27 **STRENGTH INCREASE**

(a) T.O.S. from No. 1 Inf Demonstration Unit, Debert, N.S. 15 Feb 45
(Auth: H.C.110-1-1-1(A2) d/8 Feb 45)

F.65989 Pte CURRY R.S.
D.144292 Pte DOHERTY K.W.
B.142771 Pte MALOTT C.B.

(b) T.O.S. from #2 Transit Camp (HWE to Rft) Debert, N.S. 16 Feb 45
(Auth: H.C.110-1-1-1(A2) d/8 Feb 45)

D.135475 Pte LAFLEUR R.

(c) T.O.S. from # 1 Field Trg Regt RCA, Debert, N.S. 16 Feb 45
(Auth: H.C.110-1-1-1(A2) d/8 Feb 45)

B.625485 Pte DEW G.H.

(d) T.O.S. from #6 Vocational Training School, Halifax, N.S. 15 Feb 45
(Auth: H.C.110-1-1-1(A2) d/8 Feb 45)

D.178048 Pte PROVENCHER R.

28 **ATTACHMENTS**

(a) Personnel shewn in this order under Strength Increase, paras 27 (a) and (d) are attached F.A.P. to #1 Inf Trg Bn CIC, Debert, N.S. 15 Feb 45

(b) Personnel shewn in this order under Strength Increase, paras 27 (b) and (c) are attached F.A.P. to #1 Inf Trg Bn CIC, Debert, N.S. 16 Feb 45

[illegible] 28 Feb 45

[illegible]	Pte	[illegible]	R.F.
	Pte	BOOTH	W.H.
[illegible]	Pte	FOULER	A.R.
	Pte	[illegible]	J.R.
[illegible]	Pte	[illegible]	W.B.
	Pte	STANGLAND	C.H.

[illegible]	Pte	HALL	E.A.
[illegible]	Pte	HORN	K.D.
[illegible]	Pte	MCKIN	J.R.
[illegible]	Pte	THOMAS	F.M.
[illegible]	Pte	WILSON	F.M.
[illegible]	Pte	POOPKS	N.D.
[illegible]	Pte	FRASER	W.F.
[illegible]	Pte	ARCAND	M.
[illegible]	Pte	ARNOLD	R.E.
[illegible]	Pte	BAILEY	C.R.
[illegible]	Pte	BARNES	J.L.
[illegible]	Pte	BISSELL	J.W.
[illegible]	Pte	BRENNAN	J.P.
[illegible]	Pte	DUCHE	D.E.J.
[illegible]	Pte	[illegible]	O.W.
[illegible]	Pte	FIGLE	E.A.
[illegible]	Pte	GARDENER	C.
[illegible]	Pte	[illegible]	E.J.
[illegible]	Pte	[illegible]	E.R.
[illegible]	Pte	HUMPER	I.S.
[illegible]	Pte	HUTCHINSON	K.F.
[illegible]	Pte	[illegible]	W.I.
[illegible]	Pte	[illegible]	L.H.
[illegible]	Pte	LAPLANTE	H.
[illegible]	Pte	[illegible]	J.A.
[illegible]	Pte	McGILLIS	G.A.
[illegible]	Pte	MATTHEWS	J.H.
[illegible]	Pte	McCONNELL	G.W.

[illegible]	Pte	MILLETTE	J.A.R.
[illegible]	Pte	NOELL	R.G.
[illegible]	Pte	PATTERSON	P.R.J.
[illegible]	Pte	PRATTE	G.M.
[illegible]	Pte	PITERS	K.R.
[illegible]	Pte	POWELL	F.G.
[illegible]	Pte	PRINCIPE	M.J.
[illegible]	Pte	[illegible]	R.J.
[illegible]	Pte	SENNOCKS	N.G.F.
[illegible]	Pte	[illegible]	K.F.
[illegible]	Pte	[illegible]	J.V.N.
[illegible]	Pte	SHAPTON	T.W.
[illegible]	Pte	SMITH	J.B.

COUNTER NUMBER 15511

HOUR 12:30

OPERATOR'S INITIALS JR

RELIEVING OPERATOR _____

Affidavit

PROVINCE OF ONTARIO
COUNTY OF CARLETON
TO WIT:

I, Alice Walden of the City of Ottawa, in the County of Carleton, an employee of the Department of National Defence, make oath and say:

1. THAT I am presently employed as a camera operator making microphotographic copies of Departmental documents for the purpose of providing a permanent record of same.

2. THAT on the date indicated therein I did make microphotographic copies of files listed in Appendix "A" hereto and of all documents contained thereon.

3. THAT the said microphotographic copies may be identified from the indexing data and the job and reel numbers contained in Appendix "A".

SWORN before me at the City of Ottawa, in the County of Carleton, this day of A.D. 19

A NOTARY PUBLIC

Appendice "A" to the affidavit

dated

April 14th 1951

CAMERA OPERATOR'S REPORT

PRODUCTION DATA	DATE	HOUR
STARTED		
FINISHED		
TOTAL NO. OF HOURS		8 1/6
TOTAL NO. OF IMAGES		5,457

JOB NO. 44 REEL NO. M-15

BOOK NO. 19

INDEXING DATA	44-M-15A	44-M-15B
BEGINS WITH	C.55-M-1593	C.55-M-1641
1.	C.55-M-1607	C.55-M-1654
2.	C.55-M-1621	C.55-M-1667
3.	C.55-M-1635	C.55-M-1682
ENDS WITH	C.55-M-1640	C.55-M-1693

A.W.

THE NUMBERED PAGES WHICH ARE
OTHERWISE BLANK IN THE FILES
ON THIS FILM HAVE NOT BEEN
PHOTOGRAPHED.

CENTRAL REGISTRY MICROFILMING UNIT

END

SECOND

SIDE

44.M.15B